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Presidential Documents

Title 3—

The President

Notice of May 12, 2014

Continuation of the National Emergency With Respect to Yemen

On May 16, 2012, by Executive Order 13611, I declared a national emergency pursuant to the International Emergency Economic Powers Act (50 U.S.C. 1701–1706) to deal with the unusual and extraordinary threat to the national security and foreign policy of the United States constituted by the actions and policies of certain members of the Government of Yemen and others that threatened Yemen's peace, security, and stability, including by obstructing the implementation of the agreement of November 23, 2011, between the Government of Yemen and those in opposition to it, which provided for a peaceful transition of power that meets the legitimate demands and aspirations of the Yemeni people for change, and by obstructing the political process in Yemen.

The actions and policies of certain members of the Government of Yemen and others in threatening Yemen's peace, security, and stability continue to pose an unusual and extraordinary threat to the national security and foreign policy of the United States. For this reason, the national emergency declared on May 16, 2012, to deal with that threat must continue in effect beyond May 16, 2014. Therefore, in accordance with section 202(d) of the National Emergencies Act (50 U.S.C. 1622(d)), I am continuing for 1 year the national emergency declared in Executive Order 13611.

This notice shall be published in the *Federal Register* and transmitted to the Congress.

THE WHITE HOUSE,
May 12, 2014.

[FR Doc. 2014–11261
Filed 5–13–14; 8:45 am]
Billing code 3295–F4

Rules and Regulations

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This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 28

[AMS–CN–13–0085]

RIN 0581–AD35

User Fees for 2014 Crop Cotton Classification Services to Growers

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: The Agricultural Marketing Service (AMS) will maintain user fees for 2014 crop cotton classification services at $2.20 per bale—the same level as in 2013. Revenues resulting from this cotton classing fee and existing reserves are sufficient to cover the costs of providing classification services for the 2014 crop, including costs for administration and supervision.

DATES: *Effective Date:* July 1, 2014.

FOR FURTHER INFORMATION CONTACT: Darryl Earnest, Deputy Administrator, Cotton & Tobacco Program, AMS, USDA, 3275 Appling Road, Room 11, Memphis, TN 38133. Telephone (901) 384–3060, facsimile (901) 384–3021, or email *darryl.earnest@ams.usda.gov.*

SUPPLEMENTARY INFORMATION:

Executive Order 12866 and Executive Order 13563

Executive Orders 12866 and 13563 direct agencies to access 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 § 3(f) of Executive Order 12866 and therefore has not been reviewed by the Office of Management and Budget (OMB).

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 final rule has been reviewed under Executive Order 12988, Civil Justice Reform. It is not intended to have retroactive effect. There are no administrative procedures that must be exhausted prior to any judicial challenge to the provisions of this rule.

Regulatory Flexibility Act

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA) (5 U.S.C. 601–612), AMS has considered the economic impact of this action on small entities and has determined that its implementation will not have a significant economic impact on a substantial number of small businesses.

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. There are an estimated 20,000 cotton growers in the U.S. who voluntarily use the AMS cotton classing services annually, and the majority of these cotton growers are small business entities under the criteria established by the Small Business Administration (13 CFR 121.201). Small business entities that are growers in the U.S. cotton industry are defined as having annual receipts less than $750 thousand. Maintaining the user fee at the 2013 crop level as stated will not significantly affect small businesses as defined in the RFA because:

(1) The fee represents a very small portion of the cost per-unit currently borne by those entities utilizing the services. (According to USDA's Economic Research Service, the U.S. average total cost of production in 2012 was $808 per acre. The user fee for classification services of $2.20 per bale represents less the one third percent of this average U.S. per-bale cost of production.);

(2) The fee for services will not affect competition in the marketplace;

(3) The use of classification services is voluntary. For the 2013 crop, approximately 12,540,000 bales were produced; and, almost all of these bales were voluntarily submitted by growers for the classification service; and

(4) Based on the average price paid to growers for cotton from the 2013 crop of 76.26 cents per pound, 500 pound bales of cotton are worth an average of $381.30 each. The user fee for classification services, $2.20 per bale, is approximately one half percent of the value of an average bale of cotton.

Paperwork Reduction Act

In compliance with OMB regulations (5 CFR part 1320), which implement the Paperwork Reduction Act (PRA) (44 U.S.C. 3501), the information collection requirements contained in the provisions to be amended by this rule have been previously approved by OMB and were assigned OMB control number 0581–0008, Cotton Classing, Testing, And Standards.

Fees for Classification Under the Cotton Statistics and Estimates Act of 1927

This final rule establishes a 2014 user fee of $2.20 per bale charged to producers for cotton classification—the same level as the 2013 user fee. The 2014 user fee was set in accordance to requirements in the Cotton Statistics and Estimates Act as amended by the provisions in the 2008 Farm Bill [Food, Conservation, and Energy Act of 2008 (Sec. 14201 3a)]. Amendments based on Section 14201 of the 2008 Farm Bill provides that: (1) The Secretary shall make available cotton classification services to producers of cotton, and provide for the collection of classification fees from participating producers or agents that voluntarily agree to collect and remit the fees on behalf of the producers; (2) classification fees collected and the proceeds from the sales of samples submitted for classification shall, to the extent practicable, be used to pay the cost of the services provided, including administrative and supervisory costs; (3) the Secretary shall announce a uniform classification fee and any applicable surcharge for classification services not

later than June 1 of the year in which the fee applies; and (4) in establishing the amount of fees under this section, the Secretary shall consult with representatives of the United States cotton industry. At pages 313–314, the Joint Explanatory Statement of the committee of conference for section 14201 stated the expectation that the cotton classification fee would be established in the same manner as was applied during the 1992 through 2007 fiscal years. Specifically, it states that the classification fee should continue to be a basic, uniform fee per bale as determined necessary to maintain cost-effective cotton classification service. Further, in consulting with the cotton industry, the Secretary should demonstrate the level of fees necessary to maintain effective cotton classification services and provide the Department of Agriculture with an adequate operating reserve, while also working to limit adjustments in the year-to-year fee.

Under the provisions the Cotton Statistics and Estimates Act as amended by the section 14201 of the 2008 Farm Bill, a user fee (dollar amount per bale classed) is established for the 2014 cotton crop that, when combined with other sources of revenue, will result in projected revenues sufficient to reasonably cover budgeted costs—adjusted for inflation—and allow for adequate operating reserves to be maintained. Costs considered in this method include salaries, costs of equipment and supplies, and other overhead costs, such as facility costs and costs for administration and supervision. In addition to covering expected costs, the user fee is set such that projected revenues will generate an operating reserve adequate to effectively manage uncertainties related to crop size and cash-flow timing. Furthermore, the operating reserve is expected to meet minimum reserve requirements set by the Agricultural Marketing Service, which require maintenance of a reserve fund amount equal to at least four months of projected operating costs.

The user fee charged cotton producers for cotton classification in 2014 is $2.20 per bale, which is the same fee charged for the 2013 crop. This fee is based on the preseason projection that 13,400,000 bales will be classed by the United States Department of Agriculture during the 2014 crop year.

Accordingly, § 28.909, paragraph (b) reflects the continuation of the cotton classification fee at $2.20 per bale.

As provided for in the 1987 Act, a 5 cent per bale discount continues to be applied to voluntary centralized billing and collecting agents as specified in § 28.909(c).

Growers or their designated agents receiving classification data continue to incur no additional fees if classification data is requested only once. The fee for each additional retrieval of classification data in § 28.910 remains at 5 cents per bale. The fee in § 28.910 (b) for an owner receiving classification data from the National Database remains at 5 cents per bale, and the minimum charge of $5.00 for services provided per monthly billing period remains the same. The provisions of § 28.910 (c) concerning the fee for new classification memoranda issued from the National Database for the business convenience of an owner without reclassification of the cotton remains the same at 15 cents per bale or a minimum of $5.00 per sheet.

The fee for review classification in § 28.911 is maintained at $2.20 per bale.

The fee for returning samples after classification in § 28.911 remains at 50 cents per sample.

Summary of Comments

A proposed rule was published in the **Federal Register** on April 1, 2014, with a comment period of April 1, 2014 through April 16, 2014 (79 FR 18211). AMS received two comments. One comment was from a national trade organization that represents approximately 80 percent of the US cotton industry, including cotton producers, ginners, warehousemen, merchants, cooperatives, cottonseed processors, and textile manufacturers from Virginia to California. The other comment was from a national trade organization comprised of eight state and regional membership organizations that represent approximately 680 individual cotton ginning operations in 17 cotton-producing states. Comments from both national trade organizations expressed support for the decision to maintain the fee at the level established for the 2013 crop. Comments may be viewed at *www.regulations.gov.*

List of Subjects in 7 CFR Part 28

Administrative practice and procedure, Cotton, Reporting and record keeping requirements, Warehouses.

For the reasons set forth in the preamble, 7 CFR part 28 is amended as follows:

PART 28—[Amended]

■ 1. The authority citation for 7 CFR part 28, Subpart D, continues to read as follows:

Authority: 7 U.S.C. 471–476.

■ 2. In § 28.909, paragraph (b) is revised to read as follows:

§ 28.909 Costs.

* * * * *

(b) The cost of High Volume Instrument (HVI) cotton classification service to producers is $2.20 per bale.

* * * * *

■ 3. In § 28.911, the last sentence of paragraph (a) is revised to read as follows:

§ 28.911 Review classification.

(a) * * * The fee for review classification is $2.20 per bale.

* * * * *

Dated: May 7, 2014.

Rex A. Barnes,

Associate Administrator, Agricultural Marketing Service.

[FR Doc. 2014–10962 Filed 5–13–14; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2013–0869; Directorate Identifier 2013–NM–063–AD; Amendment 39–17845; AD 2014–09–10]

RIN 2120–AA64

Airworthiness Directives; The Boeing Company Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: We are adopting a new airworthiness directive (AD) for certain The Boeing Company Model 767 airplanes. This AD was prompted by reports of bearing damage at certain trailing edge (TE) flap support rib assemblies. This AD requires inspecting certain TE flap support rib assemblies to determine if the bearings have a roller retention feature, and performing corrective actions if necessary; and inspecting for bearing damage of each pair of removed bearings, and performing related investigative and corrective actions if necessary. We are issuing this AD to detect and correct damage to the TE flap support bearings, which could ultimately result in loss of controllability of the airplane.

DATES: This AD is effective June 18, 2014.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of June 18, 2014.

ADDRESSES: For service information identified in this AD, contact Boeing Commercial Airplanes, Attention: Data & Services Management, P.O. Box 3707, MC 2H–65, Seattle, WA 98124–2207; telephone 206–544–5000, extension 1; fax 206–766–5680; Internet *https://www.myboeingfleet.com*. You may view this referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221.

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2013–0869; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this AD, the regulatory evaluation, any comments received, and other information. The address for the Docket Office (phone: 800–647–5527) is Docket Management Facility, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Berhane Alazar, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Seattle Aircraft Certification Office (ACO), 1601 Lind Avenue SW., Renton, WA 98057–3356; phone: 425–917–6577; fax: 425–917–6590; email: *Berhane.Alazar@faa.gov*.

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to certain The Boeing Company Model 767 airplanes. The NPRM published in the **Federal Register** on November 7, 2013 (78 FR 66859). The NPRM was prompted by reports of bearing damage at certain TE flap support rib assemblies. The NPRM proposed to require inspecting certain TE flap support rib assemblies to determine if the bearings have a roller retention feature, and performing corrective actions if necessary; and inspecting for bearing damage of each pair of removed bearings, and performing related investigative and corrective actions if necessary. We are issuing this AD to detect and correct damage to the TE flap support bearings, which can result in damage to the TE rotary actuators and consequent dual flap drive system disconnect in both TE flap rotary actuators, and a possible flap aerodynamic blowback with loss of controllability of the airplane.

Comments

We gave the public the opportunity to participate in developing this AD. The following presents the comments received on the proposal (78 FR 66859, November 7, 2013) and the FAA's response to each comment.

Support for the NPRM (78 FR 66859, November 7, 2013)

Boeing stated that it concurs with the contents of the NPRM (78 FR 66859, November 7, 2013).

Statement Regarding the NPRM (78 FR 66859, November 7, 2013)

United Airlines stated that it has reviewed the NPRM (78 FR 66859, November 7, 2013), and has no comment to submit.

Statement Regarding the Installation of Winglets

Aviation Partners Boeing (APB) stated that the installation of winglets per APB Supplemental Type Certificate (STC) ST01920SE (*http://rgl.faa.gov/Regulatory_and_Guidance_Library/rgstc.nsf/0/59027f43b9a7486e86257b1d006591ee/$FILE/ST01920SE.pdf*) does not affect the accomplishment of the manufacturer's service instructions.

We agree with APB's statement that the installation of winglets as specified in APB STC ST01219SE (*http://rgl.faa.gov/Regulatory_and_Guidance_Library/rgstc.nsf/0/59027f43b9a7486e86257b1d006591ee/$FILE/ST01920SE.pdf*) does not affect accomplishment of the requirements of this AD. Therefore, for airplanes on which APB STC ST01920SE is installed, a ''change in product'' alternative method of compliance (AMOC) approval request is not necessary to comply with the requirements of section 39.17 of the Federal Aviation Regulations (14 CFR 39.17). We have redesignated paragraph (c) as paragraph (c)(1) of this final rule, and added paragraph (c)(2) to this final rule to state that installation of STC ST01219SE does not affect the ability to accomplish the actions required by this final rule.

Request for Clarification of Trailing Edge Flap Support Re-Identification

ANA requested that we clarify whether the re-identification of the trailing edge flap support, as described in Part 3 of the Accomplishment Instructions of Boeing Alert Service Bulletin 767–27A0227, dated February 12, 2013, for Groups 1 and 3, Configuration 1, airplanes, would be required by the NPRM (78 FR 66859, November 7, 2013).

We agree to clarify. This final rule does require part re-identification for Groups 1 and 3, Configuration 1 airplanes, as identified in Part 3 of the Accomplishment Instructions of Boeing Alert Service Bulletin 767–27A0227, dated February 12, 2013. This part re-identification is for parts configuration control purposes. We have not changed this final rule in this regard.

Request for Credit for Previous Actions

All Nippon Airways (ANA) requested that we provide credit for the actions specified in paragraphs (g) and (h) of the NPRM (78 FR 66859, November 7, 2013), if, before the effective date of the AD, airplane records were used to verify and determine that the bearings have a roller retention feature installed using Boeing Alert Service Bulletin 767–27A0222, dated June 24, 2010.

We partially agree with the commenter's request. Verifying through airplane records and determining that the bearings have a roller retention feature meets the intent of this final rule. Therefore, we have revised paragraph (g) of this final rule to allow for a review of airplane maintenance records in lieu of the roller retention feature inspection if it can be conclusively determined from that review that each affected bearing has a roller retention feature.

However, paragraph (j) of this final rule already provides credit for the actions specified in paragraphs (g) and (h) of this final rule, if those actions were performed before the effective date of this final rule using Boeing Alert Service Bulletin 767–27A0222, dated June 24, 2010. Therefore, no further change to this final rule is necessary in this regard.

Additional Change Made to This Final Rule

We have revised the heading for paragraph (j) of this final rule.

Conclusion

We reviewed the relevant data, considered the comments received, and determined that air safety and the public interest require adopting this AD with the changes described and minor editorial changes. We have determined that these minor changes:

- Are consistent with the intent that was proposed in the NPRM (78 FR 66859, November 7, 2013) for correcting the unsafe condition; and
- Do not add any additional burden upon the public than was already

proposed in the NPRM (78 FR 66859, November 7, 2013).

We also determined that these changes will not increase the economic burden on any operator or increase the scope of this AD.

Costs of Compliance

We estimate that this AD affects 45 airplanes of U.S. registry.

We estimate the following costs to comply with this AD:

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Inspection	Up to 40 work-hours × $85 per hour = Up to $3,400.	$0	Up to $3,400	Up to $153,000.

We estimate the following costs to do any necessary replacements that would be required based on the results of the inspection. We have no way of determining the number of aircraft that might need these replacements:

ON-CONDITION COSTS

Action	Labor cost	Parts cost	Cost per product
Bearing replacement and functional test	Up to 24 work-hours × $85 per hour = Up to $2,040.	Up to $5,936	Up to $7,976.

According to the manufacturer, some of the costs of this AD may be covered under warranty, thereby reducing the cost impact on affected individuals. We do not control warranty coverage for affected individuals. As a result, we have included all costs in our cost estimate.

Authority for This Rulemaking

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

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

Regulatory Findings

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

For the reasons discussed above, I certify that this AD:

(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),

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2014–09–10 The Boeing Company: Amendment 39–17845; Docket No. FAA–2013–0869; Directorate Identifier 2013–NM–063–AD.

(a) Effective Date

This AD is effective June 18, 2014.

(b) Affected ADs

None.

(c) Applicability

(1) This AD applies to The Boeing Company Model 767–200, –300, –300F, and –400ER series airplanes, certificated in any category, as identified in Boeing Alert Service Bulletin 767–27A0227, dated February 12, 2013.

(2) Installation of Aviation Partners Boeing (APB) Supplemental Type Certificate (STC) ST01920SE (*http://rgl.faa.gov/Regulatory_and_Guidance_Library/rgstc.nsf/0/59027f43b9a7486e86257b1d006591ee/$FILE/ST01920SE.pdf*) does not affect the ability to accomplish the actions required by this AD. Therefore, for airplanes on which APB STC ST01920SE is installed, a ''change in product'' alternative method of compliance (AMOC) approval request is not necessary to comply with the requirements of 14 CFR 39.17.

(d) Subject

Air Transport Association (ATA) of America Code 27, Flight controls.

(e) Unsafe Condition

This AD was prompted by reports of bearing damage at certain trailing edge (TE) flap support rib assemblies. We are issuing this AD to detect and correct damage to the TE flap support bearings, which could result in damage to the TE rotary actuators and consequent dual flap drive system disconnect in both TE flap rotary actuators, and a possible flap aerodynamic blowback with loss of controllability of the airplane.

(f) Compliance

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

(g) Inspection of Bearings To Determine Roller Retention Feature, and Corrective Actions

Except as provided by paragraph (i) of this AD, at the applicable time specified in paragraph 1.E., ''Compliance,'' of Boeing Alert Service Bulletin 767–27A0227, dated February 12, 2013: Do a general visual inspection of both bearings at the TE flap support rib assembly in flap positions 1, 2, 7, and 8 to determine if the bearings have a roller retention feature; and do all applicable corrective actions; in accordance with the Accomplishment Instructions of Boeing Alert Service Bulletin 767–27A0227, dated February 12, 2013. Do all applicable corrective actions before further flight. A review of airplane maintenance records is acceptable in lieu of this inspection if the roller retention feature of each affected bearing can be conclusively determined from that review.

(h) Inspection of Bearings for Damage, Related Investigative Actions, and Corrective Actions

For each pair of bearings removed as required by paragraph (g) of this AD: At the applicable time specified in paragraph 1.E., ''Compliance,'' of Boeing Alert Service Bulletin 767–27A0227, dated February 12, 2013, do a general visual inspection for damage of the bearings, and do all applicable related investigative and corrective actions, in accordance with the Accomplishment Instructions of Boeing Alert Service Bulletin 767–27A0227, dated February 12, 2013. Do all applicable related investigative and corrective actions before further flight.

(i) Exception to Compliance Time

Where paragraph 1.E., ''Compliance,'' of Boeing Alert Service Bulletin 767–27A0227, dated February 12, 2013, specifies a compliance time ''after the original issue date of this service bulletin,'' this AD requires compliance within the specified compliance time ''after the effective date of this AD.''

(j) Credit for Previous Actions

This paragraph provides credit for the actions specified in paragraphs (g) and (h) of this AD, if those actions were performed before the effective date of this AD using Boeing Alert Service Bulletin 767–27A0222, dated June 24, 2010, which is not incorporated by reference in this AD.

(k) Alternative Methods of Compliance (AMOCs)

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

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

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

(l) Related Information

(1) For more information about this AD, contact Berhane Alazar, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Seattle Aircraft Certification Office (ACO), 1601 Lind Avenue SW., Renton, WA 98057–3356; phone: 425–917–6577; fax: 425–917–6590; email: *Berhane.Alazar@faa.gov*.

(2) Service information identified in this AD that is not incorporated by reference may be viewed at the addresses specified in paragraphs (m)(3) and (m)(4) of this AD.

(m) Material Incorporated by Reference

(1) The Director of the Federal Register approved the incorporation by reference (IBR) of the service information listed in this paragraph under 5 U.S.C. 552(a) and 1 CFR part 51.

(2) You must use this service information as applicable to do the actions required by this AD, unless the AD specifies otherwise.

(i) Boeing Alert Service Bulletin 767–27A0227, dated February 12, 2013.

(ii) Reserved.

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

(4) You may view this service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221.

(5) You may view this service information that is incorporated by reference at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to: *http://www.archives.gov/federal-register/cfr/ibr-locations.html*.

Issued in Renton, Washington, on April 24, 2014.

Jeffrey E. Duven,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2014–09953 Filed 5–13–14; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2013–0602; Directorate Identifier 2012–CE–010–AD; Amendment 39–17848; AD 2014–10–01]

RIN 2120–AA64

Airworthiness Directives; Vulcanair S.p.A. Airplanes

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

ACTION: Final rule.

SUMMARY: We are superseding airworthiness directive (AD) 2008–24–11 for Vulcanair S.p.A. Model P68 airplanes. This AD results from mandatory continuing airworthiness information (MCAI) originated by an aviation authority of another country to identify and correct an unsafe condition on an aviation product. The MCAI describes the unsafe condition as cracking and/or corrosion of the wing spar. We are issuing this AD to require actions to address the unsafe condition on these products.

DATES: This AD is effective June 18, 2014.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in the AD as of June 18, 2014.

The Director of the Federal Register approved the incorporation by reference of certain other publications listed in this AD as of January 2, 2009 (73 FR 72314, November 28, 2008).

ADDRESSES: You may examine the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating it in Docket No. FAA–2013–0602; or in person at Document Management Facility, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590.

For service information identified in this proposed AD, contact Vulcanair Airworthiness Office, Via G Pascoli, 7, 80026 Casoria, Italy; phone: +39 081 59 18 135; fax: +39 081 59 18 172; email: *airworthiness@vulcanair.com*; Internet: *http://www.vulcanair.com/page-view.php?pagename=Service Bulletins*. You may review copies of the referenced service information at the FAA, Small Airplane Directorate, 901 Locust, Kansas City, Missouri 64106. For information on the availability of this material at the FAA, call (816) 329–4148.

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2013–0602; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this AD, the regulatory evaluation, any comments received, and other information. The address for the Docket Office (phone: 800–647–5527) is Document Management Facility, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT:

Mike Kiesov, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4144; fax: (816) 329–4090; email: *mike.kiesov@faa.gov*.

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to add an AD that would apply to Vulcanair S.p.A. Model P68 airplanes. That NPRM was published in the **Federal Register** on July 9, 2013 (78 FR 41005), and proposed to supersede AD 2008–24–11, Amendment 39–15751 (73 FR 72314, November 28, 2008).

Since we issued AD 2008–24–11, Amendment 39–15751 (73 FR 72314, November 28, 2008), Vulcanair S.p.A. developed modification kits to repair certain lower spar caps. They also developed a maintenance manual supplement with special inspections of the wing and stabilator structures and new limitations for the wing structure.

The FAA also realized that the Models AP68TP300 ''SPARTACUS'' and AP68TP 600 ''VIATOR'' were inadvertently included in AD 2008–24–11.

The European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Community, has issued AD No.: 2010–0051, dated March 25, 2010 (referred to after this as ''the MCAI''), to correct an unsafe condition for the specified products. The MCAI states:

> Safe Life Limits of the wing structure of P.68 Series aeroplanes have now been extended up to a maximum of 23 900 Flight Hours (FH), depending on the condition of the spar lower cap angles and on the embodiment of some modification kits. Furthermore, special inspections of the wing and stabilator structures, different from those previously required by EASA AD 2007–0027, have also been introduced. This change has been developed by Vulcanair under change No. MOD. P68/144 approved by EASA with approval No. 10028661on 02 February 2010.
>
> Consequently this AD, which supersedes EASA AD 2007–0027, allows the implementation of the extended Safe Life Limits, in accordance with the instructions of Vulcanair SB 162, and requires the accomplishment of special inspections for the wing and stabilator structures, in accordance with the Aircraft Maintenance Manual (AMM) Supplement part number (P/N) NOR 10.771–52.

The MCAI can be found in the AD docket on the Internet at: *http://www.regulations.gov/#!documentDetail;D=FAA-2013-0602-0002*. EASA AD No.: 2010–0051, dated March 25, 2010; Vulcanair S.p.A. Maintenance Manual Supplement NOR10.771–52, dated March 1, 2010; Vulcanair S.p.A. Service Bulletin No. 162, dated March 1, 2010; Vulcanair S.p.A. Service Instruction No. 88, dated March 1, 2010; and Vulcanair S.p.A. Service Instruction No. 89, dated March 1, 2010, base the extended safe life limits on repetitive inspections and other required preventive and corrective actions that under certain conditions allow flight with known cracks in critical structure. The FAA's Small Airplane Directorate does not allow further flight with known cracks in critical structure without additional substantiating data. Advisory Circular (AC) 23–13A, Chapter 6, dated September 29, 2005, describes what additional data is required to allow flight with known cracks (found on the Internet at *http://rgl.faa.gov/Regulatory_and_Guidance_Library/rgAdvisoryCircular.nsf*).

Comments

We gave the public the opportunity to participate in developing this AD. We have considered the comment received. James Staley supports the NPRM (78 FR 41005, July 9, 2013).

Conclusion

We reviewed the relevant data, considered the comments received, and determined that air safety and the public interest require adopting the AD as proposed except for minor editorial changes. We have determined that these minor changes:

- Are consistent with the intent that was proposed in the NPRM (78 FR 41005, July 9, 2013) for correcting the unsafe condition; and
- Do not add any additional burden upon the public than was already proposed in the NPRM (78 FR 41005, July 9, 2013).

Costs of Compliance

We estimate that this AD will affect 67 products of U.S. registry. We also estimate that it will take about 60 work-hours per product to comply with the basic requirements of this AD. The average labor rate is $85 per work-hour.

Based on these figures, we estimate the cost of the AD on U.S. operators to be $341,700, or $5,100 per product.

We estimate that the wing replacement will take about 300 work-hours and require parts costing $443,406, for a cost of $468,906 per product. Wing replacement is only required when the wing structure exceeds the safe life established in this AD.

In addition, we estimate that any necessary follow-on actions for kit installation would take about 120 work-hours and require parts costing $2,595, for a cost of $12,795 per product. We have no way of determining the number of products that may need these actions, but it would affect no more than 10 airplanes. Therefore the highest fleet cost for these actions would be $127,950.

Authority for This Rulemaking

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

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

Introduction and Purpose of This Analysis

The Regulatory Flexibility Act of 1980 (Pub. L. 96–354) (RFA) establishes ''as a principle of regulatory issuance that agencies shall endeavor, consistent with the objectives of the rule and of applicable statutes, to fit regulatory and informational requirements to the scale of the businesses, organizations, and governmental jurisdictions subject to regulation. To achieve this principle, agencies are required to solicit and

consider flexible regulatory proposals and to explain the rationale for their actions to assure that such proposals are given serious consideration.'' The RFA covers a wide-range of small entities, including small businesses, not-for-profit organizations, and small governmental jurisdictions.

Agencies must perform a review to determine whether a rule will have a significant economic impact on a substantial number of small entities. If the agency determines that it will, the agency must prepare a regulatory flexibility analysis as described in the RFA.

Final Regulatory Flexibility Analysis (FRFA)

Section 604 of the Act requires agencies to prepare a final regulatory flexibility analysis (FRFA) describing the impact of final rules on small entities.

Section 604(a) of the Act specifies the content of an FRFA.

Each FRFA must contain:

1. A statement of the need for, and objectives of, the rule;

2. A statement of the significant issues raised by the public comments in response to the initial regulatory flexibility analysis, a statement 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. The response of the agency to any comments filed by the Chief Counsel for Advocacy of the Small Business Administration in response to the proposed rule, and a detailed statement of any change made to the proposed rule in the final rule as a result of the comments;

4. A description of 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;

5. 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

6. 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.

1. Need for and Objective of This Final Rule

This AD results from MCAI originated by EASA and will supersede AD 2008–24–11, Amendment 39–15751 (73 FR 72314, November 28, 2008). AD 2008–24–11 established safe limits for the wing structure of Vulcanair P.68 series airplanes and requires repetitive inspection and repair of the wing and stabilator structures when the airplanes reach safe limits. Operation beyond existing conservative safe limits (with inspections and repair) is allowed pending establishment of final safe limits and a terminating action.

This AD significantly increases wing structure life limits (in a few cases requiring kit modification of the wing structure) but establishes a terminating action requiring replacement of the wing structure and wing fuselage attachments and bolts when new established safe limits are reached. Prior to the wing structure safe life limit being reached, this AD also requires special inspections of the wing structure with time limits, since new, of 6,000, 12,000, and 18,000 flight hours. After the first special inspection subsequent inspections must be every 6000 flight hours thereafter.

2. Response to Public Comments

There were no public comments on the initial regulatory flexibility analysis (IRFA).

3. Response to Comments by the Chief Counsel for Advocacy of the Small Business Administration

There were no comments made by the Chief Counsel for Advocacy.

4. A Description of and an Estimate of the Number of Small Entities to Which the Final Rule Will Apply

This AD will affect 67 U.S.-registered airplanes, of which 40 are owned by corporations, 8 by individuals, 2 by the Federal Government, and 17 by state governments.

Of the 48 airplanes owned by private entities, one trustee owns 3 airplanes, one trustee owns 2 airplanes, and two companies each own two airplanes. The remaining 39 airplanes are owned by 39 corporations and individuals. The FAA believes that all, or nearly all, of these private sector owners are privately held small firms, for which we cannot obtain financial records. We conclude that the AD will affect a substantial number of small entities.

5. Reporting, Record Keeping, and Other Compliance Requirements of the Final Rule

Small entities will incur no new reporting and record-keeping requirements as a result of this AD.

The additional requirements of this AD compared to AD 2008–24–11, Amendment 39–15751 (73 FR 72314, November 28, 2008) are the special wing structure inspections at 6,000, 12,000, and 18,000 flight hours; the terminating action to replace the wing structure when the wing structure safe limit is reached; and, for airplanes with serial numbers 1 through 256 for which a spar crack was found under previous Vulcanair SB65, replacement of the four main spar lower cap angles using Vulcanair Kit SB162. The costs of the required actions provided in this AD are as follows:

Requirement	Work-hours	Labor cost	Cost of materials	Total cost
Special inspections	60	$5,100	.....	.....
Wing structure replacement	300	25,500	443,406	468,906
Replacement of lower spar cap angles with kit SB162 (S/N 1–256)	120	10,200	2,595	12,795

Labor cost per hour is $85. The cost of crack repair is not provided in this AD.

The requirement to replace the wing structure, at considerable cost, occurs when the airplanes are old and have low value, often less than the cost of wing structure replacement. Therefore, in many cases airplane retirement is the least cost alternative, in which case the effective cost of the requirement is the loss in airplane value net of salvage value. The requirement to replace the lower spar cap angles applies to at most ten U.S.-registered airplanes and only if a front spar crack was previously found under SB No. 65. The expected present value cost of this requirement is

minimal. The requirement for special inspections at 6,000, 12,000, and 18,000 flight hours applies to all AD-affected airplanes.

Economic Impact on Small Entities

Since we have no financial information of the privately held firms that constitute most of the operators of the affected airplanes, we assess the economic impact of this AD using airplane values. As the Vulcanair P.68 airplanes are not listed in the Aircraft Bluebook Price Digest, we undertook an internet search and found that the resale value of older P.68 airplanes, manufactured between 1975 and 1984 ranged from about $80,000 to $300,000. Many of these airplanes will be subject to the special inspection at 6,000 flight hours or even the special inspection at 12,000 flight hours. Using a significant economic impact criterion of 2 percent of airplane value, for operators of many of these airplanes there is a significant economic impact based on just one $5,100 inspection. Taking into account the present value cost of 2 to 3 possible future inspections and possible repair, as well as the present value cost of forced early retirement, there is a significant economic impact on most if not all of these operators.

We therefore conclude that this AD will have a significant impact on a substantial number of small firms.

6. Steps the Agency Has Taken To Minimize the Significant Economic Impact on Small Entities

Because of an unsafe condition that is likely to exist or develop on the airplanes identified in this AD, there is no feasible significant alternative to requiring the actions of this AD. Therefore, there are no steps that the Agency can take to minimize the significant economic impact on small entities.

Therefore, this AD will have a significant economic impact on a substantial number of small entities.

Regulatory Findings

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

For the reasons discussed above, I certify this AD:

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

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

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

(4) Will have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

We prepared a summary of the costs to comply with this AD (and other information as included in the Regulatory Evaluation) and placed it in the AD Docket, which may be found on the Internet at: *http://www.regulations.gov/#!docketDetail;D=FAA-2013-0602;* or in person at the Document Management Facility, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590.

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by removing Amendment 39–15751 (73 FR 72314; November 28, 2008), and adding the following new AD:

2014–10–01 Vulcanair S.p.A.: Amendment 39–17848; Docket No. FAA–2013–0602; Directorate Identifier 2012–CE–010–AD.

(a) Effective Date

This airworthiness directive (AD) becomes effective June 18, 2014

(b) Affected ADs

This AD supersedes AD 2008–24–11, Amendment 39–15751 (73 FR 72314; November 28, 2008).

(c) Applicability

This AD applies to Vulcanair S.p.A. Models P 68, P 68B, P 68C, P 68C–TC, P 68 ''OBSERVER,'' P68TC ''OBSERVER,'' and P68 ''OBSERVER 2'' airplanes, serial numbers (S/N) 01 through 429, S/Ns 431 through 452, and S/N 454, certificated in any category.

(d) Subject

Air Transport Association of America (ATA) Code 57: Wings.

(e) Reason

This AD was prompted by mandatory continuing airworthiness information (MCAI) originated by an aviation authority of another country to identify and correct an unsafe condition on an aviation product. The MCAI describes the unsafe condition as cracking and/or corrosion of the wing spar. We are issuing this AD to detect and correct cracking and corrosion of the wing spars, which, if not corrected, could result in structural failure of the wing.

(f) Actions and Compliance

Unless already done, do the following actions specified in paragraphs (f)(1) through (f)(8) of this AD, to include all subparagraphs.

(1) Within 10 days after June 18, 2014] (the effective date of this AD), incorporate Vulcanair Aircraft, P68 Variants, Maintenance Manual Supplement NOR10.771–52, 1st Issue, dated March 1, 2010, into the FAA-approved maintenance program (maintenance manual) following Vulcanair Aircraft, P68 Variants, Mandatory Service Bulletin No. 162, dated March 1, 2010.

(2) Within 10 days after June 18, 2014 (the effective date of this AD), determine the safe life limit of the wing structure as follows:

(i) For all rows except rows (c) and (e) in table 1, of paragraph 1.3, of Vulcanair Aircraft, P68 Variants, Mandatory Service Bulletin No. 162, dated March 1, 2010, use the safe life limit specified in the appropriate row of the table; and

(ii) For rows (c) and (e) in table 1, of paragraph 1.3, of Vulcanair Aircraft, P68 Variants, Mandatory Service Bulletin No. 162, dated March 1, 2010, before further flight, you must modify the wing structure following Vulcanair Aircraft, P68 Variants, Mandatory Service Bulletin No. 162, dated March 1, 2010. After modification, use the safe life limit specified in the appropriate row of the table.

(3) Before reaching the life limit as determined in paragraph (f)(2) of this AD, before further flight, you must replace the wing structure and wing fuselage attachments and bolts with new ones. Do the replacement following Vulcanair Aircraft, P68 Variants, Maintenance Manual Supplement NOR10.771–52, 1st Issue, dated March 1, 2010, as specified in the instructions in WORK PROCEDURE, paragraph 2 of Vulcanair Aircraft, P68 Variants, Mandatory Service Bulletin No. 162, dated March 1, 2010.

(4) Do an initial inspection of the wing structure as specified in the instructions in paragraph 2.1 of Vulcanair Aircraft, P68 Variants, Mandatory Service Bulletin No. 162, dated March 1, 2010, at the applicable times as specified in paragraphs (f)(4)(i) and (f)(4)(ii). Repetitively thereafter inspect and replace the wing structure following the limitations in Vulcanair Aircraft, P68 Variants, Maintenance Manual Supplement NOR10.771–52, 1st Issue, dated March 1, 2010.

(i) *For aircraft that have not exceeded the safe life limit hours time-in-service (TIS) on the wing structure as determined in paragraph (f)(2) of this AD:* Before

accumulating 6,000 hours TIS on the wing structure or within 100 hours TIS after June 18, 2014 (the effective date of this AD), whichever occurs later, follow Vulcanair Aircraft, P68 Variants, Maintenance Manual Supplement NOR10.771–52, 1st Issue, dated March 1, 2010. You may take ''unless already done'' credit for this inspection if inspected in compliance with AD 2008–24–11, Amendment 39–15751 (73 FR 72314; November 28, 2008); or

(ii) *For aircraft that have exceeded the safe life limit hours TIS on the wing structure as determined in paragraph (f)(2) of this AD:* Within 100 hours TIS after June 18, 2014 (the effective date of this AD), follow Vulcanair Aircraft, P68 Variants, Mandatory Service Bulletin No. 162, dated March 1, 2010.

(5) Before accumulating 8,500 hours TIS since new on the stabilator, within 500 hours TIS after January 2, 2009 (the effective date of AD 2008–24–11, Amendment 39–15751 (73 FR 72314; November 28, 2008)), or within 500 hours TIS from the last inspection done in compliance with AD 2008–24–11, whichever occurs later, do the initial inspection of the stabilator following paragraph 2.2 of Vulcanair Aircraft, P68 Variants, Maintenance Manual Supplement NOR10.771–52, 1st Issue, dated March 1, 2010, or Vulcanair Aircraft, P68 Variants, Mandatory Service Bulletin No. 120, Revision 1, dated June 7, 2006. Repetitively thereafter inspect the stabilator following the limitations in Vulcanair Aircraft, P68 Variants, Maintenance Manual Supplement NOR10.771–52, 1st Issue, dated March 1, 2010.

(6) If any cracks are found during the inspections required in paragraphs (f)(4) and/or (f)(5) of this AD, before further flight, modify the wing structure following Vulcanair Aircraft, P68 Variants, Mandatory Service Bulletin No. 162, dated March 1, 2010.

(7) For certain Model P 68 airplanes, AD 2009–24–03, Amendment 39–16090 (74 FR 62211, November 27, 2009) requires repetitive inspections of the front and rear wing spars for cracks and modification if cracks are found. The modification terminates the repetitive inspections required in AD 2009–24–03 and may be done regardless if cracks are found. The actions of AD 2009–24–03 are independent of this AD action and remain in effect.

(8) EASA AD No.: 2010–0051, dated March 25, 2010; Vulcanair Aircraft, P68 Variants, Maintenance Manual Supplement NOR10.771–52, 1st Issue, dated March 1, 2010; Vulcanair Aircraft, P68 Variants, Mandatory Service Bulletin No. 162, dated March 1, 2010; Vulcanair S.p.A. Service Instruction No. 88, dated March 1, 2010; and Vulcanair S.p.A. Service Instruction No. 89, dated March 1, 2010, base the required preventive and corrective actions on allowing flight with known cracks in critical structure. The FAA's Small Airplane Directorate does not allow further flight with known cracks in critical structure without additional substantiating data. Advisory Circular (AC) 23–13A, Chapter 6, dated September 29, 2005, describes what additional data is required to allow flight with known cracks (found on the Internet at *http://rgl.faa.gov/Regulatory_and_Guidance_Library/rgAdvisoryCircular.nsf*).

(g) Other FAA AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, Standards Office, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. Send information to ATTN: Mike Kiesov, Aerospace Safety Engineer, FAA, Small Airplane Directorate, 901 Locust, Kansas City, Missouri 64106; telephone: (816) 329–4144; fax: (816) 329–4090; email: *mike.kiesov@faa.gov.* Before using any approved AMOC on any airplane to which the AMOC applies, notify your appropriate principal inspector (PI) in the FAA Flight Standards District Office (FSDO), or lacking a PI, your local FSDO.

(2) *Airworthy Product:* For any requirement in this AD to obtain corrective actions from a manufacturer or other source, use these actions if they are FAA-approved. Corrective actions are considered FAA-approved if they are approved by the State of Design Authority (or their delegated agent). You are required to assure the product is airworthy before it is returned to service.

(h) Related Information

Refer to MCAI European Aviation Safety Agency (EASA) AD No. 2010–0051, dated March 25, 2010, for related information. You may examine the MCAI in the AD docket on the Internet at: *http://www.regulations.gov/#!documentDetail;D=FAA-2013-0602-0002.* You may also review Vulcanair S.p.A. Service Instruction No. 88, dated March 1, 2010; and Vulcanair S.p.A. Service Instruction No. 89, dated March 1, 2010, for related information, which may be found using the information found in paragraph (i).

(i) Material Incorporated by Reference

(1) The Director of the Federal Register approved the incorporation by reference (IBR) of the service information listed in this paragraph under 5 U.S.C. 552(a) and 1 CFR part 51.

(2) You must use this service information as applicable to do the actions required by this AD, unless the AD specifies otherwise.

(3) The following service information was approved for IBR on June 18, 2014 (the effective date of this AD).

(i) Vulcanair Aircraft, P68 Variants, Mandatory Service Bulletin No. 162, dated March 1, 2010.

(ii) Vulcanair Aircraft, P68 Variants, Maintenance Manual Supplement NOR10.771–52, 1st Issue, dated March 1, 2010.

(4) The following service information was approved for IBR on January 2, 2009.

(i) Vulcanair Aircraft, P68 Variants, Mandatory Service Bulletin No. 120, Revision 1, dated June 7, 2006.

(ii) Reserved.

(5) For service information identified in this AD, contact Vulcanair Airworthiness Office, Via G Pascoli, 7, 80026 Casoria, Italy; phone: +39 081 59 18 135; fax: +39 081 59 18 172; email: *airworthiness@vulcanair.com;* Internet: *http://www.vulcanair.com/page-view.php?pagename=Service Bulletins.*

(6) You may review copies of the referenced service information at the FAA, Small Airplane Directorate, 901 Locust, Kansas City, Missouri 64106. For information on the availability of this material at the FAA, call (816) 329–4148.

(7) You may view this service information that is incorporated by reference at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to: *http://www.archives.gov/federal-register/cfr/ibr-locations.html.*

Issued in Kansas City, Missouri, on April 30, 2014.

Earl Lawrence,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2014–10789 Filed 5–13–14; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR PART 241

[Docket ID: DOD–2014–OS–0052; RIN 0790–AJ27]

Pilot Program for the Temporary Exchange of Information Technology Personnel

AGENCY: Department of Defense (DoD), Office of the DoD Chief Information Officer (DoD CIO).

ACTION: Final rule.

SUMMARY: This part assigns responsibilities and provides procedures for implementing a Pilot Program for the Temporary Exchange of Information Technology Personnel, known as the Information Technology Exchange Program pilot. This Pilot is envisioned to promote the interchange of DoD and private sector IT professionals to enhance skills and competencies. Given the changing workforce dynamics in the IT field, DoD needs to take advantage of these types of professional development programs to proactively position itself to keep pace with the changes in technology. The ITEP pilot will serve the public good by enhancing the DoD IT workforce skills to protect and defend our nation. The ITEP Pilot expired September 31, 2013. Congress has extended the expiration date to September 30, 2018, and the reporting requirements through 2018. This final rule makes amendments to the current DoD ITEP regulation to update these dates.

DATES: This rule is effective May 14, 2014.

FOR FURTHER INFORMATION CONTACT: Gary Evans, 571–372–4493.

SUPPLEMENTARY INFORMATION:

Executive Summary

I. Purpose of This Regulatory Action

a. The ITEP Pilot is envisioned to promote the interchange of DoD and private sector IT professionals to enhance skills and competencies. Given the changing workforce dynamics in the IT field, DoD needs to take advantage of these types of professional development programs to proactively position itself to keep pace with the changes in technology.

b. This regulation implements section 1110 of the National Defense Authorization Act for Fiscal Year 2010 (Pub. L. 111–84), which authorizes DoD to implement a Pilot Program for the Temporary Exchange of Information Technology (IT) Personnel. This statute authorizes the temporary assignment of DoD IT employees to private sector organizations. This statute also gives DoD the authority to accept private sector IT employees assigned under the Pilot.

II. Summary of the Major Provisions of This Regulatory Action

This Pilot Program (''Pilot'') is authorized by section 1110 of the NDAA for FY2010 (Pub. L. 111–84). Section 1110 authorizes DoD Components to assign exceptional IT employees to a private sector organization for purposes of training, development and sharing of best practices. It also gives DoD Components the authority to accept comparable IT employees on an assignment from the private sector for the training and development purposes and sharing of best practices and insight of government practices.

III. Costs and Benefits of This Regulatory Action

The cost of employee's salary and benefits will be paid by the originating employer. It is anticipated that the benefit will outweigh the cost to manage this program and any additional cost would be related to travel or cost to attend training or conferences.

Regulatory Procedures

Executive Order 12866, ''Regulatory Planning and Review'' and Executive Order 13563, ''Improving Regulation and Regulatory Review''

It has been certified that 32 CFR part 241 does not:

(1) Have an annual effect on the economy of $100 million or more, or may adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, environment, public health or safety, or State, local or tribal governments or communities;

(2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another Agency;

(3) Materially alter the budgetary impact of entitlements, 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 set forth in these Executive Orders.

Section 202, Public Law 104–4, ''Unfunded Mandates Reform Act''

It has been certified that 32 CFR part 241 does not contain a Federal mandate that may result in expenditure by State, local and tribal governments, in aggregate, or by the private sector, of $100 million or more in any one year.

Public Law 96–354, ''Regulatory Flexibility Act'' (5 U.S.C. 601)

It has been certified that 32 CFR part 241 is not subject to the Regulatory Flexibility Act (5 U.S.C. 601) because it would not, if promulgated, have a significant economic impact on a substantial number of small entities.

Public Law 96–511, ''Paperwork Reduction Act'' (44 U.S.C. Chapter 35)

It has been certified that 32 CFR part 241 does not impose reporting or recordkeeping requirements under the Paperwork Reduction Act of 1995.

Executive Order 13132, ''Federalism''

It has been certified that 32 CFR part 241 does not have federalism implications, as set forth in Executive Order 13132. This rule does not have substantial direct effects on:

(1) The States;

(2) The relationship between the National Government and the States; or

(3) The distribution of power and responsibilities among the various levels of Government.

List of Subjects in 32 CFR Part 241

Government employees, Information technology.

Accordingly, 32 CFR part 241 is amended as follows:

PART 241—[AMENDED]

■ 1. The authority citation for 32 CFR part 241 is amended to read:

Authority: Pub. L. 111–84, sec. 1110, as amended.

■ 2. In § 241.6, revise paragraph (b) to read:

§ 241.6 Length of details.

(a) * * *

(b) This extension may be granted in 3-month increments not to exceed 1 year. No assignment may commence after September 30, 2018.

■ 3. In § 241.12, revise paragraph (a) to read:

§ 241.12 Reporting requirements.

(a) For each of fiscal years 2010 through 2018, the Secretary of Defense shall submit annual reports to the congressional defense committees, not later than 1 month after the end of the fiscal year involved, a report on any activities carried out during such fiscal year, including the following information:

(1) Respective organizations to and from which an employee is assigned;

(2) Positions those employees held while they were so assigned;

(3) Description of the tasks they performed while they were so assigned; and

(4) Discussion of any actions that might be taken to improve the effectiveness of the Pilot program, including any proposed changes in the law.

* * * * *

Dated: May 9, 2014.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2014–11069 Filed 5–13–14; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 100

[Docket No. USCG–2014–0192]

Special Local Regulation; Annual Marine Events on the Colorado River, between Davis Dam (Bullhead City, AZ) and Headgate Dam (Parker, AZ) Within the San Diego Captain of the Port Zone

AGENCY: Coast Guard, DHS.

ACTION: Notice of enforcement of regulation.

SUMMARY: The Coast Guard will enforce the 37th Annual Parker, AZ Tube Float marine event and associated waterway restriction special local regulations on June 7, 2014. This event occurs in the navigable waters of the Colorado River in Parker, Arizona, covering six miles from the La Paz County Park to the Headgate Dam. These special local regulations are necessary to provide for

the safety of the participants, crew, spectators, and general users of the waterway. During the enforcement period, persons and vessels are prohibited from entering into, transiting through, or anchoring within this regulated area unless authorized by the Captain of the Port, or his designated representative.

DATES: This rule is effective from 7 a.m. to 3 p.m. on June 7, 2014.

FOR FURTHER INFORMATION CONTACT: If you have questions on this notice, call or email Petty Officer Giacomo Terrizzi, Waterways Management, U.S. Coast Guard Sector San Diego, CA; telephone (619) 278–7656, email *D11-PF-MarineEventsSanDiego@uscg.mil.*

SUPPLEMENTARY INFORMATION: The Coast Guard will enforce the special local regulations in 33 CFR 100.1102 in support of the annual Parker Tube Float, formerly known as the Great Western Tube Float (Item 9 on Table 1 of 33 CFR 100.1102), held on a Saturday in June. The Coast Guard will enforce the special local regulations on the Colorado River in Parker, AZ on Saturday June 7, 2014 from 7 a.m. to 3 p.m.

Under the provisions of 33 CFR 100.1102, persons and vessels are prohibited from entering into, transiting through, or anchoring within this regulated area of the Colorado River unless authorized by the Captain of the Port, or his designated representative. The Coast Guard may be assisted by other Federal, State, or local law enforcement agencies in enforcing this regulation.

This notice is issued under authority of 5 U.S.C. 552(a) and 33 CFR 100.1102. In addition to this notice in the **Federal Register**, the Coast Guard will provide the maritime community with advance notification of this enforcement period via the Local Notice to Mariners and local advertising by the event sponsor.

If the Captain of the Port Sector San Diego or his designated representative determines that the regulated area need not be enforced for the full duration stated on this notice, he or she may use a Broadcast Notice to Mariners or other communications coordinated with the event sponsor to grant general permission to enter the regulated area.

Dated: April 2, 2014.

S.M. Mahoney,

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

[FR Doc. 2014–10971 Filed 5–13–14; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG–2014–0261]

Safety Zone; Fourth of July Fireworks, Glenbrook, NV

AGENCY: Coast Guard, DHS.

ACTION: Notice of enforcement of regulation.

SUMMARY: The Coast Guard will enforce the safety zone for the Fourth of July Fireworks display in the Captain of the Port, San Francisco area of responsibility during the dates and times noted below. This action is necessary to protect the life and property of the maritime public from the hazards associated with the fireworks display. During the enforcement period, unauthorized persons or vessels are prohibited from entering into, transiting through, or anchoring in the safety zone, unless authorized by the Patrol Commander (PATCOM).

DATES: The regulations in 33 CFR 165.1191, Table 1, Item number 16 will be enforced from 5 a.m. through 9:30 p.m. on July 4, 2014.

FOR FURTHER INFORMATION CONTACT: If you have questions on this notice, call or email Lieutenant Junior Grade William Hawn, U.S. Coast Guard Sector San Francisco; telephone (415) 399–7442 or email at *D11-PF-MarineEvents@uscg.mil*.

SUPPLEMENTARY INFORMATION:

The Coast Guard will enforce a safety zone in navigable waters around and under a fireworks barge within a radius of 100 feet during the loading of the fireworks barge and until the start of the fireworks display. From 5 a.m. until 8 p.m. on July 4, 2014, the fireworks barge will be loading pyrotechnics at the launch site in Glenbrook Bay in approximate position 39°05′18″ N, 119°56′34″ W (NAD 83). Upon the commencement of the 20 minute fireworks display, scheduled to begin between 8 p.m. and 9 p.m. on July 4, 2014, the safety zone will increase in size and encompass the navigable waters around and under the fireworks barge within a radius 1,000 feet in approximate position 39°05′18″ N, 119°56′34″ W (NAD 83). Upon the conclusion of the fireworks display the safety zone shall terminate. This safety zone will be in effect from 5 a.m. until 9:30 p.m. on July 4, 2014.

Under the provisions of 33 CFR 165.1191, unauthorized persons or vessels are prohibited from entering into, transiting through, or anchoring in the safety zone during all applicable effective dates and times, unless authorized to do so by the PATCOM. Additionally, each person who receives notice of a lawful order or direction issued by an official patrol vessel shall obey the order or direction. The PATCOM is empowered to forbid entry into and control the regulated area. The PATCOM shall be designated by the Commander, Coast Guard Sector San Francisco. The PATCOM may, upon request, allow the transit of commercial vessels through regulated areas when it is safe to do so.

This notice is issued under authority of 33 CFR 165.1191 and 5 U.S.C. 552(a). In addition to this notice in the **Federal Register**, the Coast Guard will provide the maritime community with extensive advance notification of the safety zone and its enforcement period via the Local Notice to Mariners. If the Captain of the Port determines that the regulated area need not be enforced for the full duration stated in this notice, a Broadcast Notice to Mariners may be used to grant general permission to enter the regulated area.

Dated: April 24, 2014.

Gregory G. Stump,

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

[FR Doc. 2014–10970 Filed 5–13–14; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG–2014–0198]

Safety Zone; Big Bay Boom Fourth of July Fireworks, San Diego, CA

AGENCY: Coast Guard, DHS.

ACTION: Notice of enforcement of regulation.

SUMMARY: The Coast Guard will enforce the Big Bay Boom Fourth of July Fireworks safety zones on July 4, 2014. This recurring marine event occurs on the navigable waters of San Diego Bay in San Diego, California. This action is necessary to provide for the safety of the participants, crew, spectators, safety vessels, and general users of the waterway. During the enforcement period, persons and vessels are prohibited from entering into, transiting through, or anchoring within this regulated area unless authorized by the

Captain of the Port, or his designated representative.

DATES: This rule is effective from 8:30 p.m. to 10:00 p.m. on July 4, 2014.

FOR FURTHER INFORMATION CONTACT: If you have questions on this notice, call or email Lieutenant Commander John Bannon, Waterways Management, U.S. Coast Guard Sector San Diego, CA; telephone (619) 278–7261, email *John.E.Bannon@uscg.mil.*

SUPPLEMENTARY INFORMATION: The Coast Guard will enforce the safety zones in San Diego Bay for the Big Bay Boom Fourth of July Fireworks Display in 33 CFR 165.1123, Table 1, Item 5 from 8:30 p.m. to 10:00 p.m.

Under the provisions of 33 CFR 165.1123, persons and vessels are prohibited from entering into, transiting through, or anchoring within the 1,000 foot regulated area safety zone around each tug and barge unless authorized by the Captain of the Port, or his designated representative. Persons or vessels desiring to enter into or pass through the safety zones may request permission from the Captain of the Port or a designated representative. If permission is granted, all persons and vessels shall comply with the instructions of the Captain of the Port or designated representative. Spectator vessels may safely transit outside the regulated area, but may not anchor, block, loiter, or impede the transit of participants or official patrol vessels. The Coast Guard may be assisted by other Federal, State, or local law enforcement agencies in enforcing this regulation.

This notice is issued under authority of 5 U.S.C. 552(a) and 33 CFR 165.1123. In addition to this notice in the **Federal Register**, the Coast Guard will provide the maritime community with advance notification of this enforcement period via the Local Notice to Mariners, Broadcast Notice to Mariners, and local advertising by the event sponsor.

If the Captain of the Port Sector San Diego or his designated representative determines that the regulated area need not be enforced for the full duration stated on this notice, he or she may use a Broadcast Notice to Mariners or other communications coordinated with the event sponsor to grant general permission to enter the regulated area.

Dated: April 28, 2014.

S.M. Mahoney,

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

[FR Doc. 2014–10972 Filed 5–13–14; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG–2014–0087]

Safety Zone; San Francisco Giants Fireworks, San Francisco Bay, San Francisco, CA

AGENCY: Coast Guard, DHS.

ACTION: Notice of enforcement of regulation.

SUMMARY: The Coast Guard will enforce the safety zone for the San Francisco Giants Fireworks display in the Captain of the Port, San Francisco area of responsibility during the dates and times noted below. This action is necessary to protect life and property of the maritime public from the hazards associated with the fireworks display. During the enforcement period, unauthorized persons or vessels are prohibited from entering into, transiting through, or anchoring in the safety zone, unless authorized by the Patrol Commander (PATCOM).

DATES: The regulations in 33 CFR 165.1191, Table 1, Item number 1 will be enforced from 11 a.m. to 10:30 p.m. on June 13, 2014.

FOR FURTHER INFORMATION CONTACT: If you have questions on this notice, call or email Lieutenant Junior Grade William Hawn, U.S. Coast Guard Sector San Francisco; telephone (415) 399–7442 or email at *D11-PF-MarineEvents@uscg.mil.*

SUPPLEMENTARY INFORMATION: The Coast Guard will enforce the safety zones established in 33 CFR 165.1191, Table 1, Item number 1 on June 13, 2014. From 11 a.m. until 10 p.m. on June 13, 2014 the safety zone applies to the navigable waters around and under the fireworks barge within a radius of 100 feet during the loading, transit, and arrival of the fireworks barge at the launch site and until the start of the fireworks display. From 11 a.m. until 8:30 p.m. on June 13, 2014 the fireworks barge will be loading pyrotechnics at Pier 50 in San Francisco, CA. From 8:30 p.m. to 8:40 p.m. on June 13, 2014 the loaded fireworks barge will transit from Pier 50 to the launch site near Pier 48 in approximate position 37°46′40″ N, 122°22′58″ W (NAD83). At the conclusion of the baseball game, approximately 10 p.m. on June 13, 2014, the safety zone will increase in size and encompass the navigable waters around and under the fireworks barge within a radius of 700 feet in approximate position 37°46′40″ N, 122°22′58″ W (NAD83) for the San Francisco Giants Fireworks display in 33 CFR 165.1191, Table 1, Item number 1. Upon the conclusion of the fireworks display the safety zone shall terminate. This safety zone will be in effect from 11 a.m. to 10:30 p.m. on June 13, 2014.

Under the provisions of 33 CFR 165.1191, unauthorized persons or vessels are prohibited from entering into, transiting through, or anchoring in the safety zone during all applicable effective dates and times, unless authorized to do so by the PATCOM. Additionally, each person who receives notice of a lawful order or direction issued by an official patrol vessel shall obey the order or direction. The PATCOM is empowered to forbid entry into and control the regulated area. The PATCOM shall be designated by the Commander, Coast Guard Sector San Francisco. The PATCOM may, upon request, allow the transit of commercial vessels through regulated areas when it is safe to do so.

This notice is issued under authority of 33 CFR 165.1191 and 5 U.S.C. 552(a). In addition to this notice in the **Federal Register,** the Coast Guard will provide the maritime community with extensive advance notification of the safety zone and its enforcement period via the Local Notice to Mariners.

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

Dated: March 11, 2014.

Gregory G. Stump,

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

[FR Doc. 2014–10974 Filed 5–13–14; 8:45 am]

BILLING CODE 9110–04–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 70

[EPA–R07–OAR–2014–0164; FRL–9910–69–Region 7]

Approval and Promulgation of Implementation Plans; State of Iowa; Ambient Air Quality Standards, and Controlling Pollution

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving revisions to the State Implementation Plan (SIP) for

the state of Iowa. These revisions amend the SIP to include revisions to Iowa air quality rules necessary to allow for implementation of revised National Ambient Air Quality Standards (NAAQS) for fine particulate matter ($PM_{2.5}$), lead, and sulfur dioxide (SO_2) as they apply to construction permit exemptions. The spray booth ''permit by rule'' is revised to add content limits for lead-containing spray materials. The updated Federal references to the revised NAAQS are also included in this revision. The revisions improve the stringency of the SIP.

EPA is also approving revisions to the Iowa Title V Operating Permits Program to modify requirements for insignificant activities. The changes correspond to the revisions to the construction permit exemptions amended with this SIP revision.

DATES: This direct final rule is effective July 14, 2014, without further notice, unless EPA receives adverse comment by June 13, 2014. If EPA receives adverse comment, we will publish a timely withdrawal of the direct final rule in the **Federal Register** informing the public that the rule will not take effect.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R07–OAR–2014–0164, by one of the following methods:

1. *www.regulations.gov.* Follow the on-line instructions for submitting comments.
2. *Email: Algoe-eakin.amy@epa.gov.*
3. *Mail or Hand Delivery:* Amy Algoe-Eakin, Environmental Protection Agency, Air Planning and Development Branch, 11201 Renner Boulevard, Lenexa, Kansas 66219.

Instructions: Direct your comments to Docket ID No. EPA–R07–OAR–2014–0164. 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 through *www.regulations.gov* or email information that you consider to be CBI or otherwise protected. 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, i.e., 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 form. Publicly available docket materials are available either electronically in *www.regulations.gov* or in hard copy at the Environmental Protection Agency, Air Planning and Development Branch, 11201 Renner Boulevard, Lenexa, Kansas 66219. The Regional Office's official hours of business are Monday through Friday, 8:00 to 4:30 excluding legal holidays. The interested persons wanting to examine these documents should make an appointment with the office at least 24 hours in advance.

FOR FURTHER INFORMATION CONTACT: Amy Algoe-Eakin, Environmental Protection Agency, Air Planning and Development Branch, 11201 Renner Boulevard, Lenexa, Kansas 66219 at (913) 551–7942, or by email at *Algoe-eakin.amy@epa.gov.*

SUPPLEMENTARY INFORMATION: Throughout this document ''we,'' ''us,'' or ''our'' refer to EPA. This section provides additional information by addressing the following:

I. What is being addressed in this document?
II. Have the requirements for approval of a SIP revision been met?
III. What action is EPA taking?

I. What is being addressed in this document?

EPA is amending the SIP to include revisions to Iowa air quality rules and the Title V program. EPA is approving revisions for Chapter 22 ''Controlling Pollution'' of 567 Iowa Administrative Code and revisions to Chapter 28 ''Ambient Air Quality Standards'' of 567 Iowa Administrative Code. These rules have been revised to account for changes made by EPA to the NAAQS for $PM_{2.5}$, lead (Pb), and SO_2.

Chapter 22 revisions include: (1) Modifications to the list of construction permitting exemptions to set appropriate emission thresholds and operating conditions for $PM_{2.5}$ and Pb; (2) updates to the ''insignificant activities'' to set appropriate emission thresholds and operating permit conditions for $PM_{2.5}$ and Pb; and (3) revisions to permit by rule for spray booths which add the maximum lead content limits for lead-containing sprayed materials, which apply to new facilities or new uses of lead spray materials for operations for owner- or operator-initiated construction, installation, reconstruction or alteration after October 23, 2013. Chapter 28 is revised to remove particulate matter (PM_{10}) as a surrogate for the annual standard of the $PM_{2.5}$ NAAQS, and adopt by reference the 2010 SO_2 NAAQS.

EPA is also approving revisions to the Iowa Title V Operating Permits program to modify requirements for insignificant activities as related to operating permits. The changes correspond to the revisions to the construction permit exemptions amended with this SIP revision.

II. Have the requirements for approval of a SIP revision been met?

The state submission has met the public notice requirements for SIP submissions in accordance with 40 CFR 51.102. The submission also satisfied the completeness criteria of 40 CFR part 51, appendix V. In addition, as explained above and in more detail in the technical support document which is part of this docket, the revision meets the substantive SIP requirements of the CAA, including section 110 and implementing regulations.

III. What action is EPA taking?

EPA is approving revisions to the SIP for the State of Iowa. These revisions amend the SIP to include revisions to Iowa air quality rules necessary to allow for implementation of new and revised NAAQS for $PM_{2.5}$, lead, and SO_2 as they apply to construction permit exemptions. The spray booth ''permit by rule'' is revised to add content limits for lead-containing spray materials. The updated Federal references for the revised NAAQS are also included in this revision. All revisions are approved as they do not adversely impact air quality in the state of Iowa and do not relax the SIP.

EPA is also approving revisions to the Iowa Title V Operating Permits Program to modify requirements for insignificant activities. The changes correspond to

revisions to the construction permit exemptions amended in the SIP. We are processing this action as a direct final action because the revisions make routine changes to the existing rules which are noncontroversial. Therefore, we do not anticipate any adverse comments. Please note that if EPA receives adverse comment on part of this rule and if that part can be severed from the remainder of the rule, EPA may adopt as final those parts of the rule that are not the subject of an adverse comment.

Statutory and Executive Order Reviews

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a ''significant regulatory action'' and therefore is not subject to review under Executive Orders 12866 and 13563 (76 FR 3821, January 21, 2011).This action is also not subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001). This action merely approves state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it 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).

This rule also does not have tribal implications because it will 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, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). This action also does not have Federalism implications because it does 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 (64 FR 43255, August 10, 1999). Thus Executive Order 13132 does not apply to this action. This action merely approves a state rule implementing a Federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the CAA. This rule also is not subject to Executive Order 13045, ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997) because it approves a state rule implementing a Federal standard.

In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a state submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA when it reviews a state submission, to use VCS in place of a state submission that otherwise satisfies the provisions of the CAA. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. This action does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). Burden is defined at 5 CFR 1320.3(b).

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 rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**.

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 rule 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. Parties with objections to this direct final rule are encouraged to file a comment in response to the parallel notice of proposed rulemaking for this action published in the proposed rules section of today's **Federal Register**, rather than file an immediate petition for judicial review of this direct final rule, so that EPA can withdraw this direct final rule and address the comment in the final rulemaking. 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, Lead, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides.

40 CFR Part 70

Environmental protection, Administrative practice and procedure, Air pollution control, Operating permits, Reporting and recordkeeping requirements.

Dated: April 29, 2014.

Karl Brooks,

Regional Administrator, Region 7.

Chapter I, title 40 of the Code of Federal Regulations 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 Q—Iowa

■ 2. In § 52.820, the table in paragraph (c) is amended by revising the entries for ''567–22.1'', ''567–22.8'', and ''567–28.1'' to read as follows:

§ 52.820 Identification of plan.

* * * * *

(c) * * *

EPA-APPROVED IOWA REGULATIONS

Iowa citation	Title	State effective date	EPA approval date	Explanation
Iowa Department of Natural Resources Environmental Protection Commission [567]				
* * *	*	*	*	*
Chapter 22—Controlling Pollution				
567–22.1	Permits Required for New or Existing Stationary.	10/23/13	5/14/14 [*insert* **Federal Register** *page number where the document begins*].	
* * *	*	*	*	*
567–22.8	Permits By Rule	10/23/13	5/14/14 [*insert* **Federal Register** *page number where the document begins*]	
* * *	*	*	*	*
Chapter 28—Ambient Air Quality Standards				
567–28.1	Statewide Standards	10/23/13	5/14/14 [*insert* **Federal Register** *page number where the document begins*]	
* * *	*	*	*	*

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PART 70—STATE OPERATING PERMITS PROGRAMS

■ 3. The authority citation for part 70 continues to read as follows:

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

■ 4. Appendix A to part 70 is amended by adding paragraph (p) under ''Iowa'' to read as follows:

Appendix A to Part 70—Approval Status of State and Local Operating Permits Programs

* * * * *

Iowa

* * * * *

(p) The Iowa Department of Natural Resources submitted for program approval revisions to 567–22.103(455B) revised insignificant activities which must be included in Title V Operating permit applications. These revisions to the Iowa program are approved effective July 14, 2014.

* * * * *

[FR Doc. 2014–10968 Filed 5–13–14; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 81

[EPA–R04–OAR–2012–0893; FRL–9910–65–Region 4]

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

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; correcting amendment.

SUMMARY: The 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 Rome, Georgia, fine particulate matter ($PM_{2.5}$) nonattainment area (hereafter referred to as the ''Rome Area'' or ''Area'') to attainment for the 1997 Annual $PM_{2.5}$ National Ambient Air Quality Standards (NAAQS). The Rome Area is comprised of Floyd 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 Rome 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 Rome 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 inadvertent errors in the proposed rulemaking for this action.

DATES: This rule is effective June 13, 2014.

ADDRESSES: EPA has established a docket for this action under Docket Identification No. EPA–R04–OAR–2012–0893. 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 Rome 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 January 23, 2014, EPA proposed to redesignate the Rome 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 Rome Area included in that maintenance plan.[3] *See* 79 FR 3757. EPA also proposed to determine that the Rome 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 January 23, 2014, proposed rulemaking.

As stated in EPA's January 23, 2014, proposal notice, the 3-year design value of 13.3 micrograms per cubic meter (μg/m^3) for 2009–2011 meets the $PM_{2.5}$ Annual NAAQS of 15.0 μg/m^3. EPA has reviewed the most recent ambient monitoring data, which confirms that the Rome 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 Floyd 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 Rome Area included in that maintenance plan. The maintenance plan is designed to demonstrate that the Rome 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 Rome Area meets the criteria for redesignation set forth in CAA, including EPA's determination that the Rome 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 January 23, 2014, proposed rule. *See* 79 FR 3757.

Today, EPA is also clarifying and correcting inadvertent errors related to Tables 2 and 6 in Section V of EPA's January 23, 2014 proposed rulemaking. In Table 2 of EPA's proposed rule, the 2007 sulfur dioxide (SO_2) point source emissions are presented as 24,275 tons. This was a typographical error. The 2007 SO_2 point source emissions should have been listed as 51,275 tons as presented in Table 3–2 of Georgia's June 21, 2012 submittal. Additionally, in Table 6 of EPA's proposed rule, the 2007 SO_2 emissions are presented as 25,276.1 tons. This was a typographical error. The 2007 SO_2 emissions should have been listed as 52,077 tons as presented in Table 3–2 of Georgia's June 21, 2012 submittal. EPA has determined that the corrections to Tables 2 and 6 of EPA's January 23, 2014 proposed rule fall 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 these typographical corrections is unnecessary because EPA's evaluation leading to the January 23, 2014, proposal considered the correct values reported in Georgia's submittal, and therefore, the corrections do not change EPA's determination that Georgia has met the requirements for the Rome 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 Rome 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 Rome Area by approximately 3 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 Rome Area. Any increase in emissions that may result from these

[1] Although EPA received Georgia's request to redesignate the Rome 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 Rome 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 January 12, 2012, EPA approved, under section 172(c)(3) of the CAA, Georgia's 2002 base-year emissions inventory for the Rome 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 1873.

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 Rome Area are expected to decrease by 86 percent (52,077 tpy to 7,194 tpy) and 33 percent (15,475 tpy to 10,336 tpy), respectively between 2007 and 2023.

III. Why is EPA taking these actions?

EPA has determined that the Rome Area has attained the 1997 Annual $PM_{2.5}$ NAAQS and has also determined that all other criteria for the redesignation of the Rome 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 Rome 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 Rome 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 January 23, 2014 proposed rulemaking. *See* 79 FR 3757.

IV. What are the effects of these actions?

Approval of the redesignation request changes the legal designation of Floyd 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 Rome 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 Rome 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 Rome Area, which includes the new 2023 NO_X and $PM_{2.5}$ MVEBs of 994.4 tpy and 38.0 tpy, respectively, for this Area. EPA's approval of the redesignation request is based on the Agency's determination that the Rome Area meets the criteria for redesignation set forth in CAA, including EPA's determination that the Rome 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—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 L—Georgia

■ 2. Section 52.570(e) is amended by adding a new entry ''1997 Annual $PM_{2.5}$ Maintenance Plan for the Rome 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 Rome Area.	Floyd County, Rome, Georgia Area	6/21/12	5/14/2014 [Insert citation of publication].	

PART 81—DESIGNATION OF AREAS FOR AIR QUALITY PLANNING PURPOSES

■ 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 ''Rome, GA'' by revising the entry for ''Floyd County'' to read as follows:

§ 81.311 Georgia.

* * * * *

GEORGIA—$PM_{2.5}$

[Annual NAAQS]

Designated area	Designation [a]	
	Date [1]	Type
*	*	*
Rome, GA:		
Floyd County	This action is effective 5/14/2014	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. 2014–10960 Filed 5–13–14; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[EPA–HQ–OPP–2009–0431; FRL–9909–80]

RIN 2070–ZA16

Mancozeb, Maneb, Metiram, and Thiram; Tolerance Actions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is revoking, modifying, and establishing specific tolerances for the fungicide mancozeb and revising the definition for total residue of dithiocarbamates permitted in or on the same raw agricultural commodity. These actions are in follow-up to the tolerance recommendations made during the reregistration and tolerance reassessment processes (including follow-up on canceled or additional uses of pesticides). In addition, EPA is removing expired tolerances for mancozeb and maneb. EPA is taking no further tolerance actions herein on metiram and thiram because proposed changes have since been completed for metiram and the Agency expects to propose tolerance actions for thiram in a future notice in the **Federal Register**.

DATES: This regulation is effective November 14, 2014. Objections and requests for hearings must be received on or before July 14, 2014, and must be filed in accordance with the instructions provided in 40 CFR part 178 (see also Unit I.C. of the **SUPPLEMENTARY INFORMATION**).

ADDRESSES: The docket for this action, identified by docket identification (ID) number EPA–HQ–OPP–2009–0431, is available at *http://www.regulations.gov* or at the Office of Pesticide Programs Regulatory Public Docket (OPP Docket) in the Environmental Protection Agency Docket Center (EPA/DC), West William Jefferson Clinton Bldg., Rm. 3334, 1301 Constitution Ave. NW., Washington, DC 20460–0001. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the OPP Docket is (703) 305–5805. Please review

the visitor instructions and additional information about the docket available at *http://www.epa.gov/dockets.*

FOR FURTHER INFORMATION CONTACT: Joseph Nevola, Pesticide Re-Evaluation Division (7508P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001; telephone number: (703) 308–8037; email address: *nevola.joseph@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

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

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

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

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

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

Under the Federal Food, Drug, and Cosmetic Act (FFDCA) section 408(g), 21 U.S.C. 346a, any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. You must file your objection or request a hearing on this regulation in accordance with the instructions provided in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket ID number EPA–HQ–OPP–2009–0431 in the subject line on the first page of your submission. All objections and requests for a hearing must be in writing, and must be received by the Hearing Clerk on or before July 14, 2014. Addresses for mail and hand delivery of objections and hearing requests are provided in 40 CFR 178.25(b).

In addition to filing an objection or hearing request with the Hearing Clerk as described in 40 CFR part 178, please submit a copy of the filing (excluding any Confidential Business Information (CBI)) for inclusion in the public docket. Information not marked confidential pursuant to 40 CFR part 2 may be disclosed publicly by EPA without prior notice. Submit the non-CBI copy of your objection or hearing request, identified by docket ID number EPA–HQ–OPP–2009–0431, by one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the online instructions for submitting comments. Do not submit electronically any information you consider to be CBI or other information whose disclosure is restricted by statute.
- *Mail:* OPP Docket, Environmental Protection Agency Docket Center (EPA/DC), (28221T), 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001.
- *Hand Delivery:* To make special arrangements for hand delivery or delivery of boxed information, please follow the instructions at *http://www.epa.gov/dockets/contacts.html.*

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

II. Background

A. What action is the agency taking?

In the **Federal Register** of September 16, 2009 (74 FR 47507) (FRL–8431–4), EPA issued a proposed rule, in follow-up to reregistration and tolerance reassessment processes (including follow-up on canceled or additional uses of pesticides). EPA proposed to revoke, modify, and establish specific tolerances for mancozeb, maneb, metiram, and thiram. In addition, EPA proposed to revise the definition for total residue of dithiocarbamates permitted in or on the same raw agricultural commodity in 40 CFR 180.3(d)(5). Also, the proposed rule of September 16, 2009 provided a 60-day comment period which invited public comment for consideration and for support of tolerance retention under FFDCA standards.

In addition, in the **Federal Register** of September 16, 2009, EPA had proposed in 40 CFR 180.110 to revoke specific tolerances for maneb on apricot; bean, succulent; carrot, roots; celery; nectarine; and peach; and decrease tolerances on bean, dry, seed; broccoli; Brussels sprouts; cauliflower; cucumber; eggplant; kohlrabi; melon; bulb onion (revised from onion); pumpkin; summer squash; winter squash; and tomato; increase the tolerances on cabbage and beet, sugar, tops; establish tolerances on beet, sugar, roots; beet, sugar, dried pulp; fat of cattle, goats, hogs, horses, poultry, and sheep; meat of cattle, goats, hogs, horses, poultry, and sheep; meat byproducts of cattle, goats, hogs, horses, poultry, and sheep; egg; and milk, and revise certain commodity terminologies. However, in the intervening period EPA revoked all tolerances for maneb with expiration dates of December 31, 2012 in a final rule published in the **Federal Register** of July 12, 2011 (76 FR 40811) (FRL–8878–6) after notice and comment (proposed rule published May 26, 2010 (75 FR 29475) (FRL–8826–2)). Because these tolerances have expired and therefore are no longer needed, EPA is removing 40 CFR 180.110 in its entirety. EPA is removing that section herein without notice and opportunity to comment. Section 553(b)(3)(B) of the Administrative Procedure Act (APA) provides that notice and comment is not necessary ''when the agency for good cause finds (and incorporates the finding and a brief statement of reasons therefore in the rules issued) that notice and public procedure thereon are impracticable, unnecessary, or contrary to the public interest.'' EPA finds good cause here because removing the section does not affect the already expired tolerances.

Also, in the **Federal Register** of September 16, 2009, EPA had proposed in 40 CFR 180.217 to revise the section heading from its chemical name to metiram, revise the introductory text containing the tolerance expression for metiram, decrease tolerances for metiram on apple to 0.5 ppm and potato to 0.2 ppm, and establish a tolerance on wet apple pomace at 2 ppm. However, in the intervening period EPA finalized these tolerance actions in a final rule published in the **Federal Register** of April 29, 2011 (76 FR 23882) (FRL–8869–1) after notice and comment (proposed rule published September 16, 2009 (74 FR 47507) (FRL–8431–4)). Therefore, no further changes are being made to 40 CFR 180.217.

In this final rule, EPA is also revoking, modifying, and establishing specific tolerances for mancozeb and revising the definition for total residue of dithiocarbamates permitted in or on the same raw agricultural commodity. However, EPA will not establish a tolerance for mancozeb on rice straw, which was proposed based on the 2005 Mancozeb Registration Eligibility Decision (RED), because since that time EPA has determined that rice straw is no longer a significant feed item in the United States. (The document entitled ''OPPTS Test Guideline 860.1000 Supplement: Guidance on Constructing

Maximum Reasonably Balanced Diets (MRBD)'' is available at *http://www.regulations.gov* under docket ID number EPA–HQ–OPPT–2009–0155).

In addition, EPA is also revising 40 CFR 180.176(b) for mancozeb by removing the listing of time-limited tolerances on ginseng and walnut because they have already expired, on December 31, 2010 and December 31, 2013, respectively. Since no other tolerances would remain in that paragraph, the Agency is reserving that paragraph. EPA is making the revisions in 40 CFR 180.176(b) without notice and opportunity to comment. Section 553(b)(3)(B) of the APA provides that notice and comment is not necessary ''when the agency for good cause finds (and incorporates the finding and a brief statement of reasons therefore in the rules issued) that notice and public procedure thereon are impracticable, unnecessary, or contrary to the public interest.'' EPA finds good cause here because removing the listing does not affect the legal status of the already expired tolerances.

EPA is finalizing these tolerance actions in order to implement the tolerance recommendations made during the reregistration and tolerance reassessment processes (including follow-up on canceled or additional uses of pesticides). As part of these processes, EPA is required to determine whether each of the amended tolerances meets the safety standard of FFDCA. The safety finding determination of ''reasonable certainty of no harm'' is discussed in detail in each RED for the active ingredient. REDs recommend the implementation of certain tolerance actions, including modifications, to reflect current use patterns, to meet safety findings and change commodity names and groupings in accordance with new EPA policy. Printed copies of many REDs may be obtained from EPA's National Service Center for Environmental Publications (EPA/NSCEP), P.O. Box 42419, Cincinnati, OH 45242–2419; telephone number: 1–800–490–9198; fax number: 1–513–489–8695; Internet at *http://www.epa.gov/ncepihom* and from the National Technical Information Service (NTIS), 5285 Port Royal Rd., Springfield, VA 22161; telephone number: 1–800–553–6847 or (703) 605–6000; Internet at *http://www.ntis.gov.* Electronic copies of REDs are available on the Internet at *http://www.regulations.gov* and *http://www.epa.gov/pesticides/reregistration/status.htm.*

In this final rule, EPA is revoking certain tolerances and/or tolerance exemptions because either they are no longer needed or are associated with food uses that are no longer registered under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) in the United States. Those instances where registrations were canceled were because the registrant failed to pay the required maintenance fee and/or the registrant voluntarily requested cancellation of one or more registered uses of the pesticide active ingredient. The tolerances revoked by this final rule are no longer necessary to cover residues of the relevant pesticides in or on domestically treated commodities or commodities treated outside but imported into the United States. It is EPA's general practice to issue a final rule revoking those tolerances and tolerance exemptions for residues of pesticide active ingredients on crop uses for which there are no active registrations under FIFRA, unless any person in comments on the proposal indicates a need for the tolerance or tolerance exemption to cover residues in or on imported commodities or legally treated domestic commodities.

EPA has historically been concerned that retention of tolerances that are not necessary to cover residues in or on legally treated foods may encourage misuse of pesticides within the United States.

Generally, EPA will proceed with the revocation of these tolerances on the grounds discussed in Unit II.A. if one of the following conditions applies:

- Prior to EPA's issuance of a FFDCA section 408(f) order requesting additional data or issuance of a FFDCA section 408(d) or (e) order revoking the tolerances on other grounds, commenters retract the comment identifying a need for the tolerance to be retained.
- EPA independently verifies that the tolerance is no longer needed.
- The tolerance is not supported by data that demonstrate that the tolerance meets the requirements under FFDCA.

This final rule does not revoke those tolerances for which EPA received comments stating a need for the tolerance to be retained. Among the comments received by EPA, are the following:

1. *General comments.—i. Comments by the EBDC Task Force.* The task force expressed support for the proposed change in the tolerance expression for ethylenebis dithiocarbamate (EBDC) fungicides from zineb equivalents to carbon disulfide equivalents. However, the task force proposed alternative language for the text proposed by EPA in 40 CFR 180.3(d)(5), which adds carbon disulfide as part of the tolerance definition. In addition, the task force requested that EPA should clarify that thiram is not a member of the EBDC class of fungicides, and thiram does not have a common mechanism of toxicity with the EBDCs. The task force stated that the individual mancozeb, maneb, and metiram REDs document that the EBDCs do not have a common mode of action with any other dithiocarbamate. Therefore the aggregate exposures and risks referred to in Unit II.A.2. of the proposed rule are separate for the EBDC fungicides and for thiram.

Agency response. EPA thanks the EBDC Task Force for its support of the proposed tolerance expression change to carbon disulfide equivalents for EBDC fungicides. The task force is correct regarding the text proposed in 40 CFR 180.3(d)(5) in that the comparison should be on a single basis, and not a combination of zineb and carbon disulfide values. However, instead of comparing the tolerances to the zineb values, as recommended by the task force, EPA is making the comparison to the new expression, carbon disulfide in 40 CFR 180.3(d)(5) to read as set out in the regulatory text at the end of this document. The conversion from zineb to carbon disulfide equivalents allows harmonization of U.S. tolerances with Codex Maximum Residue Limits (MRLs).

Regarding the task force's comment about EBDC fungicides and thiram, EPA presumes that the task force is referring to the following statement in the proposed rule: ''EPA has determined that the aggregate exposures and risks are not of concern for the above-mentioned pesticide active ingredients based upon the data identified in the RED or TRED which lists the submitted studies that the Agency found acceptable.'' This statement is a generic statement included in all tolerance actions based on recommendations in REDs and TREDs, referring to the safety standard in FFDCA. It is meant to imply that the aggregate risks for the individual chemicals are not of concern, which includes the aggregate exposure including food, drinking water, and residential sources. This statement does not refer to the aggregate risk of the metabolite that is common to the EBDCs, ethylene thiourea, nor does it imply that there is a common mode of action among all dithiocarbamates. The Agency has reviewed the dithiocarbamates and has determined that there is insufficient evidence to support grouping them in a common mechanism group (*http://www.epa.gov/pesticides/cumulative/dithiocarb.pdf*).

ii. *Comments by the Natural Resources Defense Council (NRDC).* NRDC expressed concern about the effects of the EBDC fungicides on

women of child-bearing age, stating that for all the EBDCs and their degradate ethylene thiourea (ETU), the thyroid is the target organ. They have noted that a decrease in thyroxine in pregnant and lactating women, such as has been observed in laboratory animals exposed to the EBDC fungicides, can result in neuro-developmental problems in their children. NRDC specifically inquired whether the Agency considered the risks to the infants of low-iodide women, and has recommended that the Agency retain the Food Quality Protection Act (FQPA) factor of at least 10X, and possibly more. Also, NRDC encouraged EPA to fully evaluate the endocrine disrupting activity of the EBDC fumigants, potentially at very low environmentally-relevant exposure levels, using appropriately designed tests such as from the Endocrine Disruptor Screening Program (EDSP). NRDC stated that EPA has the opportunity to obtain reliable data about the endocrine disrupting effects associated with the EBDC fumigants, given the most current understanding about endocrine disruptors. NRDC recommended that EPA require registrants to submit a study properly designed to detect endocrine disruption. Also, NRDC expressed concerns about the potential toxicity of inert ingredients in the end use products made with EBDC fumigants, Agency follow-up on the compliance rate with mitigation measures, or any follow-up on the effectiveness of the mitigation in protecting workers and exposed wildlife, and the availability of non-chemical and reduced-risk chemical alternatives in its benefits assessment for the EBDC fumigants. In addition, NRDC objected to the continued use of the EBDC fungicides, which they described as not reduced-risk pesticides, in Integrated Pest Management (IPM) programs for many foliar disease management programs.

Agency response. On August 16, 2010, EPA sent a letter to NRDC which constituted a partial response by EPA to a letter dated November 16, 2009, submitted to the docket on behalf of NRDC, commenting on the September 16, 2009 proposed tolerance rule. EPA's response of August 16, 2010 addressed NRDC's concerns regarding the toxicity of inert ingredients in EBDC products, compliance with and effectiveness of mitigation measures, and consideration of non-chemical and reduced-risk alternatives in the benefits assessments for the EBDCs. The matters discussed in the August 16, 2010 response pertain to registration of EBDCs under FIFRA and are not relevant to setting of tolerances under FFDCA. That response is available in the docket of this final rule.

In a document dated July 9, 2010, EPA revised its responses of earlier documents (March 30, 2010 and May 14, 2010) to address NRDC's comments on the FQPA safety factor and the risks to infants of low-iodide women of child-bearing age and potential endocrine-disrupting activity of EBDCs. EPA believes that the tolerances are safe for the reasons identified in the July 9, 2010 response. In addition, that response discussed the Endocrine Disruptor Screening Program as it applies to EBDCs and how existing endocrine disruption data regarding EBDCs is already taken into account in the FFDCA safety finding for EBDCs. The three EPA response documents are available in the docket of this final rule.

2. *Specific chemical comments.*—i. *Mancozeb.*—a. *Comments by the Mancozeb Task Force (MTF).* The MTF expressed support for the proposed change in the mancozeb tolerance expression from zineb equivalents to carbon disulfide equivalents. The MTF stated that because the tolerance for sweet corn (kernel plus cob removed) was proposed by EPA to be decreased to 0.1 ppm and EPA determined that data for sweet corn can be translated to popcorn grain, the tolerance for popcorn grain should not be decreased to 0.06 ppm as EPA proposed, but instead should also be set at 0.1 ppm. Also, the MTF stated that no member of the MTF is supporting the carrot use on a regional basis and the existing tolerance could be revoked. In addition, the MTF commented on the mancozeb RED recommendations for certain grain, bran, flour, and hay tolerances.

b. *Comment by Argentine Department of Agriculture.* The Argentine Department of Agriculture expressed deep concern over the Agency's proposed decrease to 1.5 ppm for the mancozeb tolerance on grape, and requested a copy of the risk assessment.

Agency response. EPA thanks the MTF for its support of the proposed tolerance expression change for mancozeb. EPA proposed to decrease the tolerance on sweet corn (kernel plus cob with husks removed) to 0.1 ppm in order to harmonize with a Codex MRL of 0.1 expressed as milligrams (mg) carbon disulfide/killigram (kg) for dithiocarbamates. Because EPA determined that the data for sweet corn can be translated to popcorn grain, EPA agrees with the MTF that the popcorn grain tolerance should be decreased to 0.1 ppm. Regarding the mancozeb tolerance for carrot roots, there is an existing FIFRA section 24(c) registration, and therefore EPA is redesignating that tolerance from 40 CFR 180.176(a) to (c) and decreasing it to 1 ppm. However, EPA is also revising the introductory text there to include a reference for the definition of a regional tolerance in 40 CFR 180.1(l). EPA is including that reference herein without notice and opportunity to comment. Section 553(b)(3)(B) of the APA provides that notice and comment is not necessary ''when the agency for good cause finds (and incorporates the finding and a brief statement of reasons therefore in the rules issued) that notice and public procedure thereon are impracticable, unnecessary, or contrary to the public interest.'' EPA finds good cause here because including a reference does not affect the legal status of the tolerance.

As stated in the **Federal Register** of September 16, 2009, EPA did not propose certain tolerance actions (cottonseed; field corn grain; papaya; grain and straw of barley, oat, rye, and wheat; and milling feed fractions of barley, oat, and wheat) at that time because it had not verified that all mancozeb registrations for them had been revised or that required data had been received and approved. The Agency expects to address other mancozeb tolerance actions in a future publication in the **Federal Register**.

Concerning the Argentine Department of Agriculture's request, EPA did send a risk assessment and would be happy to address any specific questions.

ii. *Thiram.—Comment by VJP Consulting, Inc.* VJP Consulting commented on behalf of Taminco, Inc., a registrant of thiram, whose request for voluntary cancellation for thiram use on apples in the United States had been approved by EPA. VJP stated that the most recent dietary risk assessments for thiram in 2009 continued to include apple use and the acute and chronic dietary risks were acceptable. VJP noted that although EPA proposed to revoke the thiram tolerance on apple in the **Federal Register** of September 16. 2009, Taminco wanted the tolerance on apple maintained for importation purposes. In communication with the Agency in 2007, Taminco had declared such an interest and the Agency had notified Taminco that it must provide justification that the U.S. data is comparable to data that would have likely been gathered from trials in Canada and encouraged Taminco to submit at least some foreign data (at least 1 Canadian field trial). The Agency suggested that if thiram is being used in Canada, then some residue data should exist. The Agency noted that apples were removed at the time of the RED due to acute dietary concerns, and

therefore, Taminco should also submit percent crop treated information in Canada and the percentage of thiram treated apples being imported for additional consideration. Further, the registrant was told to contact the Agency if there were additional questions.

Agency response. Because in a comment to the proposed rule, Taminco expressed a need for retention of the apple tolerance for import purposes and intends to support the tolerance with data, EPA will not revoke the tolerance for thiram in 40 CFR 180.132 on apple at this time. After the data have been reviewed, EPA will re-evaluate that tolerance under FFDCA. If data adequate to support a safety finding are lacking, EPA intends to revoke the tolerance on apple in 40 CFR 180.132.

Also, in the intervening period since the proposed rule published in the **Federal Register** of September 16, 2009, EPA has published several final rules which established tolerances for thiram expressed in residues of thiram (September 23, 2009 (74 FR 48386) (FRL–8431–9), February 12, 2014 (79 FR 8295) (FRL–9904–22), and April 4, 2014 (79 FR 18818) (FRL–9909–02)). Recently, EPA determined how all the existing tolerance levels for thiram should be expressed as carbon disulfide equivalents. Therefore, EPA will not take any tolerance actions on thiram in this final rule. Instead, EPA expects to propose them in a future notice in the **Federal Register**.

With the exception of the changes described in Unit II.A. and in the Agency responses to comments in this final rule, EPA is finalizing the amendments proposed concerning the pesticide active ingredient mancozeb in the **Federal Register** of September 16, 2009 and for good cause is removing expired maneb tolerances. For a detailed discussion of the Agency's rationale for the finalized tolerance actions, refer to the proposed rule of September 16, 2009.

B. What is the Agency's authority for taking this action?

EPA may issue a regulation establishing, modifying, or revoking a tolerance under FFDCA section 408(e). In this final rule, EPA is establishing, modifying, and revoking tolerances to implement the tolerance recommendations made in the REDs for the active ingredients during the reregistration and tolerance reassessment processes, and as follow-up on canceled uses of pesticides.

C. When do these actions become effective?

As stated in the **DATES** section, this regulation is effective 180 days after the date of publication in the **Federal Register**. EPA is delaying the effective date of these finalized actions to allow a reasonable interval for producers in exporting members of the World Trade Organization's Sanitary and Phytosanitary Measures Agreement to adapt to the requirements of a final rule. EPA believes that existing stocks of the canceled or amended pesticide products labeled for the uses associated with the revoked tolerances have been completely exhausted and that treated commodities have had sufficient time for passage through the channels of trade.

Any commodities listed in the regulatory text of this document that are treated with the pesticides subject to this final rule, and that are in the channels of trade following the tolerance revocations, shall be subject to FFDCA section 408(1)(5), as established by FQPA. Under this unit, any residues of these pesticides in or on such food shall not render the food adulterated so long as it is shown to the satisfaction of the Food and Drug Administration that:

1. The residue is present as the result of an application or use of the pesticide at a time and in a manner that was lawful under FIFRA.

2. The residue does not exceed the level that was authorized at the time of the application or use to be present on the food under a tolerance or exemption from tolerance. Evidence to show that food was lawfully treated may include records that verify the dates that the pesticide was applied to such food.

III. International Residue Limits

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

The Codex has not established a MRL for total dithiocarbamates determined as carbon disulfide in or on celery, fennel, oat bran, flax seed, rice, and sorghum.

The Codex has established MRLs for total dithiocarbamates determined as carbon disulfide in or on banana at 2 mg/kg, cranberry at 5 mg/kg, peanut at 0.1 mg/kg, and sweet corn (corn-on-the-cob) at 0.1 mg/kg. These MRLs will be the same as the tolerances modified herein for mancozeb in the United States.

The Codex has established MRLs for total dithiocarbamates determined as carbon disulfide in or on bulb onions at 0.5 mg/kg, sugar beets at 0.5 mg/kg, and tomato at 2 mg/kg. These MRLs will remain covered by U.S. tolerances at higher levels for mancozeb. These MRLs are different than the tolerances established for mancozeb in the United States because of differences in use patterns and/or good agricultural practices.

The Codex has established MRLs for total dithiocarbamates determined as carbon disulfide in or on various other commodities, including grapes at 5 mg/kg and pome fruits at 5 mg/kg. These MRLs are different than the tolerances modified herein for mancozeb in the United States because of differences in use patterns and/or good agricultural practices.

IV. Statutory and Executive Order Reviews

In this final rule, EPA establishes tolerances under FFDCA section 408(e), and also modifies and revokes specific tolerances established under FFDCA section 408. The Office of Management and Budget (OMB) has exempted these types of actions (i.e., establishment and modification of a tolerance and tolerance revocation for which extraordinary circumstances do not exist) from review under Executive Order 12866, entitled ''*Regulatory Planning and Review*'' (58 FR 51735, October 4, 1993). Because this rule has been exempted from review under Executive Order 12866 due to its lack of significance, this rule is not subject to Executive Order 13211, entitled ''*Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use*'' (66 FR 28355, May 22, 2001). This final rule does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA) (44 U.S.C. 3501 *et seq.*), or impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates

Reform Act of 1995 (UMRA) (2 U.S.C. 1501 *et seq.*). Nor does it require any special considerations as required by Executive Order 12898, entitled ''*Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations''* (59 FR 7629, February 16, 1994); or OMB review or any other Agency action under Executive Order 13045, entitled ''*Protection of Children from Environmental Health Risks and Safety Risks''* (62 FR 19885, April 23, 1997). This action does not involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA) (15 U.S.C. 272 note). Pursuant to the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*), the Agency previously assessed whether establishment of tolerances, exemptions from tolerances, raising of tolerance levels, expansion of exemptions, or revocations might significantly impact a substantial number of small entities and concluded that, as a general matter, these actions do not impose a significant economic impact on a substantial number of small entities. These analyses for tolerance establishments and modifications, and for tolerance revocations were published on May 4, 1981 (46 FR 24950) and on December 17, 1997 (62 FR 66020) (FRL–5753–1), respectively, and were provided to the Chief Counsel for Advocacy of the Small Business Administration. Taking into account this analysis and available information concerning the pesticides listed in this rule, the Agency hereby certifies that this final rule will not have a significant economic impact on a substantial number of small entities. In a memorandum dated May 25, 2001, EPA determined that eight conditions must all be satisfied in order for an import tolerance or tolerance exemption revocation to adversely affect a significant number of small entity importers, and that there is a negligible joint probability of all eight conditions holding simultaneously with respect to any particular revocation. (This Agency document is available in the docket of the proposed rule). Furthermore, for the pesticides named in this final rule, the Agency knows of no extraordinary circumstances that exist as to the present revocations that would change EPA's previous analysis. In addition, the Agency has determined that this action will not have a substantial direct effect on 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, entitled ''*Federalism''* (64 FR 43255, August 10, 1999). Executive Order 13132 requires EPA to develop an accountable process to ensure ''meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.'' ''Policies that have federalism implications'' is defined in the Executive order to include regulations that have ''substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.'' This final rule directly regulates growers, food processors, food handlers, and food retailers, not States. This action does not alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of FFDCA section 408(n)(4). For these same reasons, the Agency has determined that this rule does not have any ''tribal implications'' as described in Executive Order 13175, entitled *''Consultation and Coordination with Indian Tribal Governments''* (65 FR 67249, November 9, 2000). Executive Order 13175, requires EPA to develop an accountable process to ensure ''meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications.'' ''Policies that have tribal implications'' is defined in the Executive order to include regulations that have ''substantial direct effects on one or more Indian tribes, on the relationship between the Federal Government and the Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.'' This rule will not have substantial direct effects on tribal governments, 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, as specified in Executive Order 13175. Thus, Executive Order 13175 does not apply to this rule.

V. Congressional Review Act

Pursuant to the Congressional Review Act (5 U.S.C. 801 *et seq.*), EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 180

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

Dated: May 7, 2014.

Jack Housenger,

Director, Office of Pesticide Programs.

Therefore, 40 CFR chapter I is amended as follows:

PART 180—[AMENDED]

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

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

■ 2. In § 180.3, revise paragraph (d)(5) to read as follows:

§ 180.3 Tolerances for related pesticide chemicals.

* * * * *

(d) * * *

(5) Where tolerances are established for more than one member of the class of dithiocarbamates listed in paragraph (e)(3) of this section on the same raw agricultural commodity, the total residue of such pesticides shall not exceed that permitted by the highest tolerance established for any one member of the class, calculated both as zinc ethylenebisdithiocarbamate and carbon disulfide. The tolerance based on zinc ethylenebisdithiocarbamate shall first be multiplied by 0.6 to convert it to the equivalent carbon disulfide tolerance, and then the carbon disulfide tolerance levels will be compared to determine the highest tolerance level per raw agricultural commodity.

* * * * *

§ 180.110 [Removed]

■ 3. Remove § 180.110.

■ 4. In § 180.176, revise the table in paragraph (a) and revise paragraphs (b), and (c) to read as follows:

§ 180.176 Mancozeb; tolerances for residues.

(a) * * *

Commodity	Parts per million
Almond	0.1
Almond, hulls	4
Apple	0.6
Asparagus	0.1
Atemoya	3.0
Banana	2
Barley, bran	20
Barley, flour	20
Barley, grain	5

Commodity	Parts per million
Barley, pearled barley	20
Barley, straw	25
Beet, sugar, dried pulp	3.0
Beet, sugar, roots	1.2
Beet, sugar, tops	60
Broccoli	7
Cabbage	9
Canistel	15.0
Cattle, kidney	0.5
Cattle, liver	0.5
Cherimoya	3.0
Corn, field, forage	40
Corn, field, grain	0.1
Corn, field, stover	15
Corn, pop, grain	0.1
Corn, pop, stover	40
Corn, sweet, forage	70
Corn, sweet, kernel plus cob with husks removed	0.1
Corn, sweet, stover	40
Cotton, undelinted seed	0.5
Crabapple	0.6
Cranberry	5
Custard apple	3.0
Fennel	2.5
Flax, seed	0.15
Ginseng	1.2
Goat, kidney	0.5
Goat, liver	0.5
Grape	1.5
Hog, kidney	0.5
Hog, liver	0.5
Horse, kidney	0.5
Horse, liver	0.5
Lettuce, head	3.5
Lettuce, leaf	18
Mango	15.0
Oat, flour	20
Oat, grain	5
Oat, groats/rolled oats	20
Oat, straw	25
Onion, bulb	1.5
Papaya	10
Peanut	0.1
Peanut, hay	65
Pear	0.6
Pepper	12
Potato	0.2
Poultry, kidney	0.5
Poultry, liver	0.5
Quince	0.6
Rice, grain	0.06
Rye, bran	20
Rye, grain	5
Rye, straw	25
Sapodilla	15.0
Sapote, mamey	15.0
Sapote, white	15.0
Sheep, kidney	0.5
Sheep, liver	0.5
Sorghum, grain, forage	0.15
Sorghum, grain, grain	0.25
Sorghum, grain, stover	0.15
Star apple	15.0
Sugar apple	3.0
Tangerine [1]	10
Tomato	2.5
Vegetable, cucurbit, group 9	2.0
Walnut	0.70
Wheat, bran	20
Wheat, flour	20
Wheat, germ	20
Wheat, grain	5
Wheat, middlings	20
Wheat, shorts	20
Wheat, straw	25

[1] There are no U.S. registrations for use of mancozeb on tangerine.

(b) *Section 18 emergency exemptions.* [Reserved]

(c) *Tolerances with regional registrations.* A tolerance with regional registrations, as defined in § 180.1(l), is established for residues of the fungicide mancozeb, (a coordination product of zinc ion and maneb (manganese ethylenebisdithiocarbamate)), including its metabolites and degradates, in or on the commodity in the following table in this paragraph. Compliance with the tolerance levels specified in this paragraph is to be determined by measuring only those mancozeb residues convertible to and expressed in terms of the degradate carbon disulfide.

Commodity	Parts per million
Carrot, roots	1

* * * * *

§ 180.319 [Amended]

■ 5. In § 180.319, remove the entry for ''Coordination product of zinc ion and maneb'' from the table in paragraph (a).

[FR Doc. 2014–10955 Filed 5–13–14; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 25

[IB Docket No. 06–154; FCC 12–116]

2006 Biennial Regulatory Review

AGENCY: Federal Communications Commission.

ACTION: Correcting amendments.

SUMMARY: The Federal Communications Commission published a document in the **Federal Register** at 78 FR 8417, on February 6, 2013, revising Commission rules. That document inadvertently caused the e-CFR to revert to a former version of a paragraph, which had been revised by a document published the previous day, at 78 FR 8230, February 5, 2013. This document corrects the final rules by restoring the paragraph to the revised provision as published on February 5, 2013.

DATES: Effective May 14, 2014.

FOR FURTHER INFORMATION CONTACT: Cindy Spiers, Satellite Division, International Bureau, Federal Communications Commission, Washington, DC 20554, at (202) 418–1593 or via email at *Cindy.Spiers@fcc.gov.*

SUPPLEMENTARY INFORMATION: This is the second set of corrections. The first set of corrections was published in the **Federal Register** at 78 FR 29062, February 17, 2013. This document augments the corrections which were published in the **Federal Register** at 78 FR 29062, February 17, 2013.

List of Subjects in 47 CFR Part 25

Satellites and telecommunications.

Accordingly, 47 CFR part 25 is corrected by making the following corrective amendments:

PART 25—SATELLITE COMMUNICATIONS

■ 1. The authority citation for part 25 continues to reads as follows:

Authority: Interprets or applies sections 4, 301, 302, 303, 307, 309, 319, 332, 705, and 721 of the Communications Act, as amended, 47 U.S.C. 154, 301, 302, 303, 307, 309, 319, 332, 605, and 721, unless otherwise noted.

■ 2. In § 25.149, revise the section heading and paragraph (a)(1) introductory text to read as follows:

§ 25.149 Application requirements for ancillary terrestrial components in Mobile-Satellite Service networks operating in the 1.5./1.6 GHz and 1.6/2.4 GHz Mobile-Satellite Service.

(a) * * *

(1) ATC shall be deployed in the forward-band mode of operation whereby the ATC mobile terminals transmit in the MSS uplink bands and the ATC base stations transmit in the MSS downlink bands in portions of the 1626.5–1660.5 MHz/1525–1559 MHz bands (L-band) and the 1610–1626.5 MHz/2483.5–2500 MHz bands.

Note to paragraph (a)(1): * * *

* * * * *

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. 2014–11071 Filed 5–13–14; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 25

[IB Docket No. 12–267; FCC 13–111]

Comprehensive Review of Licensing and Operating Rules for Satellite Services

AGENCY: Federal Communications Commission.

ACTION: Final rule; correction.

SUMMARY: The Federal Communications Commission published a document in the **Federal Register** at 79 FR 8308, February 12, 2014, revising Commission rules. That document inadvertently included a reference to 2 GHz Mobile-Satellite Service in section 25.113. This document corrects the final regulation by revising that provision.

DATES: The Commission will publish a document in the **Federal Register** announcing the effective date of the rule section corrected here and all other rules adopted by FCC 13–111 after receiving approval from the Office of Management and Budget for the information collection requirements contained in the rulemaking.

FOR FURTHER INFORMATION CONTACT: Cindy Spiers, Satellite Division, International Bureau, Federal Communications Commission, Washington, DC 20554, at (202) 418–1593 or via email at *Cindy.Spiers@fcc.gov*.

SUPPLEMENTARY INFORMATION: In FR Doc. 2014–02213 appearing on page 8308 in the **Federal Register** of Wednesday, February 12, 2014, the following correction is made:

§ 25.113 [Corrected]

On page 8314, in the second column, in § 25.113 in the second sentence in paragraph (b), ''1.5/1.6 GHz, 1.6/2.4 GHz, or 2 GHz Mobile-Satellite Service'' is corrected to read ''1.5/1.6 GHz or 1.6/2.4 GHz GHz Mobile-Satellite Service''.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. 2014–11079 Filed 5–13–14; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MB Docket No. 13–250, RM–11705, DA 14–600]

Radio Broadcasting Services; Tohatchi, New Mexico

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: At the request of The Navajo Nation, the Audio Division amends the FM Table of Allotments, by allotting Channel 268C2 at Tohatchi, New Mexico, as a first local Tribal Allotment and a first local service to the community. A staff engineering analysis confirms that Channel 268C2 can be allotted to Tohatchi consistent with the minimum distance separation requirements of the Commission's Rules with no imposition of a site restriction at reference coordinates 35–54–37 NL and 108–46–26 WL.

DATES: Effective June 16, 2014.

ADDRESSES: You may submit comments, identified by MB Docket No. 13–250, by any of the following methods:

- Federal Communications Commission's Web site: *http://fjallfoss.fcc.gov/ecfs2/*. Follow the instructions for submitting comments.
- People with Disabilities: Contact the FCC to request reasonable accommodations (accessible format documents, sign language interpreters, CART, etc.) by email: *FCC504@fcc.gov* or phone: 202–418–0530 or TTY: 202–418–0432.

For detailed instructions for submitting comments and additional information on the rulemaking process, see the **SUPPLEMENTARY INFORMATION** section of this document.

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

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's *Report and Order,* MB Docket No. 13–250, adopted May 1, 2014, and released May 2, 2014. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC's Reference Information Center at Portals II, CY–A257, 445 12th Street SW., Washington, DC 20554. This document may also be purchased from the Commission's duplicating contractors, Best Copy and Printing, Inc., 445 12th Street SW., Room CY–B402, Washington, DC 20554, telephone 1–800–378–3160 or via email *www.BCPIWEB.com*. This document does not contain information collection requirements subject to the Paperwork Reduction Act of 1995, Public Law 104–13. The Commission will send a copy of the *Report and Order* in a report to be sent to Congress and the Government Accountability Office pursuant to the Congressional Review Act, *see* 5 U.S.C. 801(a)(1)(A).

List of Subjects in 47 CFR Part 73

Radio, Radio broadcasting.

Federal Communications Commission.

Nazifa Sawez,

Assistant Chief, Audio Division, Media Bureau.

For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR part 73 as follows:

PART 73—RADIO BROADCAST SERVICES

■ 1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303, 334, 336 and 339.

§ 73.202 [Amended].

■ 2. Section 73.202(b), the Table of FM Allotments under New Mexico, is amended by adding Tohatchi, Channel 268C2.

[FR Doc. 2014–11116 Filed 5–13–14; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MB Docket No. 13–40; RM–11691; DA 14–547]

Television Broadcasting Services; Seaford and Dover, Delaware

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission, at the request of Western Pacific Broadcast, LLC (''Western Pacific''), amends the Post-Transition Table of DTV Allotments to delete channel 5 at Seaford and substitute channel 5 at Dover, Delaware and to modify WMDE(TV)'s construction permit to specify Dover as the station's community of license. Western Pacific asserts that the change in community of license would serve the public interest by providing Dover, the second largest city in Delaware, with its first local television service and that the smaller community of Seaford would remain well-served after the reallotment.

DATES: This rule is effective June 13, 2014.

FOR FURTHER INFORMATION CONTACT: Peter Saharko, *Peter.Saharko@fcc.gov,* Media Bureau, (202) 418–1856.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's *Report and Order,* MB Docket No. 13–40, adopted May 1, 2014, and released May 1, 2014. The full text of this document is available for public inspection and copying during normal business hours in the FCC's Reference Information Center at Portals II, CY–A257, 445 12th Street SW., Washington, DC 20554. This document will also be available via ECFS (*http://fjallfoss.fcc.gov/ecfs/*). This document may be purchased from the Commission's duplicating contractor, Best Copy and Printing, Inc., 445 12th Street SW., Room CY–B402, Washington, DC 20554, telephone 1–800–478–3160 or via the company's Web site, *http://www.bcpiweb.com.* To request materials in accessible formats for people with disabilities (braille, large print, electronic files, audio format), send an email to *fcc504@fcc.gov* or call the Consumer & Governmental Affairs Bureau at 202–418–0530 (voice), 202–418–0432 (tty).

This document does not contain information collection requirements subject to the Paperwork Reduction Act of 1995, Public Law 104–13. In addition, therefore, it does not contain any information collection burden ''for small business concerns with fewer than 25 employees,'' pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, *see* 44 U.S.C. 3506(c)(4). Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

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

List of Subjects in 47 CFR Part 73

Television.

Federal Communications Commission.

Barbara A. Kreisman,

Chief, Video Division, Media Bureau.

Final Rule

For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR part 73 as follows:

PART 73—RADIO BROADCAST SERVICES

■ 1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303, 334, 336, and 339.

§ 73.622 [Amended]

■ 2. Section 73.622(i), the Post-Transition Table of DTV Allotments under Delaware is amended by removing channel 5 at Seaford and adding channel 5 to Dover, Delaware.

[FR Doc. 2014–11081 Filed 5–13–14; 8:45 am]

BILLING CODE 6712–01–P

Proposed Rules

Federal Register
Vol. 79, No. 93
Wednesday, May 14, 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 TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2014–0308; Directorate Identifier 2014–CE–012–AD]

RIN 2120–AA64

Airworthiness Directives; M7 Aerospace LLC Airplanes

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

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to adopt a new airworthiness directive (AD) for M7 Aerospace LLC Models SA227–AT, SA227–AC, SA227–BC, SA227–CC, and SA227–DC airplanes equipped with a bayonet shear pin main cabin door latching mechanism. This proposed AD was prompted by fatigue cracks found in the internal door surround doubler, the external skin fuselage skin, and the door corner fittings at the fuselage upper forward corner of the main cabin door cutout. This proposed AD would require repetitively inspecting the four corners of the main cabin door cutout for cracks, making necessary repairs, and reporting inspection results to M7 Aerospace LLC. We are proposing this AD to correct the unsafe condition on these products.

DATES: We must receive comments on this proposed AD by June 30, 2014.

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

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

For service information identified in this proposed AD, contact M7 Aerospace LLC, 10823 NE Entrance Road, San Antonio, Texas 78216; phone: (210) 824–9421; fax: (210) 804–7766; Internet: *http://www.elbitsystems-us.com*; email: *MetroTech@M7Aerospace.com.* You may review this referenced service information at the FAA, Small Airplane Directorate, 901 Locust, Kansas City, Missouri 64106. For information on the availability of this material at the FAA, call (816) 329–4148.

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2014–0308; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this proposed AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket Office (phone: 800–647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: Andrew McAnaul, Aerospace Engineer, FAA, ASW–150 (c/o San Antonio MIDO), 10100 Reunion Place, Suite 650, San Antonio, Texas 78216; phone: (210) 308–3365; fax: (210) 308–3370; email: *andrew.mcanaul@faa.gov.*

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposal. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2014–0308; Directorate Identifier 2014–CE–012–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD because of those comments.

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

Discussion

We received reports of fatigue cracking of the main cabin door surround structure on several M7 Aerospace LLC Models SA227–AT, SA227–AC, SA227–BC, SA227–CC, and SA227–DC airplanes that have a bayonet shear pin type of latching mechanism for the main cabin door.

Investigation revealed that the fatigue cracks are related to a change in loading due to design changes in the door surround structure and the door latching system.

This condition, if not corrected, could result in probable decompression failure with possible loss of structural integrity of the cabin structure.

Relevant Service Information

We reviewed M7 Aerospace LLC SA227 Series Commuter Category Service Bulletin CC7–53–005 and SA227 Series Service Bulletin 227–53–009, both dated November 15, 2013. The service information describes procedures for repetitively inspecting the internal and external skin doublers, fuselage skin, and the fuselage door frame corner member for cracks. The service information also describes procedures for repairing the cracks. In addition, if no cracks are found, the service information also includes procedures for installing a repair kit as preventative measure to extend the inspection intervals.

FAA's Determination

We are proposing this AD because we evaluated all the relevant information and determined the unsafe condition described previously is likely to exist or develop in other products of the same type design.

Proposed AD Requirements

This proposed AD would require accomplishing the actions specified in the service information described previously. This proposed AD also requires sending inspection results to M7 Aerospace LLC.

Costs of Compliance

We estimate that this proposed AD affects 250 airplanes of U.S. registry.

We estimate the following costs to comply with this proposed AD:

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Threshold high frequency eddy current (HFEC)/low frequency eddy current (LFEC)/detailed visual inspection.	2.5 work-hours × $85 per hour = $212.50.	Not Applicable	$212.50	$53,125

We estimate the following costs to do any necessary repairs that would be required based on the results of the proposed inspection. We have no way of determining the number of aircraft that might need these repairs:

ON-CONDITION COSTS

Action	Labor cost	Parts cost	Cost per product
Repair Installation	48 work-hours × $85 per hour = $4,080	$6,670	$10,750

Paperwork Reduction Act

A federal agency may not conduct or sponsor, and a person is not required to respond to, nor shall a person be subject to penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act unless that collection of information displays a current valid OMB control number. The control number for the collection of information required by this AD is 2120–0056. The paperwork cost associated with this AD has been detailed in the Costs of Compliance section of this document and includes time for reviewing instructions, as well as completing and reviewing the collection of information. Therefore, all reporting associated with this AD is mandatory. Comments concerning the accuracy of this burden and suggestions for reducing the burden should be directed to the FAA at 800 Independence Ave. SW., Washington, DC 20591. ATTN: Information Collection Clearance Officer, AES–200.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended].

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

M7 Aerospace LLC: Docket No. FAA–2014–0308; Directorate Identifier 2014–CE–012–AD.

(a) Comments Due Date

We must receive comments by June 30, 2014.

(b) Affected ADs

None.

(c) Applicability

This AD applies to the M7 Aerospace LLC airplanes listed in paragraphs (c)(1) through (c)(5) of this AD that are equipped with a bayonet shear pin main cabin door latching mechanism and are certificated in any category. Airplanes equipped with a ''click-clack'' main cabin door latching mechanism are not affected by this AD. Figure 3 of M7 Aerospace LLC SA227 Series Commuter Category Service Bulletin CC7–53–005, and M7 Aerospace LLC SA227 Series Service Bulletin 227–53–009, both dated November 15, 2013, is a picture showing both styles of latching mechanisms.

(1) Model SA227–AT airplanes, serial numbers (S/Ns) AT570 through AT631, and AT695.

(2) Model SA227–AC airplanes, S/Ns AC570 through AC788.

(3) Model SA227–BC airplanes, S/Ns BC762, BC764, BC766, and BC770 through BC789.

(4) Model SA227–CC airplanes, S/N CC827, CC829, and CC840 through CC844.

(5) Model SA227–DC airplanes, S/Ns DC784, DC790 through DC826, DC828,

DC830 through DC839, and DC845 through DC904.

(d) Subject

Joint Aircraft System Component (JASC)/ Air Transport Association (ATA) of America—Code 5310, Fuselage Main, Structure.

(e) Unsafe Condition

This AD was prompted by fatigue cracks found in the internal door surround doubler, the external skin fuselage skin, and the door corner fittings at the fuselage upper forward corner of the main cabin door cutout. We are issuing the AD to prevent decompression failure with possible loss of structural integrity of the cabin structure.

(f) Compliance

Comply with this AD within the compliance times specified in paragraph (g) through paragraph (k) of this AD, including all subparagraphs, unless already done.

(g) Inspections

(1) Do an initial detailed visual inspection of the fuselage upper forward corner and other 3 corners of the main cabin door cutout for cracks following Table 1 in Step 2. ACCOMPLISHMENT INSTRUCTIONS of M7 Aerospace LLC SA227 Series Commuter Category Service Bulletin CC7–53–005 or M7 Aerospace LLC SA227 Series Service Bulletin 227–53–009, both dated November 15, 2013, as applicable. Do the inspection at the compliance times specified in paragraphs (g)(1)(i) through (g)(1)(iv) of this AD. For the purposes of this AD, owner/operators who do not track total aircraft flight cycles (TAC), use a .5 to 1 conversion, e.g., 35,000 TAC is equivalent to 17,500 hours time-in-service (TIS). For owner/operators who do not track flight cycles, use a 1 to 1 conversion, e.g., 300 flight cycles are equivalent to 300 hours TIS.

(i) *For aircraft with more than 35,000 TAC,* inspect within the next 300 flight cycles after the effective date of this AD.

(ii) *For aircraft with 20,001–35,000 TAC,* inspect within the next 600 flight cycles after the effective date of this AD.

(iii) *For aircraft with 12,000–20,000 TAC,* inspect within the next 1,000 flight cycles after the effective date of this AD.

(iv) *For aircraft with less than 12,000 TAC,* inspect at 12,000 flight cycles or within the next 1,000 flight cycles after the effective date of this AD, whichever occurs later.

(2) If no cracks are found during the inspection required by paragraph (g)(1) of this AD, repetitively thereafter at intervals not to exceed 2,000 flight cycles do a detailed visual inspection of the fuselage upper forward corner and other 3 corners of the main cabin door cutout for cracks following Table 1 in Step 2. ACCOMPLISHMENT INSTRUCTIONS of M7 Aerospace LLC SA227 Series Commuter Category Service Bulletin CC7–53–005 or M7 Aerospace LLC SA227 Series Service Bulletin 227–53–009, both dated November 15, 2013, as applicable.

(h) Repair Cracks and Repetitively Inspect

(1) If any cracks are found during any inspection required in paragraph (g) through paragraph (i) of this AD, before further flight after the inspection in which a crack is found, repair or replace the cracked structure following Step 3. REPAIR OF CRACKED INNER DOUBLE, Step 4. REPAIR OF CRACKED FUSELAGE SKIN, and/or Step 5. REPAIR OF CRACKED CORNER FITTING of M7 Aerospace LLC SA227 Series Commuter Category Service Bulletin CC7–53–005, or M7 Aerospace LLC SA227 Series Service Bulletin 227–53–009, both dated November 15, 2013, as applicable.

(2) If you made the repairs required in paragraph (h)(1) of this AD by installing repair kit part number (P/N) 27K24191–001, do the threshold and repeat inspections following Table 2 in Step 2. ACCOMPLISHMENT INSTRUCTIONS of M7 Aerospace LLC SA227 Series Commuter Category Service Bulletin CC7–53–005, dated November 15, 2013; or M7 Aerospace LLC SA227 Series Service Bulletin 227–53–009, dated November 15, 2013, as applicable.

(3) If you made the repairs required in paragraph (h)(1) of this AD by replacing the fuselage skin by installing kit 27K24191–003, or if the corner fitting was replaced and no other cracks are present, repetitively thereafter inspect following Table 1 in Step 2. ACCOMPLISHMENT INSTRUCTIONS of M7 Aerospace LLC SA227 Series Commuter Category Service Bulletin CC7–53–005, or M7 Aerospace LLC SA227 Series Service Bulletin 227–53–009, both dated November 15, 2013, as applicable.

(i) Extend Repetitive Inspection Intervals

After any inspection required in paragraph (g)(1) and (g)(2) of this AD and no damage, defects, or cracks are found, you may install repair kit P/N 27K24191–001 following Step 6. ADDITION OF KIT DRAWING REPAIR MEMBERS AS PREVENTATIVE ACTION of M7 Aerospace LLC SA227 Series Commuter Category Service Bulletin CC7–53–005, or M7 Aerospace LLC SA227 Series Service Bulletin 227–53–009, both dated November 15, 2013, as applicable, to extend the inspection intervals. After installing repair kit P/N 27K24191–001 do the threshold and repeat inspections following Table 3 of Step 2. ACCOMPLISHMENT INSTRUCTIONS of M7 Aerospace LLC SA227 Series Commuter Category Service Bulletin CC7–53–005, or M7 Aerospace LLC SA227 Series Service Bulletin 227–53–009, both dated November 15, 2013, as applicable.

(j) Reporting Requirement

Within 30 days after any inspection required by paragraph (g) through paragraph (i) of this AD where a crack or any other damage is found, report the results of that inspection to M7 Aerospace LLC following the instructions specified in Step 2.I. of the ACCOMPLISHMENT INSTRUCTIONS of M7 Aerospace LLC SA227 Series Commuter Category Service Bulletin CC7–53–005, dated November 15, 2013; or Step 2.J. of the ACCOMPLISHMENT INSTRUCTIONS of M7 Aerospace LLC SA227 Series Service Bulletin 227–53–009, dated November 15, 2013, as applicable.

(k) Credit for Previous Repairs

As of the effective date of this AD, owner/operators who had the initial inspection and any resulting repairs done before the effective date of this AD using procedures different from those specified in M7 Aerospace LLC SA227 Series Commuter Category Service Bulletin CC7–53–005, dated November 15, 2013; and M7 Aerospace LLC SA227 Series Service Bulletin 227–53–009, dated November 15, 2013, may apply for an alternative method of compliance (AMOC) following the instructions in paragraph (m) of this AD.

(l) Paperwork Reduction Act Burden Statement

A federal agency may not conduct or sponsor, and a person is not required to respond to, nor shall a person be subject to a penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act unless that collection of information displays a current valid OMB Control Number. The OMB Control Number for this information collection is 2120–0056. Public reporting for this collection of information is estimated to be approximately 5 minutes per response, including the time for reviewing instructions, completing and reviewing the collection of information. All responses to this collection of information are mandatory. Comments concerning the accuracy of this burden and suggestions for reducing the burden should be directed to the FAA at: 800 Independence Ave. SW., Washington, DC 20591, Attn: Information Collection Clearance Officer, AES–200.

(m) Alternative Methods of Compliance (AMOCs)

(1) The Manager, Fort Worth Airplane Certification Office, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the manager of the ACO, send it to the attention of the person identified in the Related Information section of this AD.

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

(n) Related Information

(1) For more information about this AD, contact Andrew McAnaul, Aerospace Engineer, FAA, ASW–150 (c/o San Antonio MIDO), 10100 Reunion Place, Suite 650, San Antonio, Texas 78216; phone: (210) 308–3365; fax: (210) 308–3370; email: *andrew.mcanaul@faa.gov.*

(2) For service information identified in this AD, contact M7 Aerospace LLC, 10823 NE Entrance Road, San Antonio, Texas 78216; phone: (210) 824–9421; fax: (210) 804–7766; Internet: *http://www.m7aerospace.com*; email: *MetroTech@M7Aerospace.com.* You may view this referenced service information at the FAA, Small Airplane Directorate, 901 Locust, Kansas City, Missouri 64106. For information on the availability of this material at the FAA, call 816–329–4148.

Issued in Kansas City, Missouri on May 7, 2014.

Timothy Smyth,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2014–11072 Filed 5–13–14; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[REG–150760–13]

RIN 1545–BM05

Definition of Real Estate Investment Trust Real Property

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of proposed rulemaking and notice of public hearing.

SUMMARY: This document contains proposed regulations that clarify the definition of real property for purposes of the real estate investment trust provisions of the Internal Revenue Code (Code). These proposed regulations provide guidance to real estate investment trusts and their shareholders. This document also provides notice of a public hearing on these proposed regulations.

DATES: Written or electronic comments must be received by August 12, 2014. Requests to speak and outlines of topics to be discussed at the public hearing scheduled for September 18, 2014 must be received by August 12, 2014.

ADDRESSES: Send submissions to: CC:PA:LPD:PR (REG–150760–13), room 5203, Internal Revenue Service, P.O. Box 7604, Ben Franklin Station, Washington, DC 20044. Submissions may be hand-delivered Monday through Friday between the hours of 8 a.m. and 4 p.m. to CC:PA:LPD:PR (REG–150760–13), Courier's Desk, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC, or sent electronically, via the Federal eRulemaking Portal at *www.regulations.gov* (IRS REG–150760–13). The public hearing will be held in the IRS Auditorium, Internal Revenue Building, 1111 Constitution Avenue NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Concerning the proposed regulations, Andrea Hoffenson, (202) 317–6842, or Julanne Allen, (202) 317–6945; concerning submissions of comments, the hearing, and/or to be placed on the building access list to attend the hearing, Oluwafunmilayo (Funmi) Taylor, (202) 317–6901 (not toll-free numbers).

SUPPLEMENTARY INFORMATION:

Background

This document contains amendments to the Income Tax Regulations (26 CFR part 1) relating to real estate investment trusts (REITs). Section 856 of the Code defines a REIT by setting forth various requirements. One of the requirements for a taxpayer to qualify as a REIT is that at the close of each quarter of the taxable year at least 75 percent of the value of its total assets is represented by real estate assets, cash and cash items (including receivables), and government securities. See section 856(c)(4). Section 856(c)(5)(B) defines *real estate assets* to include real property and interests in real property. Section 856(c)(5)(C) indicates that *real property* means ''land or improvements thereon.'' Section 1.856–3(d) of the Income Tax Regulations, promulgated in 1962, defines real property for purposes of the regulations under sections 856 through 859 as—

> land or improvements thereon, such as buildings or other inherently permanent structures thereon (including items which are structural components of such buildings or structures). In addition, the term ''real property'' includes interests in real property. Local law definitions will not be controlling for purposes of determining the meaning of the term ''real property'' as used in section 856 and the regulations thereunder. The term includes, for example, the wiring in a building, plumbing systems, central heating, or central air-conditioning machinery, pipes or ducts, elevators or escalators installed in the building, or other items which are structural components of a building or other permanent structure. The term does not include assets accessory to the operation of a business, such as machinery, printing press, transportation equipment which is not a structural component of the building, office equipment, refrigerators, individual air-conditioning units, grocery counters, furnishings of a motel, hotel, or office building, etc., even though such items may be termed fixtures under local law.

Section 1.856–3(d).

The IRS issued revenue rulings between 1969 and 1975 addressing whether certain assets qualify as real property for purposes of section 856. Specifically, the published rulings describe assets such as railroad properties,[1] mobile home units permanently installed in a planned community,[2] air rights over real property,[3] interests in mortgage loans secured by total energy systems,[4] and mortgage loans secured by microwave transmission property,[5] and the rulings address whether the assets qualify as either real property or interests in real property under section 856. Since these published rulings were issued, REITs have sought to invest in various types of assets that are not directly addressed by the regulations or the published rulings, and have asked for and received letter rulings from the IRS addressing certain of these assets. Because letter rulings are limited to their particular facts and may not be relied upon by taxpayers other than the taxpayer that received the ruling, see section 6110(k)(3), letter rulings are not a substitute for published guidance. The IRS and the Treasury Department recognize the need to provide additional published guidance on the definition of real property under sections 856 through 859. This document proposes regulations that define real property for purposes of sections 856 through 859 by providing a framework to analyze the types of assets in which REITs seek to invest. These proposed regulations provide neither explicit nor implicit guidance regarding whether various types of income are described in section 856(c)(3).[6]

Explanation of Provisions

Consistent with section 856, the existing regulations, and published guidance interpreting those regulations, these proposed regulations define *real property* to include land, inherently permanent structures, and structural components. In determining whether an item is land, an inherently permanent structure, or a structural component, these proposed regulations first test whether the item is a *distinct asset,* which is the unit of property to which the definitions in these proposed regulations apply.

In addition, these proposed regulations identify certain types of intangible assets that are real property or interests in real property for purposes of sections 856 through 859. These proposed regulations include examples to illustrate the application of the

[1] Rev. Rul. 69–94 (1969–1 CB 189), (see § 601.601(d)(2)(ii)(*b*) of this chapter).

[2] Rev. Rul. 71–220 (1971–1 CB 210), (see § 601.601(d)(2)(ii)(*b*) of this chapter).

[3] Rev. Rul. 71–286 (1971–2 CB 263), (see § 601.601(d)(2)(ii)(*b*) of this chapter).

[4] Rev. Rul. 73–425 (1973–2 CB 222), (see § 601.601(d)(2)(ii)(*b*) of this chapter).

[5] Rev. Rul. 75–424 (1975–2 CB 269), (see § 601.601(d)(2)(ii)(*b*) of this chapter).

[6] One of the requirements for qualifying as a REIT is that a sufficiently large fraction of an entity's gross income be derived from certain specified types of income (which include ''rents from real property'' and ''interest on obligations secured by mortgages on real property or on interests in real property''). Section 856(c)(3).

principles of these proposed regulations to determine whether certain distinct assets are real property for purposes of sections 856 through 859.

Distinct Asset

These proposed regulations provide that each distinct asset is tested individually to determine whether the distinct asset is real or personal property. Items that are specifically listed in these proposed regulations as types of buildings and other inherently permanent structures are distinct assets. Assets and systems specifically listed in these proposed regulations as types of structural components also are treated as distinct assets. Other distinct assets are identified using the factors provided by these proposed regulations. All listed factors must be considered, and no one factor is determinative.

Land

These proposed regulations define land to include not only a parcel of ground, but the air and water space directly above the parcel. Therefore, water space directly above the seabed is land, even though the water itself flows over the seabed and does not remain in place. Land includes crops and other natural products of land until the crops or other natural products are detached or removed from the land.

Inherently Permanent Structures

Inherently permanent structures and their structural components are real property for purposes of sections 856 through 859. These proposed regulations clarify that inherently permanent structures are structures, including buildings, that have a passive function. Therefore, if a distinct asset has an active function, such as producing goods, the distinct asset is not an inherently permanent structure under these proposed regulations. In addition to serving a passive function, a distinct asset must be inherently permanent to be an inherently permanent structure. For this purpose, permanence may be established not only by the method by which the structure is affixed but also by the weight of the structure alone.

These proposed regulations supplement the definition of inherently permanent structure by providing a safe harbor list of distinct assets that are buildings, as well as a list of distinct assets that are other inherently permanent structures. If a distinct asset is on one of these lists, either as a building or as an inherently permanent structure, the distinct asset is real property for purposes of sections 856 through 859, and a facts and circumstances analysis is not necessary. If a distinct asset is not listed as either a building or an inherently permanent structure, these proposed regulations provide facts and circumstances that must be considered in determining whether the distinct asset is either a building or other inherently permanent structure. All listed factors must be considered, and no one factor is determinative.

One distinct asset that these proposed regulations list as an inherently permanent structure is an outdoor advertising display subject to an election to be treated as real property under section 1033(g)(3). Section 1033(g)(3) provides taxpayers with an election to treat certain outdoor advertising displays [7] as real property for purposes of Chapter 1 of the Code.

Structural Components

These proposed regulations define a structural component as a distinct asset that is a constituent part of and integrated into an inherently permanent structure that serves the inherently permanent structure in its passive function and does not produce or contribute to the production of income other than consideration for the use or occupancy of space. An entire system is analyzed as a single distinct asset and, therefore, as a single structural component, if the components of the system work together to serve the inherently permanent structure with a utility-like function, such as systems that provide a building with electricity, heat, or water.[8] For a structural component to be real property under sections 856 through 859, the taxpayer's interest in the structural component must be held by the taxpayer together with the taxpayer's interest in the inherently permanent structure to which the structural component is functionally related. Additionally, if a distinct asset that is a structural component is customized in connection with the provision of rentable space in an inherently permanent structure, the customization of that distinct asset does not cause it to fail to be a structural component.

Under these proposed regulations, an asset or system that is treated as a distinct asset is a structural component, and thus real property for purposes of sections 856 through 859, if the asset or system is included on the safe harbor list of assets that are structural components. If an asset or system that is treated as a distinct asset is not specifically listed as a structural component, these proposed regulations provide a list of facts and circumstances that must be considered in determining whether the distinct asset or system qualifies as a structural component. No one factor is determinative.

These proposed regulations do not retain the phrase ''assets accessory to the operation of a business,'' which the existing regulations use to describe an asset with an active function that is not real property for purposes of the regulations under sections 856 through 859. The IRS and the Treasury Department believe that the phrase ''assets accessory to the operation of a business'' has created uncertainty because the existing regulations are unclear whether certain assets that are permanent structures or components thereof nevertheless fail to be real property because they are used in the operation of a business. Instead, these proposed regulations adopt an approach that considers whether the distinct asset in question either serves a passive function common to real property or serves the inherently permanent structure to which it is constituent in that structure's passive function. On the other hand, if an asset has an active function, such as a distinct asset that produces, manufactures, or creates a product, then the asset is not real property unless the asset is a structural component that serves a utility-like function with respect to the inherently permanent structure of which it is a constituent part. Similarly, if an asset produces or contributes to the production of income other than consideration for the use or occupancy of space, then that asset is not real property. Thus, items that were assets accessory to the operation of a business under the existing regulations will continue to be excluded from the definition of real property for purposes of sections 856 through 859 either because they are not inherently permanent or because they serve an active function. These distinct assets include, for example, machinery; office, off-shore drilling, testing, and other equipment; transportation equipment

[7] Section 1.1033(g)–1(b)(3) defines *outdoor advertising display* for purposes of the section 1033 election as ''a rigidly assembled sign, display, or device that constitutes, or is used to display, a commercial or other advertisement to the public and is permanently affixed to the ground or permanently attached to a building or other inherently permanent structure.''

[8] See Rev. Rul. 73–425 (1973–2 CB 222), (see § 601.601(d)(2)(ii)(*b*) of this chapter) (holding that a total energy system that provides a building with electricity, steam or hot water, and refrigeration may be a structural component of that building). The IRS and the Treasury Department are considering guidance to address the treatment of any income earned when a system that provides energy to an inherently permanent structure held by the REIT also transfers excess energy to a utility company.

that is not a structural component of a building; printing presses; refrigerators; individual air-conditioning units; grocery counters; furnishings of a motel, hotel, or office building; antennae; waveguides; transmitting, receiving, and multiplex equipment; prewired modular racks; display racks and shelves; gas pumps; and hydraulic car lifts.

Intangible Assets That Are Real Property

These proposed regulations also provide that certain intangible assets are real property for purposes of sections 856 through 859. To be real property, the intangible asset must derive its value from tangible real property and be inseparable from the tangible real property from which the value is derived. Under § 1.856–2(d)(3) the assets of a REIT are its gross assets determined in accordance with generally accepted accounting principles (GAAP). Intangibles established under GAAP when a taxpayer acquires tangible real property may meet the definition of real property intangibles. A license or permit solely for the use, occupancy, or enjoyment of tangible real property may also be an interest in real property because it is in the nature of an interest in real property (similar to a lease or easement). If an intangible asset produces, or contributes to the production of, income other than consideration for the use or occupancy of space, then the asset is not real property or an interest in real property. Thus, for example, a permit allowing a taxpayer to engage in or operate a particular business is not an interest in real property.

Other Definitions of Real Property

The terms real property and personal property appear in numerous Code provisions that have diverse contexts and varying legislative purposes. In some cases, certain types of assets are specifically designated as real property or as personal property by statute, while in other cases the statute is silent as to the meaning of those terms. Ordinarily, under basic principles of statutory construction, the use of the same term in multiple Code provisions would imply (absent specific statutory modifications) that Congress intended the same meaning to apply to that term for each of the provisions in which it appears. In the case of the terms real property and personal property, however, both the regulatory process and decades of litigation have led to different definitions of these terms, in part because taxpayers have advocated for broader or narrower definitions in different contexts.

For example, in the depreciation and (prior) investment tax credit contexts, a broad definition of personal property (and a narrow definition of real property) is ordinarily more favorable to taxpayers. A tangible asset may generally be depreciated faster if it is personal property than if it is considered real property, see section 168(c) and (g)(2)(C), and (prior) section 38 property primarily included tangible personal property and excluded a building and its structural components, see § 1.48–1(c) and (d). During decades of controversy, taxpayers sought to broaden the meaning of tangible personal property and to narrow the meanings of building and structural component in efforts to qualify for the investment tax credit or for faster depreciation. That litigation resulted in courts adopting a relatively broad definition of tangible personal property (and correspondingly narrow definition of real property) for depreciation and investment tax credit purposes.

Similarly, in the context of the Foreign Investment in Real Property Tax Act (FIRPTA), codified at section 897 of the Code, a narrower definition of real property is generally more favorable to taxpayers. Enacted in 1980, FIRPTA is intended to subject foreign investors to the same U.S. tax treatment on gains from the disposition of interests in U.S. real property that applies to U.S. investors. Accordingly, foreign investors can more easily avoid U.S. tax to the extent that the definition of real property is narrow for FIRPTA purposes. As in the depreciation and investment credit contexts, this situation has led to vigorous debate over the appropriate characterization of certain types of assets (such as intangible assets) that may have characteristics associated with real property but do not fall within the traditional categories of buildings and structural components. See, for example, Advance Notice of Proposed Rulemaking, Infrastructure Improvements Under Section 897, published in the **Federal Register** (REG–130342–08, 73 FR 64901) on October 31, 2008 (noting that taxpayers may be taking the position that a governmental permit to operate a toll bridge or toll road is not a United States real property interest for purposes of section 897 and stating that the IRS and the Treasury Department are of the view that such a permit may properly be characterized as a United States real property interest in certain circumstances). In the case of FIRPTA, however, Congress modified the definition of real property to include items of personal property that are associated with the use of real property. See section 897(c)(6)(B) (including as real property movable walls, furnishings, and other personal property associated with the use of the real property). Consequently, it is explicitly contemplated in section 897 that an item of property may be treated as a United States real property interest for FIRPTA purposes, notwithstanding that it is characterized as personal property for other purposes of the Code.

In the REIT context, taxpayers ordinarily benefit from a relatively broad definition of real property. Consequently, taxpayers have generally advocated in the REIT context for a more expansive definition of real property than applies in the depreciation, (prior) investment tax credit, and FIRPTA contexts. In drafting these regulations, the Treasury Department and the IRS have sought to balance the general principle that common terms used in different provisions should have common meanings with the particular policies underlying the REIT provisions. These proposed regulations define real property only for purposes of sections 856 through 859. The IRS and the Treasury Department request comments, however, on the extent to which the various meanings of real property that appear in the Treasury regulations should be reconciled, whether through modifications to these proposed regulations or through modifications to the regulations under other Code provisions.

Proposed Effective Date

The IRS and the Treasury Department view these proposed regulations as a clarification of the existing definition of real property and not as a modification that will cause a significant reclassification of property. As such, these proposed regulations are proposed to be effective for calendar quarters beginning after these proposed regulations are published as final regulations in the **Federal Register**. The IRS and the Treasury Department solicit comments regarding the proposed effective date.

Special Analyses

It has been determined that this notice of proposed rulemaking is not a significant regulatory action as defined in Executive Order 12866, as supplemented by Executive Order 13653. Therefore, a regulatory assessment is not required. It also has been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply to these regulations, and because the regulations

do not impose a collection of information on small entities, the Regulatory Flexibility Act (5 U.S.C. chapter 6) does not apply. Pursuant to section 7805(f) of the Code, this notice of proposed rulemaking has been submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business.

Comments and Public Hearing

Before these proposed regulations are adopted as final regulations, consideration will be given to any written (a signed original and eight (8) copies) or electronic comments that are submitted timely to the IRS. The IRS and Treasury Department request comments on all aspects of these proposed rules. All comments will be available for public inspection and copying at *http://www.regulations.gov*, or upon request.

A public hearing has been scheduled for September 18, 2014, at 10:00 a.m., in the IRS Auditorium, Internal Revenue Building, 1111 Constitution Avenue NW., Washington, DC. Due to building security procedures, visitors must enter at the Constitution Avenue entrance. In addition, all visitors must present photo identification to enter the building. Because of access restrictions, visitors will not be admitted beyond the immediate entrance area more than 15 minutes before the hearing starts. For information about having your name placed on the building access list to attend the hearing, see the **FOR FURTHER INFORMATION CONTACT** section of this preamble.

The rules of 26 CFR 601.601(a)(3) apply to the hearing. Persons who wish to present oral comments at the hearing must submit written or electronic comments and an outline of the topics to be discussed and the time to be devoted to each topic (signed original and eight (8) copies) by August 12, 2014. A period of ten minutes will be allotted to each person for making comments. An agenda showing the scheduling of the speakers will be prepared after the deadline for receiving outlines has passed. Copies of the agenda will be available free of charge at the hearing.

Drafting Information

The principal authors of these regulations are Andrea M. Hoffenson and Julanne Allen, Office of Associate Chief Council (Financial Institutions and Products). However, other personnel from the IRS and the Treasury Department participated in their development.

List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

Proposed Amendments to the Regulations

Accordingly, 26 CFR part 1 is proposed to be amended as follows:

PART 1—INCOME TAXES

■ **Paragraph 1.** The authority citation for part 1 continues to read in part as follows:

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

■ **Par. 2.** In § 1.856–3, paragraph (d) is revised to read as follows:

§ 1.856–3 Definitions.

* * * * *

(d) *Real property.* See § 1.856–10 for the definition of *real property.*

* * * * *

■ **Par. 3.** Section 1.856–10 is added to read as follows:

§ 1.856–10 Definition of real property.

(a) *In general.* This section provides definitions for purposes of part II, subchapter M, chapter 1 of the Internal Revenue Code (Code). Paragraph (b) of this section defines real property, which includes land as defined under paragraph (c) of this section, and improvements to land as defined under paragraph (d) of this section. Improvements to land include inherently permanent structures as defined under paragraph (d)(2) of this section, and structural components of inherently permanent structures as defined under paragraph (d)(3) of this section. Paragraph (e) of this section provides rules for determining whether an item is a distinct asset for purposes of applying the definitions in paragraphs (b), (c), and (d) of this section. Paragraph (f) of this section identifies intangible assets that are real property or interests in real property. Paragraph (g) of this section provides examples illustrating the rules of paragraphs (b) through (f) of this section.

(b) *Real property.* The term *real property* means land and improvements to land. Local law definitions are not controlling for purposes of determining the meaning of the term real property.

(c) *Land.* Land includes water and air space superjacent to land and natural products and deposits that are unsevered from the land. Natural products and deposits, such as crops, water, ores, and minerals, cease to be real property when they are severed, extracted, or removed from the land. The storage of severed or extracted natural products or deposits, such as crops, water, ores, and minerals, in or upon real property does not cause the stored property to be recharacterized as real property.

(d) *Improvements to land*—(1) *In general.* The term *improvements to land* means inherently permanent structures and their structural components.

(2) *Inherently permanent structure*—(i) *In general.* The term *inherently permanent structure* means any permanently affixed building or other structure. Affixation may be to land or to another inherently permanent structure and may be by weight alone. If the affixation is reasonably expected to last indefinitely based on all the facts and circumstances, the affixation is considered permanent. A distinct asset that serves an active function, such as an item of machinery or equipment, is not a building or other inherently permanent structure.

(ii) *Building*—(A) *In general.* A building encloses a space within its walls and is covered by a roof.

(B) *Types of buildings.* Buildings include the following permanently affixed distinct assets: houses; apartments; hotels; factory and office buildings; warehouses; barns; enclosed garages; enclosed transportation stations and terminals; and stores.

(iii) *Other inherently permanent structures*—(A) *In general.* Other inherently permanent structures serve a passive function, such as to contain, support, shelter, cover, or protect, and do not serve an active function such as to manufacture, create, produce, convert, or transport.

(B) *Types of other inherently permanent structures.* Other inherently permanent structures include the following permanently affixed distinct assets: microwave transmission, cell, broadcast, and electrical transmission towers; telephone poles; parking facilities; bridges; tunnels; roadbeds; railroad tracks; transmission lines; pipelines; fences; in-ground swimming pools; offshore drilling platforms; storage structures such as silos and oil and gas storage tanks; stationary wharves and docks; and outdoor advertising displays for which an election has been properly made under section 1033(g)(3).

(iv) *Facts and circumstances determination.* If a distinct asset (within the meaning of paragraph (e) of this section) does not serve an active function as described in paragraph (d)(2)(iii)(A) of this section, and is not otherwise listed in paragraph (d)(2)(ii)(B) or (d)(2)(iii)(B) of this section or in guidance published in the Internal Revenue Bulletin (see

§ 601.601(d)(2)(ii) of this chapter), the determination of whether that asset is an inherently permanent structure is based on all the facts and circumstances. In particular, the following factors must be taken into account:

(A) The manner in which the distinct asset is affixed to real property;

(B) Whether the distinct asset is designed to be removed or to remain in place indefinitely;

(C) The damage that removal of the distinct asset would cause to the item itself or to the real property to which it is affixed;

(D) Any circumstances that suggest the expected period of affixation is not indefinite (for example, a lease that requires or permits removal of the distinct asset upon the expiration of the lease); and

(E) The time and expense required to move the distinct asset.

(3) *Structural components*—(i) *In general.* The term *structural component* means any distinct asset (within the meaning of paragraph (e) of this section) that is a constituent part of and integrated into an inherently permanent structure, serves the inherently permanent structure in its passive function, and, even if capable of producing income other than consideration for the use or occupancy of space, does not produce or contribute to the production of such income. If interconnected assets work together to serve an inherently permanent structure with a utility-like function (for example, systems that provide a building with electricity, heat, or water), the assets are analyzed together as one distinct asset that may be a structural component. Structural components are real property only if the interest held therein is included with an equivalent interest held by the taxpayer in the inherently permanent structure to which the structural component is functionally related. If a distinct asset is customized in connection with the rental of space in or on an inherently permanent structure to which the asset relates, the customization does not affect whether the distinct asset is a structural component.

(ii) *Types of structural components.* Structural components include the following distinct assets and systems: Wiring; plumbing systems; central heating and air conditioning systems; elevators or escalators; walls; floors; ceilings; permanent coverings of walls, floors, and ceilings; windows; doors; insulation; chimneys; fire suppression systems, such as sprinkler systems and fire alarms; fire escapes; central refrigeration systems; integrated security systems; and humidity control systems.

(iii) *Facts and circumstances determination.* If a distinct asset (within the meaning of paragraph (e) of this section) is not otherwise listed in paragraph (d)(3)(ii) of this section or in guidance published in the Internal Revenue Bulletin (see § 601.601(d)(2)(ii) of this chapter), the determination of whether the asset is a structural component is based on all the facts and circumstances. In particular, the following factors must be taken into account:

(A) The manner, time, and expense of installing and removing the distinct asset;

(B) Whether the distinct asset is designed to be moved;

(C) The damage that removal of the distinct asset would cause to the item itself or to the inherently permanent structure to which it is affixed;

(D) Whether the distinct asset serves a utility-like function with respect to the inherently permanent structure;

(E) Whether the distinct asset serves the inherently permanent structure in its passive function;

(F) Whether the distinct asset produces income from consideration for the use or occupancy of space in or upon the inherently permanent structure;

(G) Whether the distinct asset is installed during construction of the inherently permanent structure;

(H) Whether the distinct asset will remain if the tenant vacates the premises; and

(I) Whether the owner of the real property is also the legal owner of the distinct asset.

(e) *Distinct asset*—(1) *In general.* A distinct asset is analyzed separately from any other assets to which the asset relates to determine if the asset is real property, whether as land, an inherently permanent structure, or a structural component of an inherently permanent structure.

(2) *Facts and circumstances.* The determination of whether a particular separately identifiable item of property is a distinct asset is based on all of the facts and circumstances. In particular, the following factors must be taken into account:

(i) Whether the item is customarily sold or acquired as a single unit rather than as a component part of a larger asset;

(ii) Whether the item can be separated from a larger asset, and if so, the cost of separating the item from the larger asset;

(iii) Whether the item is commonly viewed as serving a useful function independent of a larger asset of which it is a part; and

(iv) Whether separating the item from a larger asset of which it is a part impairs the functionality of the larger asset.

(f) *Intangible assets*—(1) *In general.* If an intangible asset, including an intangible asset established under generally accepted accounting principles (GAAP) as a result of an acquisition of real property or an interest in real property, derives its value from real property or an interest in real property, is inseparable from that real property or interest in real property, and does not produce or contribute to the production of income other than consideration for the use or occupancy of space, then the intangible asset is real property or an interest in real property.

(2) *Licenses and permits.* A license, permit, or other similar right solely for the use, enjoyment, or occupation of land or an inherently permanent structure that is in the nature of a leasehold or easement generally is an interest in real property. A license or permit to engage in or operate a business generally is not real property or an interest in real property because it produces or contributes to the production of income other than consideration for the use or occupancy of space.

(g) *Examples.* The following examples demonstrate the rules of this section. *Examples 1* and *2* illustrate the definition of land as provided in paragraph (c) of this section. *Examples 3* through *10* illustrate the definition of improvements to land as provided in paragraph (d) of this section. Finally, *Examples 11* through *13* illustrate whether certain intangible assets are real property or interests in real property as provided in paragraph (f) of this section.

Example 1. Natural products of land. A is a real estate investment trust (REIT). REIT A owns land with perennial fruit-bearing plants. REIT A leases the fruit-bearing plants to a tenant on a long-term triple net lease basis and grants the tenant an easement on the land. The unsevered plants are natural products of the land and qualify as land within the meaning of paragraph (c) of this section. Fruit from the plants is harvested annually. Upon severance from the land, the harvested fruit ceases to qualify as land. Storage of the harvested fruit upon or within real property does not cause the harvested fruit to qualify as real property.

Example 2. Water space superjacent to land. REIT B leases a marina from a governmental entity. The marina is comprised of U-shaped boat slips and end ties. The U-shaped boat slips are spaces on the water that are surrounded by a dock on three sides. The end ties are spaces on the water at the end of a slip or on a long,

straight dock. REIT B rents the boat slips and end ties to boat owners. The boat slips and end ties are water space superjacent to land that qualify as land within the meaning of paragraph (c) of this section and, therefore, qualify as real property.

Example 3. Indoor sculpture. (i) REIT C owns an office building and a large sculpture in the atrium of the building. The sculpture measures 30 feet tall by 18 feet wide and weighs five tons. The building was specifically designed to support the sculpture, which is permanently affixed to the building by supports embedded in the building's foundation. The sculpture was constructed within the building. Removal would be costly and time consuming and would destroy the sculpture. The sculpture is reasonably expected to remain in the building indefinitely. The sculpture does not manufacture, create, produce, convert, transport, or serve any similar active function.

(ii) When analyzed to determine whether it is an inherently permanent structure using the factors provided in paragraph (d)(2)(iv) of this section, the sculpture—

(A) Is permanently affixed to the building by supports embedded in the building's foundation;

(B) Is not designed to be removed and is designed to remain in place indefinitely;

(C) Would be damaged if removed and would damage the building to which it is affixed;

(D) Will remain affixed to the building after any tenant vacates the premises and will remain affixed to the building indefinitely; and

(E) Would require significant time and expense to move.

(iii) The factors described in this paragraph (g) *Example 3* (ii)(A) through (ii)(E) all support the conclusion that the sculpture is an inherently permanent structure within the meaning of paragraph (d)(2) of this section and, therefore, is real property.

Example 4. Bus shelters. (i) REIT D owns 400 bus shelters, each of which consists of four posts, a roof, and panels enclosing two or three sides. REIT D enters into a long-term lease with a local transit authority for use of the bus shelters. Each bus shelter is prefabricated from steel and is bolted to the sidewalk. Bus shelters are disassembled and moved when bus routes change. Moving a bus shelter takes less than a day and does not significantly damage either the bus shelter or the real property to which it was affixed.

(ii) The bus shelters are not enclosed transportation stations or terminals and do not otherwise meet the definition of a building in paragraph (d)(2)(ii) of this section nor are they listed as types of other inherently permanent structures in paragraph (d)(2)(iii)(B) of this section.

(iii) When analyzed to determine whether they are inherently permanent structures using the factors provided in paragraph (d)(2)(iv) of this section, the bus shelters—

(A) Are not permanently affixed to the land or an inherently permanent structure;

(B) Are designed to be removed and are not designed to remain in place indefinitely;

(C) Would not be damaged if removed and would not damage the sidewalks to which they are affixed;

(D) Will not remain affixed after the local transit authority vacates the site and will not remain affixed indefinitely; and

(E) Would not require significant time and expense to move.

(iv) The factors described in this paragraph (g) *Example 4* (iii)(A) through (iii)(E) all support the conclusion that the bus shelters are not inherently permanent structures within the meaning of paragraph (d)(2) of this section. Although the bus shelters serve a passive function of sheltering, the bus shelters are not permanently affixed, which means the bus shelters are not inherently permanent structures within the meaning of paragraph (d)(2) of this section and, therefore, are not real property.

Example 5. Cold storage warehouse. (i) REIT E owns a refrigerated warehouse (Cold Storage Warehouse). REIT E enters into long-term triple net leases with tenants. The tenants use the Cold Storage Warehouse to store perishable products. Certain components and utility systems within the Cold Storage Warehouse have been customized to accommodate the tenants' need for refrigerated storage space. For example, the Cold Storage Warehouse has customized freezer walls and a central refrigeration system. Freezer walls within the Cold Storage Warehouse are specifically designed to maintain the desired temperature within the warehouse. The freezer walls and central refrigeration system are each comprised of a series of interconnected assets that work together to serve a utility-like function within the Cold Storage Warehouse, were installed during construction of the building, and will remain in place when a tenant vacates the premises. The freezer walls and central refrigeration system were each designed to remain permanently in place.

(ii) Walls and central refrigeration systems are listed as structural components in paragraph (d)(3)(ii) of this section and, therefore, are real property. The customization of the freezer walls does not affect their qualification as structural components. Therefore, the freezer walls and central refrigeration system are structural components of REIT E's Cold Storage Warehouse.

Example 6. Data center. (i) REIT F owns a building that it leases to a tenant under a long-term triple net lease. Certain interior components and utility systems within the building have been customized to accommodate the particular requirements for housing computer servers. For example, to accommodate the computer servers, REIT F's building has been customized to provide a higher level of electrical power, central air conditioning, telecommunications access, and redundancies built into the systems that provide these utilities than is generally available to tenants of a conventional office building. In addition, the space for computer servers in REIT F's building is constructed on raised flooring, which is necessary to accommodate the electrical, telecommunications, and HVAC infrastructure required for the servers. The following systems of REIT F's building have been customized to permit the building to house the servers: central heating and air conditioning system, integrated security system, fire suppression system, humidity control system, electrical distribution and redundancy system (Electrical System), and telecommunication infrastructure system (each, a System). Each of these Systems is comprised of a series of interconnected assets that work together to serve a utility-like function within the building. The Systems were installed during construction of the building and will remain in place when the tenant vacates the premises. Each of the Systems was designed to remain permanently in place and was customized by enhancing the capacity of the System in connection with the rental of space within the building.

(ii) The central heating and air conditioning system, integrated security system, fire suppression system, and humidity control system are listed as structural components in paragraph (d)(3)(ii) of this section and, therefore, are real property. The customization of these Systems does not affect the qualification of these Systems as structural components of REIT F's building within the meaning of paragraph (d)(3) of this section.

(iii) In addition to wiring, which is listed as a structural component in paragraph (d)(3)(ii) of this section and, therefore, is real property, the Electrical System and telecommunication infrastructure system include equipment used to ensure that the tenant is provided with uninterruptable, stable power and telecommunication services. When analyzed to determine whether they are structural components using the factors in paragraph (d)(3)(iii) of this section, the Electrical System and telecommunication infrastructure system—

(A) Are embedded within the walls and floors of the building and would be costly to remove;

(B) Are not designed to be moved, are designed specifically for the particular building of which they are a part, and are intended to remain permanently in place;

(C) Would not be significantly damaged upon removal and although they would damage the walls and floors in which they are embedded, they would not significantly damage the building if they were removed;

(D) Serve a utility-like function with respect to the building;

(E) Serve the building in its passive function of containing, sheltering and protecting computer servers;

(F) Produce income as consideration for the use or occupancy of space within the building;

(G) Were installed during construction of the building;

(H) Will remain in place when the tenant vacates the premises; and

(I) Are owned by REIT F, which also owns the building.

(iv) The factors described in this paragraph (g) *Example 6* (iii)(A), (iii)(B), and (iii)(D) through (iii)(I) all support the conclusion that the Electrical System and telecommunication infrastructure system are structural components of REIT F's building within the meaning of paragraph (d)(3) of this section and, therefore, are real property. The factor described in this paragraph (g) *Example 6* (iii)(C) would support a conclusion that the

Electrical System and telecommunication infrastructure system are not structural components. However this factor does not outweigh the factors supporting the conclusion that the Electric System and telecommunication infrastructure system are structural components.

Example 7. Partitions. (i) REIT G owns an office building that it leases to tenants under long-term triple net leases. Partitions are used to delineate space between tenants and within each tenant's space. The office building has two types of interior, non-load-bearing drywall partition systems: a conventional drywall partition system (Conventional Partition System) and a modular drywall partition system (Modular Partition System). Neither the Conventional Partition System nor the Modular Partition System was installed during construction of the office building. Conventional Partition Systems are comprised of fully integrated gypsum board partitions, studs, joint tape, and covering joint compound. Modular Partition Systems are comprised of assembled panels, studs, tracks, and exposed joints. Both the Conventional Partition System and the Modular Partition System reach from the floor to the ceiling.

(ii) Depending on the needs of a new tenant, the Conventional Partition System may remain in place when a tenant vacates the premises. The Conventional Partition System is designed and constructed to remain in areas not subject to reconfiguration or expansion. The Conventional Partition System can be removed only by demolition, and, once removed, neither the Conventional Partition System nor its components can be reused. Removal of the Conventional Partition System causes substantial damage to the Conventional Partition System itself but does not cause substantial damage to the building.

(iii) Modular Partition Systems are typically removed when a tenant vacates the premises. Modular Partition Systems are not designed or constructed to remain permanently in place. Modular Partition Systems are designed and constructed to be movable. Each Modular Partition System can be readily removed, remains in substantially the same condition as before, and can be reused. Removal of a Modular Partition System does not cause any substantial damage to the Modular Partition System itself or to the building. The Modular Partition System may be moved to accommodate the reconfigurations of the interior space within the office building for various tenants that occupy the building.

(iv) The Conventional Partition System is a wall, and walls are listed as structural components in paragraph (d)(3)(ii) of this section. The Conventional Partition System, therefore, is real property.

(v) When analyzed to determine whether it is a structural component using the factors provided in paragraph (d)(3)(iii) of this section, the Modular Partition System—

(A) Is installed and removed quickly and with little expense;

(B) Is not designed specifically for the particular building of which it is a part and is not intended to remain permanently in place;

(C) Is not damaged, and the building is not damaged, upon its removal;

(D) Does not serve a utility-like function with respect to the building;

(E) Serves the building in its passive function of containing and protecting the tenants' assets;

(F) Produces income only as consideration for the use or occupancy of space within the building;

(G) Was not installed during construction of the building;

(H) Will not remain in place when a tenant vacates the premises; and

(I) Is owned by REIT G.

(vi) The factors described in this paragraph (g) *Example 7* (v)(A) through (v)(D), (v)(G), and (v)(H) all support the conclusion that the Modular Partition System is not a structural component of REIT G's building within the meaning of paragraph (d)(3) of this section and, therefore, is not real property. The factors described in this paragraph (g) *Example 7* (v)(E), (v)(F), and (v)(I) would support a conclusion that the Modular Partition System is a structural component. These factors, however, do not outweigh the factors supporting the conclusion that the Modular Partition System is not a structural component.

Example 8. Solar energy site. (i) REIT H owns a solar energy site, among the components of which are land, photovoltaic modules (PV Modules), mounts, and an exit wire. REIT H enters into a long-term triple net lease with a tenant for the solar energy site. The mounts (that is, the foundations and racks) support the PV Modules. The racks are affixed to the land through foundations made from poured concrete. The mounts will remain in place when the tenant vacates the solar energy site. The PV Modules convert solar photons into electric energy (electricity). The exit wire is buried underground, is connected to equipment that is in turn connected to the PV Modules, and transmits the electricity produced by the PV Modules to an electrical power grid, through which the electricity is distributed for sale to third parties.

(ii) REIT H's PV Modules, mounts, and exit wire are each separately identifiable items. Separation from a mount does not affect the ability of a PV Module to convert photons to electricity. Separation from the equipment to which it is attached does not affect the ability of the exit wire to transmit electricity to the electrical power grid. The types of PV Modules and exit wire that REIT H owns are each customarily sold or acquired as single units. Removal of the PV Modules from the mounts to which they relate does not damage the function of the mounts as support structures and removal is not costly. The PV Modules are commonly viewed as serving the useful function of converting photons to electricity, independent of the mounts. Disconnecting the exit wire from the equipment to which it is attached does not damage the function of that equipment, and the disconnection is not costly. The PV Modules, mounts, and exit wire are each distinct assets within the meaning of paragraph (e) of this section.

(iii) The land is real property as defined in paragraph (c) of this section.

(iv) The mounts are designed and constructed to remain permanently in place, and they have a passive function of supporting the PV Modules. When analyzed to determine whether they are inherently permanent structures using the factors provided in paragraph (d)(2)(iv) of this section, the mounts—

(A) Are permanently affixed to the land through the concrete foundations or molded concrete anchors (which are part of the mounts);

(B) Are not designed to be removed and are designed to remain in place indefinitely;

(C) Would be damaged if removed;

(D) Will remain affixed to the land after the tenant vacates the premises and will remain affixed to the land indefinitely; and

(E) Would require significant time and expense to move.

(v) The factors described in this paragraph (g) *Example 8* (iv)(A) through (iv)(E) all support the conclusion that the mounts are inherently permanent structures within the meaning of paragraph (d)(2) of this section and, therefore, are real property.

(vi) The PV Modules convert solar photons into electricity that is transmitted through an electrical power grid for sale to third parties. The conversion is an active function. The PV Modules are items of machinery or equipment and are not inherently permanent structures within the meaning of paragraph (d)(2) of this section and, therefore, are not real property. The PV Modules do not serve the mounts in their passive function of providing support; instead, the PV Modules produce electricity for sale to third parties, which is income other than consideration for the use or occupancy of space. The PV Modules are not structural components of REIT H's mounts within the meaning of paragraph (d)(3) of this section and, therefore, are not real property.

(vii) The exit wire is buried under the ground and transmits the electricity produced by the PV Modules to the electrical power grid. The exit wire was installed during construction of the solar energy site and is designed to remain permanently in place. The exit wire is inherently permanent and is a transmission line, which is listed as an inherently permanent structure in paragraph (d)(2)(iii)(B) of this section. Therefore, the exit wire is real property.

Example 9. Solar-powered building. (i) REIT I owns a solar energy site similar to that described in *Example 8,* except that REIT I's solar energy site assets (Solar Energy Site Assets) are mounted on land adjacent to an office building owned by REIT I. REIT I leases the office building and the solar energy site to a single tenant. Although the tenant occasionally transfers excess electricity produced by the Solar Energy Site Assets to a utility company, the Solar Energy Site Assets are designed and intended to produce electricity only to serve the office building. The Solar Energy Site Assets were designed and constructed specifically for the office building and are intended to remain permanently in place but were not installed during construction of the office building. The Solar Energy Site Assets will not be removed if the tenant vacates the premises.

(ii) With the exception of the occasional transfers of excess electricity to a utility

company, the Solar Energy Site Assets serve the office building to which they are constituent, and, therefore, the Solar Energy Site Assets are analyzed to determine whether they are a structural component using the factors provided in paragraph (d)(3)(iii) of this section. The Solar Energy Site Assets—

(A) Are expensive and time consuming to install and remove;

(B) Are designed specifically for the particular office building for which they are a part and are intended to remain permanently in place;

(C) Will not cause damage to the office building if removed (but the mounts would be damaged upon removal);

(D) Serve a utility-like function with respect to the office building;

(E) Serve the office building in its passive function of containing and protecting the tenants' assets;

(F) Produce income from consideration for the use or occupancy of space within the office building;

(G) Were installed after construction of the office building;

(H) Will remain in place when the tenant vacates the premises; and

(I) Are owned by REIT I (which is also the owner of the office building).

(iii) The factors described in this paragraph (g) *Example 9* (ii)(A), (ii)(B), (ii)(C) (in part), (ii)(D) through (ii)(F), (ii)(H), and (ii)(I) all support the conclusion that the Solar Energy Site Assets are a structural component of REIT I's office building within the meaning of paragraph (d)(3) of this section and, therefore, are real property. The factors described in this paragraph (g) *Example 9* (ii)(C) (in part) and (ii)(G) would support a conclusion that the Solar Energy Site Assets are not a structural component, but these factors do not outweigh factors supporting the conclusion that the Solar Energy Site Assets are a structural component.

(iv) The result in this *Example 9* would not change if, instead of the Solar Energy Site Assets, solar shingles were used as the roof of REIT I's office building. Solar shingles are roofing shingles like those commonly used for residential housing, except that they contain built-in PV modules. The solar shingle installation was specifically designed and constructed to serve only the needs of REIT I's office building, and the solar shingles were installed as a structural component to provide solar energy to REIT I's office building (although REIT I's tenant occasionally transfers excess electricity produced by the solar shingles to a utility company). The analysis of the application of the factors provided in paragraph (d)(3)(ii) of this section would be similar to the analysis of the application of the factors to the Solar Energy Site Assets in this paragraph (g) *Example 9* (ii) and (iii).

Example 10. Pipeline transmission system. (i) REIT J owns an oil pipeline transmission system that contains and transports oil from producers and distributors of the oil to other distributors and end users. REIT J enters into a long-term, triple net lease with a tenant for the pipeline transmission system. The pipeline transmission system is comprised of underground pipelines, storage tanks, valves, vents, meters, and compressors. Although the pipeline transmission system serves an active function, transporting oil, a distinct asset within the system may nevertheless be an inherently permanent structure that does not itself perform an active function. Each of these distinct assets was installed during construction of the pipeline transmission system and will remain in place when a tenant vacates the pipeline transmission system. Each of these assets was designed to remain permanently in place.

(ii) The pipelines and storage tanks are inherently permanent and are listed as inherently permanent structures in paragraph (d)(2)(iii)(B) of this section. Therefore, the pipelines and storage tanks are real property.

(ii) Valves are placed at regular intervals along the pipeline to control oil flow and isolate sections of the pipeline in case there is need for a shut-down or maintenance of the pipeline. Vents equipped with vent valves are also installed in tanks and at regular intervals along the pipeline to relieve pressure in the tanks and pipeline. When analyzed to determine whether they are structural components using the factors set forth in paragraph (d)(3)(iii) of this section, the valves and vents—

(A) Are time consuming and expensive to install and remove from the tanks or pipeline;

(B) Are designed specifically for the particular tanks or pipeline for which they are a part and are intended to remain permanently in place;

(C) Will sustain damage and will damage the tanks or pipeline if removed;

(D) Do not serve a utility-like function with respect to the tanks or pipeline;

(E) Serve the tanks and pipeline in their passive function of containing tenants' oil;

(F) Produce income only from consideration for the use or occupancy of space within the tanks or pipeline;

(G) Were installed during construction of the tanks or pipeline;

(H) Will remain in place when a tenant vacates the premises; and

(I) Are owned by REIT J.

(iii) The factors described in this paragraph (g) *Example 10* (ii)(A) through (ii)(C) and (ii)(E) through (ii)(I) support the conclusion that the vents and valves are structural components of REIT J's tanks or pipeline within the meaning of paragraph (d)(3) of this section and, therefore, are real property. The factor described in this paragraph (g) *Example 10* (ii)(D) would support a conclusion that the vents and valves are not structural components, but this factor does not outweigh the factors that support the conclusion that the vents and valves are structural components.

(iv) Meters are used to measure the oil passing into or out of the pipeline transmission system for purposes of determining the end users' consumption. Over long distances, pressure is lost due to friction in the pipeline transmission system. Compressors are required to add pressure to transport oil through the entirety of the pipeline. The meters and compressors do not serve the tanks or pipeline in their passive function of containing the tenants' oil, and are used in connection with the production of income from the sale and transportation of oil, rather than as consideration for the use or occupancy of space within the tanks or pipeline. The meters and compressors are not structural components within the meaning of paragraph (d)(3) of this section and, therefore, are not real property.

Example 11. Goodwill. REIT K acquires all of the stock of Corporation A, whose sole asset is an established hotel in a major metropolitan area. The hotel building is strategically located and is an historic structure viewed as a landmark. The hotel is well run by an independent contractor but the manner in which the hotel is operated does not differ significantly from the manner in which other city hotels are operated. Under GAAP, the amount allocated to Corporation A's hotel is limited to its depreciated replacement cost, and the difference between the amount paid for the stock of Corporation A and the depreciated replacement cost of the hotel is treated as goodwill attributable to the acquired hotel. This goodwill derives its value and is inseparable from Corporation A's hotel. If REIT K's acquisition of Corporation A had been a taxable asset acquisition rather than a stock acquisition, the goodwill would have been included in the tax basis of the hotel for Federal income tax purposes, and would not have been separately amortizable. The goodwill is real property to REIT K when it acquires the stock of Corporation A.

Example 12. Land use permit. REIT L receives a special use permit from the government to place a cell tower on federal government land that abuts a federal highway. Governmental regulations provide that the permit is not a lease of the land, but is a permit to use the land for a cell tower. Under the permit, the government reserves the right to cancel the permit and compensate REIT L if the site is needed for a higher public purpose. REIT L leases space on the tower to various cell service providers. Each cell service provider installs its equipment on a designated space on REIT L's cell tower. The permit does not produce, or contribute to the production of, any income other than REIT L's receipt of payments from the cell service providers in consideration for their being allowed to use space on the tower. The permit is in the nature of a leasehold that allows REIT L to place a cell tower in a specific location on government land. Therefore, the permit is an interest in real property.

Example 13. License to operate a business. REIT M owns a building and receives a license from State to operate a casino in the building. The license applies only to REIT M's building and cannot be transferred to another location. REIT M's building is an inherently permanent structure under paragraph (d)(2)(i) of this section and, therefore, is real property. However, REIT M's license to operate a casino is not a right for the use, enjoyment, or occupation of REIT M's building, but is rather a license to engage in the business of operating a casino in the building. Therefore, the casino license is not real property.

(h) *Effective/applicability date.* The rules of this section apply for calendar quarters beginning on or before the date

of publication of the Treasury decision adopting these rules as final regulations in the **Federal Register**.

John Dalrymple,

Deputy Commissioner for Services and Enforcement.

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DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 243

[Docket ID: DOD–2013–OS–0130]

RIN 0790–AJ08

Ratemaking Procedures for Civil Reserve Air Fleet Contracts

AGENCY: USTRANSCOM, DoD.

ACTION: Proposed rule.

SUMMARY: Section 366 of the National Defense Authorization Act for Fiscal Year 2012 directs the Secretary of Defense to determine a fair and reasonable rate of payment for airlift services provided to the Department of Defense by air carriers who are participants in the Civil Reserve Air Fleet Program. The Department of Defense (the Department or DoD) proposes to promulgate regulations to establish ratemaking procedures for civil reserve air fleet contracts as required by Section 366(a) in order to determine a fair and reasonable rate of payment.

DATES: Comments must be received no later than July 14, 2014.

ADDRESSES: You may submit comments, identified by docket number and or Regulatory Information Number and title, by any of the following methods;

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Mail:* Federal Docket Management System Office, 4800 Mark Center Drive, 2nd Floor, East Tower, Suite 02G09, Alexandria, VA 22350–3100.

Instructions: All submissions received must include the agency name and docket number or RIN 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: Mr. Dwight Moore, Chief, Fiscal and Civil Law, USTRANSCOM/TCJA, (618) 220–3982 or Mr. Jeff Beyer, Chief, Business Support and Policy Division, USTRANSCOM/TCAQ, (618) 220–7021.

SUPPLEMENTARY INFORMATION:

Background

The Civil Reserve Air Fleet (CRAF) is a wartime readiness program, based on the Defense Production Act of 1950, as amended, (50 U.S.C. App. 2601 et seq.), and Executive Order 13603 (National Defense Resource Preparedness), March 16, 2012, to ensure quantifiable, accessible, and reliable commercial airlift capability to augment DoD airlift and to assure a mobilization base of aircraft available to the Department of Defense for use in the event of any level of national emergency or defense-orientated situations. As a readiness program, CRAF quantifies the number of passenger and cargo commercial assets required to support various levels of wartime requirements and thus allows DoD to account for their use when developing and executing contingency operations and war plans. In addition, the CRAF program identifies how DoD gains access to these commercial assets for operations by defining the authorities and procedures for CRAF activation. Finally, the program helps ensure that the DoD has reliable lines of communication and a common understanding of procedures with the carriers.

The United States Transportation Command (USTRANSCOM) negotiates and structures award of aircraft service contracts with certificated civilian air carriers willing to participate in the CRAF program in order to ensure that a mobilization base of aircraft is capable of responding to any level of defense-orientated situations.

The ability to set rates maintains the CRAF program's great flexibility to have any air carrier in the program able to provide aircraft within 24 hours of activation to fly personnel and cargo to any location in the world at a set rate per passenger or ton mile, regardless of where the air carrier normally operates. It also provides the Secretary of Defense the ability to respond rapidly to assist in emergencies and approved humanitarian operations, both in the United States and overseas where delay could result in more than monetary losses. The Government-set rate allows contracts to any location, sometimes awarded within less than an hour, and provides substantial commercial capability on short notice.

During the initial CRAF program years (between 1955 and 1962), ratemaking to price DoD airlift service relied upon price competition to meet its commercial airlift needs. This procurement method resulted in predatory pricing issues and failed to provide service meeting safety and performance requirements. Congressional Subcommittee hearings held at the time determined price competition to be non-compensatory and destructive to the industry. As a result, the ratemaking process was implemented under the regulatory authority of the Civil Aeronautics Board (CAB). Ratemaking continued under the CAB until deregulation in 1980. At that time, civil air carriers and DoD's contracting agency for long-term international airlift, the Military Airlift Command (MAC), agreed by a memorandum of understanding (MOU) that CAB methodologies by which rates for DoD airlift were established produced fair and reasonable rates and furthered the objectives of the CRAF program; and therefore, the parties agreed to continue to use CAB methodologies for establishing MAC uniform negotiated rates under an MOU renewed every five years. MAC became Air Mobility Command (AMC) on June 1, 1992. Ratemaking continued under AMC until January 1, 2007, when DoD's contracting authority for long-term international airlift was transferred from AMC to USTRANSCOM. On December 31, 2011, the National Defense Authorization Act for Fiscal Year 2012 (FY12 NDAA) was signed into law. Section 366 of the FY12 NDAA, codified at 10 U.S.C. § 9511a, authorized and directed the Secretary of Defense to determine a fair and reasonable rate of payment made to participants in the CRAF program. This proposed rulemaking effectuates Section 366.

This proposed rulemaking broadly tracks the longstanding ratemaking procedures for CRAF contracts in all substantial elements and the ratemaking methodologies supporting the pricing of airlift services as described in previous and current MOUs between certificated civilian air carriers willing to participate in the CRAF program and USTRANSCOM and USTRANSCOM predecessor entities.

In addition to compliance with this rule, CRAF participants, consistent with past practice, will be expected to enter into a MOU with USTRANSCOM where they will be expected to furnish USTRANSCOM, as a condition of its continued participation in the CRAF program, with the financial and operational information required by USTRANSCOM to adequately make a determination of fairness and reasonableness of price. This rulemaking will have no impact on air operators or certificated air carriers not

participating in the CRAF program. Nor does it impact non-CRAF services provided by CRAF participants.

Section 366, *Ratemaking Procedures for Civil Reserve Air Fleet,* provides in pertinent part:

In General. Chapter 931 of Title 10, United States Code, is amended by inserting after section 9511 the following new section:

''§ 9511(a) Civil Reserve Air Fleet Contracts: Payment Rate

(a) Authority—The Secretary of Defense shall determine a fair and reasonable rate of payment for airlift services provided to the Department of Defense by air carriers who are participants in the Civil Reserve Air Fleet program.

(b) Regulations—The Secretary of Defense shall prescribe regulations for purposes of subsection (a). The Secretary may exclude from the applicability of those regulations any airlift services contract made through the use of competitive procedures.

(c) Commitment of Aircraft as a Business Factor.—The Secretary may, in determining the quantity of business to be received under an airlift services contract for which the rate of payment is determined in accordance with subsection (a), use as a factor the relative amount of airlift capability committed by each air carrier to the Civil Reserve Air Fleet.

(d) Inapplicable Provisions of Law.—An airlift services contract for which the rate of payment is determined in accordance with subsection (a) shall not be subject to the provisions of Section 2306a of this title or the provisions of subsections (a) and (b) of Section 1502 of Title 41.''

Description of the Regulation, by Section:

Sections 243.1 through 243.3. Purpose, Applicability, and Definitions. No further descriptions are provided in this section. These sections of the regulation are self explanatory.

Section 243.4(a). In establishing fair and reasonable rate of payments for airlift service contracts in support of CRAF, USTRANSCOM may utilize the principles contained in the Federal Acquisition Regulation, as supplemented. Specific differences are as noted at § 243.8 of the regulation.

Sections 243.4(c) and (d) Analysis and *Rates.* Details for the current ratemaking cycle can be located on FedBizOps under the Proposed Uniform Rates and Rules and Final Uniform Rates and Rules, which can be located at *https://www.fbo.gov/index?s=opportunity&mode=form&id=3ae87338a903f3e6e43a2627941dbb1c&tab=core&_cview=1.*

Sections 243.4(e)(1) through (e)(6) Components of the Rate. Additional insight in this area is included in the current Memorandum of Understanding (FY13 through FY17), which can be found at *https://www.fbo.gov/index?s=opportunity&mode=form&id=3ae87338a903f3e6e43a2627941dbb1c&tab=core&_cview=1.*

Section 243.4(f) Contingency Rates. Authority is reserved to the Commander, USTRANSCOM, to implement a higher temporary rate if USTRANSCOM determines that the established rate of payment is insufficient to allow successful mission operations. These temporary contingency rates are used at the Commander, USTRANSCOM's discretion during conditions such as outbreak of war, armed conflict, insurrection, civil or military strife, emergencies, or similar conditions and are adjusted to reflect possible limited backhaul opportunities. These rates would continue until it is determined by the Commander, USTRANSCOM that such rates are no longer needed to ensure mission accomplishment or sufficient data has been obtained to establish a new rate, after which the contingency rates would cease.

Section 243.5 Commitment of Aircraft as a Business Factor. For the purpose of rate making, the average fleet cost of aircraft proposed by the carriers for the forecast year is used. Actual awards to CRAF carriers are based upon the aircraft accepted into the CRAF program. Aircraft are assigned to stages in a manner designed to spread the risk among all carriers proportionate to the airline total commitment and capability; as an example, all air carriers are required to have a minimum of one aircraft in Stage I but each carrier's total aircraft in Stage I cannot exceed ~15% of the passenger or cargo requirement.

Section 243.6. Exclusions from the uniform negotiated rate. No further description is provided in this section. This section of the regulation is self explanatory.

Section 243.7 Inapplicable provisions of law. Consistent with the requirements of Section 366, this section provides that determining the rate of payment for an airlift service contract will not be subject to the provisions of Section 2306a of Title 10, United States Code, entitled *Cost or Pricing Data: Truth in Negotiations Act* or subsections (a) and (b) of Section 1502 of Title 41, United States Code, entitled *Cost Accounting Standards.*

Section 243.8 Application of FAR cost principles. Some FAR cost principles contained in FAR Part 31 and DFARS 231 are modified for use in the ratemaking process. There are two primary reasons for this:

First, compliance with certain principles is not possible for airline carriers. Airline accounting systems are established to report costs in accordance with the Department of Transportation requirements found at 14 CFR Part 241. These requirements generally do not allow carriers to assign costs directly to a final cost objective, or contract. Contractors who do not assign costs directly to a contract cannot comply with FAR 31.202. Additionally, 14 CFR Part 241 directs an air carrier to financially account for property taxes in General and Administrative expense, whereas FAR 31.205–41(c) directs contractors to account for these taxes directly to a final cost objective. Therefore, simply by complying with requirements of 14 CFR Part 241 (required by the Department of Transportation), CRAF carriers cannot be in compliance with certain principles at FAR 31 and DFARS 231 due to the difference in financial accounting practices for these taxes.

Secondly, selected cost principles must be modified in order to maintain uniformity across the industry when developing a uniform rate of payment. An example of this can be found at FAR 31.205–11, Depreciation. This principle requires contractors limit depreciation to the amount used for financial accounting purposes and in a manner consistent with depreciation policies and procedures followed in the same segment of non-Government business. Under the Department's ratemaking process, all depreciation values are pre-established in order to maintain uniformity within the rate. These depreciation values are as indicated in the MOU. Therefore, the FAR cost principle outlining depreciation requirements cannot be applicable to the ratemaking process.

Section 243.9. Carrier site visits. No further description is provided in this section. This section of the regulation is self explanatory.

Sections 243.10 and 243.11 Disputes and *Appeals of USTRANSCOM Contracting Officer Decisions regarding rates.* The disputes and appeals provision of the proposed ratemaking procedures follows long established protocol that was previously reflected in MOUs executed between CRAF air carrier participants and the government. In sum, carriers with ratemaking concerns are required to first present their concerns to the USTRANSCOM ratemaking team for resolution. If the matter is not resolved by the ratemaking

team, the carrier can in turn request resolution by the USTRANSCOM contracting officer. If satisfactory resolution does not result, the carrier should address their matter to the USTRANSCOM Ombudsman who is appointed to hear and facilitate resolution of such issues. If requested by the carrier, the Director of Acquisition, USTRANSCOM, will issue a final agency decision on matters unresolved by the USTRANSCOM Ombudsman.

Regulatory Procedures

Executive Order 12866 ''Regulatory Planning and Review'' and Executive Order 13563 ''Improving Regulation and Regulatory Review''

Executive Orders (E.O.s) 12866 and 13563 directs agencies to assess all costs and benefits of available regulatory alternatives, and if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). E.O. 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. It has been determined that 32 CFR part 243 is not an economically significant regulatory action and is also not a major rule under 5 U.S.C. § 804. The rule does not:

(1) Have an annual affect to the economy in excess of $100 million or more or adversely affect in a material way the economy; a section of the economy; productivity; competition; jobs; the environment; public health or safety; or State, local or tribal governments or communities;

(2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another Agency;

(3) Materially alter the budgetary impact of entitlements, 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 set forth in these Executive Orders.

Additionally, participation in the CRAF program is voluntary. All willing carriers meeting the technical requirements of CRAF will receive a contract for transportation services. The proposed rule does not add additional requirements to those that have been historically required by the CRAF carrier's contract and ratemaking process. The proposed rule clarifies existing and historical procedures utilized by USTRANSCOM for carriers participating in the CRAF program.

Unfunded Mandates Reform Act of 1995 (Sec. 202, Pub. L. 104–4)

It has been certified that this rule does not contain a Federal mandate that may result in the expenditure by State, local and tribal governments, in aggregate, or by the private sector, of $100 million or more in any one year.

Public Law 96–354, ''Regulatory Flexibility Act'' (5 U.S.C. 601 et seq.)

DoD certifies this proposed rule will not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq,* because the rule does not change or add any policies or procedures. This rule implements Section 366 of the National Defense Authorization Act for Fiscal Year 2012 (Pub. L. 112–81) using historically established ratemaking methodologies and procedures. According to the most recent records, there are 28 certified civilian air carriers willing to participate in the CRAF program for FY2013, of which 12 qualify as small businesses. Because the rule does not change or add any policies or procedures there is not a significant economic impact on a substantial number of small entities and a regulatory flexibility analysis was not performed. Furthermore, any airline meeting the CRAF technical requirements, regardless of business size, will be awarded a contract with rates of payment prescribed by this rule.

Public Law 96–511, ''Paperwork Reduction Act'' (44 U.S.C. Chapter 35)

The proposed rule does not impose any information collection requirements that require the approval of the Office of Management and Budget under the Paperwork Reduction Act, 44 U.S.C. Chapter 35.

Executive Order 13132 Federalism

Executive Order 13132 requires that Executive departments and agencies identify regulatory actions that have significant federalism implications. A regulation has federalism implications if it has substantial direct effects on the States, on the relationship or distribution of power between the Federal Government and the States, or on the distribution of power and responsibilities among various levels of government.

The provisions of this part, as required by 10 U.S.C. § 9511a, have no substantial direct effect on the States, on the relationship or distribution of power between the Federal Government and the States, or on the distribution of power and responsibilities among various levels of government. Therefore, the Department has determined that the proposed part has no federalism implications that warrant the preparation of a Federalism Assessment in accordance with Executive Order 13132.

List of Subjects in 32 CFR Part 243

Air fleet, Armed forces reserves, Contracts.

■ For the reasons set forth in the preamble, Title 32, Code of Federal Regulations is proposed to be amended by adding part 243 to read as follows:

PART 243—DEPARTMENT OF DEFENSE RATEMAKING PROCEDURES FOR CIVIL RESERVE AIR FLEET CONTRACTS

Sec.
243.1 Purpose.
243.2 Applicability.
243.3 Definitions.
243.4 Ratemaking procedures for Civil Reserve Air Fleet contracts.
243.5 Commitment of aircraft as a business factor.
243.6 Exclusions from the uniform negotiated rate.
243.7 Inapplicable provisions of law.
243.8 Application of FAR cost principles.
243.9 Carrier site visits.
243.10 Disputes.
243.11 Appeals of USTRANSCOM Contracting Officer Decisions regarding rates.
243.12 Required Records Retention.

Authority: Section 366 National Defense Authorization Act for FY12 (Pub. L. 112–81) 10 U.S.C. Chap 931, Section 9511a.

§ 243.1 Purpose.

The Secretary of Defense (Secretary) is required to determine a fair and reasonable rate of payment for airlift services provided to the Department of Defense (DoD) by civil air carriers and operators (hereinafter collectively referred to as ''air carriers'') who are participants in the Civil Reserve Air Fleet program (CRAF). This regulation provides the authority and methodology for such ratemaking and designates the United Stated Transportation Command (USTRANSCOM) as the rate setter for negotiated uniform rates for DoD airlift service contracts in support of the CRAF. This methodology supports a viable CRAF mobilization base that ensures sufficient capacity in time of war, contingency and humanitarian relief efforts.

§ 243.2 Applicability.

This section governs all contracts with the Department of Defense where awards to the air carriers, either through individual contracts or teaming arrangements, are commensurate with the relative amount of airlift capability

committed to the Civil Reserve Air Fleet (CRAF).

§ 243.3 Definitions.

The following definitions apply to this part:

Air carrier. ''Air carrier'' is defined in 49 U.S.C. § 40102(a)(2) as ''a citizen of the United States undertaking by any means, directly or indirectly, to provide air transportation.'' Specifically to this ratemaking procedure, individuals or entities that operate commercial fixed and rotary wing aircraft in accordance with the Federal Aviation Regulations (14 CFR Chapter I) or equivalent regulations issued by a country's Civil Aviation Authority (CAA) and which provide air transportation services are included. Commercial air carriers under contract with, or operating on behalf of, the DoD shall have a Federal Aviation Administration (FAA) or CAA certificate. The policy contained in this directive applies only to air carriers operating fixed wing aircraft under CRAF international airlift services.

Aircraft class. Distinct categories of aircraft with similar broad characteristics established for ratemaking purposes. These categories include aircraft such as large passenger, medium passenger, large cargo, etc. They are determined by USTRANSCOM and identified in Published Uniform Rates and Rules for International Service Appendix A (Published in FedBizOps).

Civil Reserve Air Fleet International Airlift Services. Those services provided in support of the Civil Reserve Air Fleet contract, whereby contractors provide personnel, training, supervision, equipment, facilities, supplies and any items and services necessary to perform international long-range and short-range airlift services during peacetime and during CRAF activation in support of the Department of Defense (DoD). Implements the Fly CRAF Act. See 49 U.S.C. 41106.

Civil Reserve Air Fleet (CRAF) Assured Business Guarantees. See 10 U.S.C. 9515.

Civil Reserve Air Fleet (CRAF) Program. The Civil Reserve Air Fleet (CRAF) is a wartime readiness program, based on the Defense Production Act of 1950, as amended, (50 U.S.C. App. 2601 et seq.), and Executive Order 13603 (National Defense Resource Preparedness), March 16, 2012, to ensure quantifiable, accessible, and reliable commercial airlift capability to augment DoD airlift and to assure a mobilization base of aircraft available to the Department of Defense for use in the event of any level of national emergency or defense-orientated situations. As a readiness program, CRAF quantifies the number of passenger and cargo commercial assets required to support various levels of wartime requirements and thus allows DoD to account for their use when developing and executing contingency operations/war plans.

The CRAF is composed of U.S. registered aircraft owned or controlled by U.S. air carriers specifically allocated (by FAA registration number) for this purpose by the Department of Transportation. As used herein, CRAF aircraft are those allocated aircraft, which the carrier owning or otherwise controlling them, has contractually committed to the DoD, under stated conditions, to meet varying emergency needs for civil airlift augmentation of the military airlift capability. The contractual commitment of the aircraft includes the supporting resources required to provide the contract airlift. In return for a commitment to the CRAF program, airlines are afforded access to day-to-day business under various DoD contracts.

Historical Costs. Those allowable costs for airlift services for a 12 month period, gathered from Department of Transportation (DOT) Uniform System of Accounts and Reports (USAR) (hereinafter referred to as ''Form 41'') reporting (required by 14 CFR parts 217 and 241).

Long-range aircraft. Aircraft equipped with navigation, communication, and life support systems/emergency equipment required to operate in trans-oceanic airspace, and on international routes, for a minimum distance of 3,500 nautical miles, while carrying a productive payload (75 percent of the maximum payload it is capable of carrying.) Additionally aircraft must be equipped and able to operate worldwide (e.g. in EUROCONTROL and North Atlantic Minimum Navigation Performance Specification airspace and possess the applicable VHF, Mode-S, RNP, and RVSM communication and navigation capabilities.)

Memorandum of Understanding with attachment (MOU). A written agreement between certificated air carriers willing to participate in the CRAF program and USTRANSCOM with the purpose of establishing guidelines to facilitate establishment of rates for airlift services (e.g. passenger, cargo, combi, and aeromedical evacuation.)

Operational Data. Those statistics that are gathered from DOT Form 41 reporting, USTRANSCOM reported monthly round trip (S–1) and one-way (S–2) mileage reports, monthly fuel reports or other data deemed necessary by the USTRANSCOM contracting officer.

Participating Carriers. Any properly certified and DoD approved air carrier in the CRAF program which complies with the conditions of the MOU and executes a USTRANSCOM contract.

Projected Rates. The estimated rates proposed by carriers based upon historical cost and operational data as further described in § 243.4(a)–(g).

Ratemaking Methodologies. The methodologies agreed to by USTRANSCOM and air carriers in the MOU for the treatment of certain cost elements to determine the estimated price for the DoD for airlift services.

Short-range aircraft. Aircraft equipped for extended over-water operations and capable of flying a minimum distance of 1,500 nautical miles while carrying a productive payload (75 percent of the maximum payload it is capable of carrying).

§ 243.4 Ratemaking procedures for Civil Reserve Air Fleet contracts.

The ratemaking procedures contained within this section apply only to Airlift Service contracts awarded based on CRAF commitment. Competitively awarded contracts may be used by the Department of Defense when it considers such contracts to be in the best interest of the government. See § 243.5(b) and § 243.6 for exclusions to ratemaking.

(a) USTRANSCOM may utilize the principles contained in the Federal Acquisition Regulation (FAR), as supplemented, in establishing fair and reasonable rate of payments for airlift service contracts in support of CRAF. Specific exceptions to FAR are noted in § 243.8 of this rule. To facilitate uniformity within the ratemaking process, USTRANSCOM will execute a MOU with air carriers to institute the basis for methods upon which the rates will be established. An updated MOU will be executed as warranted and published for public comment on FedBizOps. Under the MOU, air carriers agree to furnish historical cost and operational data, as well as their projected rates for the ensuing fiscal year. USTRANSCOM will conduct a review of air carriers' historical and projected costs and negotiate with the carriers to establish rates using ratemaking methodologies contained in the attachment to the MOU.

(b) *Obtaining data from Participating Carriers.* USTRANSCOM will annually notify those participating carriers to provide data using the USTRANSCOM cost package and related instructions. The data provided includes pricing data, cost data, and judgmental information necessary for the USTRANSCOM contracting officer to

determine a fair and reasonable price or to determine cost realism. Carriers will be provided 60 calendar days to act upon the request.

(c) *Analysis.*

(1) USTRANSCOM will consider carrier reported DOT Form 41 costs as well as other applicable costs directly assigned to performance in USTRANSCOM service. These costs will be reviewed and analyzed by USTRANSCOM for allowability, allocability, and reasonableness. Costs may also be audited by the Defense Contract Audit Agency (DCAA), as necessary, in accordance with the DCAA Contract Audit Manual 7640.01.

(2) To determine allocation of these costs to USTRANSCOM service, USTRANSCOM considers carrier reported DOT Form 41 operational data, as well as USTRANSCOM S–1, S–2 mileage reports, fuel reports, and other relevant information requested by the contracting officer.

(d) *Rates.* Rates will be determined by aircraft class (e.g. large passenger, medium passenger, large cargo, etc.) based on the average efficiency of all participating carriers within the specified class. Application of these rates, under varying conditions (e.g. ferry, one-way, etc), are addressed in the Final Rates published in accordance with § 243.4(h).

(e) *Components of the rate.*

(1) *Return on Investment (ROI).* ROI for USTRANSCOM service is intended to adequately compensate carriers for cost of capital. USTRANSCOM will apply a minimum return applied to the carrier's total operating costs. If a full return on investment applied to a carrier's capital investment base is provided in the MOU, the carrier will receive whichever is greater.

(i) *Full ROI.* The full ROI will be computed using an optimal capital structure of 45 percent debt and 55 percent equity. The cost-of-debt and cost-of-equity are calculated from revenues of major carriers as reported to the Department of Transportation.

(A) *Cost-of-Debt (COD).* COD will be calculated considering the Risk Free Rate (RFR) plus the weighted debt spread, with the formula as agreed upon in the MOU.

(B) *Cost-of-Equity (COE).* COE will be determined by a formula agreed upon in the MOU, which considers RFR, weighted betas, annualized equity risk premium and a future expected return premium.

(C) *Owned/Capital/Long-Term Leased Aircraft.* New airframes and related support parts will receive full ROI on the net book value of equipment at mid-point of forecast year. USTRANSCOM will apply the economic service life standards to aircraft as indicated in paragraph (e)(2) of this section.

(D) *Short-term Leased Aircraft.* As a return on annual lease payments, short-term leased equipment will receive the Full ROI less the cost of money rate per the Secretary of the Treasury under Pub. L. 92–41 (85 Stat. 97), as provided by the Office of Management and Budget, in accordance with the MOU.

(E) *Working Capital.* Working capital will be provided in the investment base at an established number of days provided in the MOU. The investment base will be computed on total operating cash less non cash expenses (depreciation) as calculated by USTRANSCOM.

(ii) *Minimum Return.* USTRANSCOM will determine minimum return utilizing the Weighted Guidelines methodology as set forth in DFARS Subpart 215.4, Contract Pricing, or successor and as provided in the MOU.

(2) *Depreciation.* USTRANSCOM will apply economic life standards for new aircraft at 14 years, 2 percent residual (narrowbody) and 16 years and 10 percent residual (widebody) aircraft. USTRANSCOM will apply economic life standards for used aircraft as indicated in the MOU.

(3) *Utilization.* Utilization considers the number of airborne hours flown per aircraft per day. USTRANSCOM will calculate aircraft utilization in accordance with the DOT Form 41 reporting and the MOU.

(4) *Cost Escalation.* Escalation is the percentage increase or decrease applied to the historical base year costs to reliably estimate the cost of performance in the contract period. Yearly cost escalation will be calculated in accordance with the MOU.

(5) *Weighting of Rate.* Rates will be weighted based upon the direct relationship between contract performance and cost incurred in execution of the contract. The specific weighting will be as defined in the MOU.

(6) *Obtaining Data From Participating Carriers.* Carriers participating in USTRANSCOM acquisitions subject to ratemaking shall provide, other than certified cost and pricing data for USTRANSCOM, rate reviews as required in the MOU.

(f) *Contingency Rate.* Authority is reserved to the Commander, USTRANSCOM, at his discretion, during conditions such as outbreak of war, armed conflict, insurrection, civil or military strife, emergency, or similar conditions, to use a temporary contingency rate in order to ensure mission accomplishment. Any such temporary rate would terminate at the Commander's discretion upon his determination that such rate is no longer needed.

(g) *Proposed Rate.* Once the data is analyzed and audit findings considered, USTRANSCOM will prepare a package setting forth proposed airlift rates and supporting data. The proposed rates will be approved by the USTRANSCOM contracting officer and posted publicly on FedBizOps for comment. The comment period will be as specified in the proposed rate package.

(h) *Final Rate.* Upon closing of the comment period, comments and supporting rationale will be addressed and individual negotiations conducted between USTRANSCOM and the air carriers. After negotiations have concluded, USTRANSCOM will prepare a rate package setting forth final airlift rates for each aircraft class, along with supporting data consisting of individual carrier cost elements. Comments and disposition of those comments will be included in the final rate package. The final rates will be approved by the USTRANSCOM contracting officer and publicly posted on FedBizOps for use in the ensuing contract.

§ 243.5 Commitment of aircraft as a business factor.

For the purpose of rate making, the average fleet cost of aircraft proposed by the carriers for the forecast year is used. Actual awards to CRAF carriers are based upon the aircraft accepted into the CRAF program. The Secretary may, in determining the quantity of business to be received under an airlift services contract for which the rate of payment is determined in accordance with subsection (a) of 10 U.S.C. 9511a, use as a factor the relative amount of airlift capability committed by each air carrier to the CRAF.

(a) *Adjustments in commitment to target specific needs of the contract period.* The amount of business awarded in return for commitment to the program under a CRAF contract may be adjusted prior to the award of the contract to reflect increased importance of identified aircraft categories (e.g., Aeromedical Evacuation) or performance factors (e.g., flyer's bonus, superior on-time performers, etc.). These adjustments will be identified in the solicitation.

(b) *Exclusions of categories of business from commitment based awards.* Where adequate competition is available and USTRANSCOM determines some part of the business is more appropriate for award under competitive procedures, the rate-making will not apply. Changes to areas of

business will be reflected in the solicitation.

§ 243.6 Exclusions from the uniform negotiated rate.

Domestic CRAF is handled differently than international CRAF in that aircraft committed does not factor into the amount of business awarded during peacetime. If domestic CRAF is activated, carriers will be paid in accordance with pre-negotiated prices that have been determined fair and reasonable, not a uniform rate.

§ 243.7 Inapplicable provisions of law.

An airlift services contract for which the rate of payment is determined in accordance with subsection (a) of 10 U.S.C. 9511a shall not be subject to the provisions of 10 U.S.C. 2306a, or to the provisions of subsections (a) and (b) of 41 U.S.C. 1502. Specifically, contracts establishing rates for services provided by air carriers who are participants in the CRAF program are not subject to the cost or pricing data provision of the Truth in Negotiations Act (10 U.S.C. 2306a) or the Cost Accounting Standards (41 U.S.C. 1502). CRAF carriers will, however, continue to submit data in accordance with the MOU and the DOT, Form 41.

§ 243.8 Application of FAR cost principles.

In establishing fair and reasonable rate of payments for airlift service contracts in support of CRAF, USTRANSCOM, in accordance with 10 U.S.C. 9511a, procedures differ from the following provisions of FAR Part 31 and DFARS Part 231, as supplemented:

(a) FAR 31.202, Direct Costs.

(b) FAR 31.203, Indirect Costs.

(c) FAR 31.205–6, Compensation for Personal Services, subparagraphs (g), (j), and (k).

(d) FAR 31.205–10, Cost of Money.

(e) FAR 31.205–11, Depreciation.

(f) FAR 31.205–18, Independent Research and Development and Bid and Proposal Costs.

(g) FAR 31.205–19, Insurance and Indemnification.

(h) FAR 31.205–26, Material Costs.

(i) FAR 31.205–40, Special Tooling and Special Test Equipment Costs.

(j) FAR 31.205–41, Taxes.

(k) DFARS 231.205–18, Independent research and development and bid and proposal costs.

§ 243.9 Carrier site visits.

USTRANSCOM may participate in carrier site visits, as required to determine the reasonableness or verification of cost and pricing data.

§ 243.10 Disputes.

Carriers should first address concerns to the ratemaking team for resolution. Ratemaking issues that are not resolved to the carrier's satisfaction through discussions with the ratemaking team may be directed to the USTRANSCOM contracting officer.

§ 243.11 Appeals of USTRANSCOM Contracting Officer Decisions regarding rates.

If resolution of ratemaking issues cannot be made by the USTRANSCOM contracting officer, concerned parties shall contact the USTRANSCOM Ombudsman appointed to hear and facilitate the resolution of such concerns. In the event a ratemaking issue is not resolved through the ombudsman process, the carrier may request a final agency decision from the Director of Acquisition, USTRANSCOM.

§ 243.12 Required records retention.

The air carrier is required to retain copies of data submitted to support rate determination for a period identified in subpart 4.7 of the Federal Acquisition Regulation, Contractor Records Retention (48 CFR 4.7).

Dated: May 9, 2014.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2014–11070 Filed 5–13–14; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG–2014–0259]

RIN 1625–AA00

Safety Zone, Fireworks Display, Lake Michigan; Winnetka, IL

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to establish a safety zone in Lake Michigan, Winnetka, Illinois. This proposed safety zone is necessary to protect the surrounding public and vessels from the hazards associated with a fireworks display. This safety zone is intended to restrict vessels from a portion of Lake Michigan due to hazards associated with a fireworks display.

DATES: Comments and related material must be received by the Coast Guard on or before June 13, 2014.

ADDRESSES: You may submit comments identified by docket number USCG–2014–0259 using any one of the following methods:

(1) *Federal eRulemaking Portal: http://www.regulations.gov.*

(2) *Fax:* 202–493–2251.

(3) *Mail:* Docket Management Facility (M–30), U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590–0001.

(4) *Delivery:* Same as mail address above, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is 202–366–9329.

See the ''Public Participation and Request for Comments'' portion of the **SUPPLEMENTARY INFORMATION** section below for instructions on submitting comments. To avoid duplication, please use only one of these four methods.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email Petty Officer Joseph McCollum, U.S. Coast Guard Sector Lake Michigan; telephone 414–747–7148, email *Joseph.P.McCollum@uscg.mil.* If you have questions on viewing or submitting material to the docket, call Cheryl Collins, Program Manager, Docket Operations, telephone 1–800–647–5527.

SUPPLEMENTARY INFORMATION:

Table of Acronyms

DHS Department of Homeland Security
FR Federal Register
NPRM Notice of Proposed Rulemaking

A. Public Participation and Request for Comments

We encourage you to participate in this rulemaking by submitting comments and related materials. All comments received will be posted without change to *http://www.regulations.gov* and will include any personal information you have provided.

1. Submitting Comments

If you submit a comment, please include the docket number for this rulemaking (USCG–2014–0259), 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 at *http://www.regulations.gov*, or by fax, mail, or hand delivery, but please use only one of these means. If you submit a comment online, it will be considered received by the Coast Guard when you successfully transmit the comment. If you fax, hand deliver, or mail your comment, it will be considered as having been received by the Coast Guard when it is received at the Docket Management Facility. We recommend

that you include your name and a mailing address, an email address, or a telephone number in the body of your document so that we can contact you if we have questions regarding your submission.

To submit your comment online, go to *http://www.regulations.gov*, type the docket number (USCG–2014–0259) in the ''SEARCH'' box and click ''SEARCH.'' Click on ''Submit a Comment'' on the line associated with this notice of proposed rulemaking.

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 the rule based on your comments.

2. Viewing Comments and Documents

To view comments, as well as documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov*, type the docket number USCG–2014–0259 in the ''SEARCH'' box and click ''Search.'' Click on Open Docket Folder on the line associated with this rulemaking. You may also visit the Docket Management Facility 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., Monday through Friday, except Federal holidays. We have an agreement with the Department of Transportation to use the Docket Management Facility.

3. Privacy Act

Anyone can search the electronic form of 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).

4. Public Meeting

We do not now plan to hold a public meeting. You may submit a request for one using one of the four methods specified under **ADDRESSES**. Please explain why you believe a public meeting would be beneficial. If we determine that one would aid this rulemaking, we will hold one at a time and place announced by a later notice in the **Federal Register**.

B. Regulatory History and Information

On July 26, 2013 the Coast Guard published a Temporary Final Rule entitled Safety Zones; Sherman Private Party Fireworks, Lake Michigan, Winnetka, IL and made it available for public comment (78 FR 45059). No public meeting was requested, and none was held.

C. Basis and Purpose

The legal basis for this proposed rule is the Coast Guard's authority to establish safety zones: 33 U.S.C. 1231; 33 CFR 1.05–1, 160.5; Department of Homeland Security Delegation No. 0170.1.

On August 16, 2014 a private party fireworks display is expected to take place on Lake Michigan, Winnetka, IL, from a barge located at approximate position 42°06′24.19″ N, 087°43′7.92″ W (NAD 83). The Captain of the Port, Lake Michigan, has determined that an aerial firework display presents a significant risk to public safety and property. Such hazards include falling and flaming debris.

D. Discussion of Proposed Rule

The Captain of the Port, Lake Michigan, has determined that a safety zone is necessary to mitigate the aforementioned safety risks. Thus, this proposed rulemaking would establish a safety zone on the waters of Lake Michigan, near Winnetka, IL, within an 840 foot radius from a barge located at approximate position 42°06′24.19″ N, 087°43′7.92″ W (NAD 83).

This proposed safety zone would be effective and enforced from 9:15 p.m. until 10 p.m. on August 16, 2014.

The Captain of the Port Lake Michigan will notify the public that the zone in this proposal is or will be enforced by all appropriate means to the affected segments of the public. Such means of notification may also include, but are not limited to Broadcast Notice to Mariners or Local Notice to Mariners.

All persons and vessels must comply with the instructions of the Captain of the Port Lake Michigan, or his or her designated on-scene representative. Entry into, transiting, or anchoring within the safety zone is prohibited unless authorized by the Captain of the Port, Lake Michigan, or his or her designated on-scene representative. The Captain of the Port, Lake Michigan, or his or her designated on-scene representative may be contacted via VHF Channel 16.

E. Regulatory Analyses

We developed this proposed rule after considering numerous statutes and executive orders related to rulemaking. Below we summarize our analyses based on these statutes and executive orders.

1. Regulatory Planning and Review

This proposed rule is not a significant regulatory action under section 3(f) of Executive Order 12866, Regulatory Planning and Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order. It is not ''significant'' under the regulatory policies and procedures of the Department of Homeland Security (DHS). We conclude that this proposed rule is not a significant regulatory action because we anticipate that it will have minimal impact on the economy, will not interfere with other agencies, will not adversely alter the budget of any grant or loan recipients, and will not raise any novel legal or policy issues. Overall, we expect the economic impact of this proposed rule to be minimal and that a full Regulatory Evaluation is unnecessary.

2. Impact on Small Entities

Under The Regulatory Flexibility Act (5 U.S.C. 601–612), we have considered whether this proposed rule would have a significant economic impact on a substantial number of small entities. The term ''small entities'' comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

The Coast Guard certifies under 5 U.S.C. 605(b) that this proposed rule would not have a significant economic impact on a substantial number of small entities. This proposed rule will affect the following entities, some of which might be small entities: The owners or operators of vessels intending to transit or anchor within the waters of Lake Michigan near Winnetka, IL, on August 16, 2014.

This proposed safety zone will not have a significant economic impact on a substantial number of small entities for the following reasons: This proposed rule will be enforced for a short duration of 45 minutes. The location of this safety zone allows traffic to pass safely around the zone and vessels will be allowed to pass through the zone with the permission of the Captain of the Port. If you think that your business,

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

3. Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this proposed rule so that they can better evaluate its effects on them and participate in the rulemaking. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact Petty Officer Joseph McCollum, Prevention Department, Coast Guard Sector Lake Michigan, Milwaukee, WI at (414) 747–7148. The Coast Guard will not retaliate against small entities that question or complain about this proposed rule or any policy or action of the Coast Guard.

4. Collection of Information

This proposed rule would call for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520.).

5. Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, 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 them. We have analyzed this proposed rule under that Order and have determined that it does not have implications for federalism.

6. Protest Activities

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

7. Unfunded Mandates Reform Act

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

8. Taking of Private Property

This proposed rule would not cause a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

9. Civil Justice Reform

This proposed rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

10. Protection of Children

We have analyzed this proposed rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and would not create an environmental risk to health or risk to safety that might disproportionately affect children.

11. Indian Tribal Governments

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

12. Energy Effects

We have analyzed this proposed rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a ''significant energy action'' under that order because it is not a ''significant regulatory action'' under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. The Administrator of the Office of Information and Regulatory Affairs has not designated it as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

13. 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 the Office of Management and Budget, with an explanation of why using these standards would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., specifications of materials, performance, design, or operation; test methods; sampling procedures; and related management systems practices) 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.

14. Environment

We have analyzed this proposed rule under Department of Homeland Security Management Directive 023–01 and Commandant Instruction M16475.lD, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have made a determination that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. An environmental analysis checklist supporting this determination is available in the docket where indicated under **ADDRESSES**. This proposed rule involves the establishment of a safety zone and is therefore categorically excluded under figure 2–1, paragraph 34(g) of the Instruction. We seek any comments or information that may lead to the discovery of a significant environmental impact from this proposed rule.

List of Subjects in 33 CFR Part 165

Harbors, Marine Safety, Navigation (water), Reporting and record keeping requirements, Security measures, Waterways.

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

Authority: 33 U.S.C. 1231; 46 U.S.C. Chapter 701, 3306, 3703; 50 U.S.C. 191, 195; 33 CFR 1.05–1, 6.04–1, 6.04–6, and 160.5; Pub. L. 107–295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

■ 2. Add § 165.T09–0259 to read as follows:

§ 165.T09–0259 Safety Zone, Fireworks Display, Lake Michigan; Winnetka, IL.

(a) *Location.* All waters of Lake Michigan, near Winnetka, IL, within an 840 foot radius from a barge located at approximate position 42°06′24.19″ N, 087°43′7.92″ W (NAD 83).

(b) *Effective period.* This section will be effective from 9:15 p.m. until 10 p.m. on August 16, 2014.

(c) *Regulations.* (1) In accordance with the general regulations in § 165.23, entry into, transiting, or anchoring in this safety zone is prohibited unless authorized by the Captain of the Port, Lake Michigan, or his or her designated on-scene representative.

(2) The safety zone described in paragraph (a) of this section is closed to all vessel traffic except as permitted by the Captain of the Port Lake Michigan or his or her designated on-scene representative.

(3) The ''on-scene representative'' of the Captain of the Port Lake Michigan is any Coast Guard commissioned, warrant, or petty officer who has been designated by the Captain of the Port Lake Michigan to act or his or her behalf.

(4) Vessel operators desiring to enter or operate within the safety zone must contact the Captain of the Port Lake Michigan or his or her designated on-scene representative to obtain permission to do so. The Captain of the Port Lake Michigan or his or her designated on-scene representative may be contacted via VHF Channel 16.

Dated: April 30, 2014.

M.W. Sibley,

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

[FR Doc. 2014–10973 Filed 5–13–14; 8:45 am]

BILLING CODE 9110–04–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R03–OAR–2014–0299; FRL–9910–94–Region 3]

Approval and Promulgation of Air Quality Implementation Plans; West Virginia; Infrastructure Requirements for the 2010 Sulfur Dioxide National Ambient Air Quality Standards

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve a State Implementation Plan (SIP) revision submittal from the State of West Virginia pursuant to the Clean Air Act (CAA). Whenever new or revised national ambient air quality standards (NAAQS) are promulgated, the CAA requires states to submit a plan for the implementation, maintenance, and enforcement of such NAAQS. The plan is required to address basic program elements, including, but not limited to, regulatory structure, monitoring, modeling, legal authority, and adequate resources necessary to assure attainment and maintenance of the standards. These elements are referred to as infrastructure requirements. West Virginia has made a submittal addressing the infrastructure requirements for the 2010 sulfur dioxide (SO_2) NAAQS. This action proposes to approve portions of this submittal.

DATES: Written comments must be received on or before June 13, 2014.

ADDRESSES: Submit your comments, identified by Docket ID Number EPA–R03–OAR–2014–0299 by one of the following methods:

A. *www.regulations.gov.* Follow the on-line instructions for submitting comments.

B. *Email: fernandez.cristina@epa.gov.*

C. *Mail:* EPA–R03–OAR–2014–0299, Cristina Fernandez, Associate Director, Office of Air Program Planning, Mailcode 3AP30, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103.

D. *Hand Delivery:* At the previously-listed EPA Region III address. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID Number EPA–R03–OAR–2014–0299. 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 electronic docket are listed in the *www.regulations.gov* index. 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 during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of the State submittal are available at the West Virginia Department of Environmental Protection, Division of Air Quality, 601 57th Street SE., Charleston, West Virginia 25304.

FOR FURTHER INFORMATION CONTACT: Ellen Schmitt, (215) 814–5787, or by email at *schmitt.ellen@epa.gov.*

SUPPLEMENTARY INFORMATION: On June 25, 2013, the State of West Virginia through the West Virginia Department of Environmental Protection (WVDEP) submitted a revision to its SIP to satisfy the requirements of section 110(a)(2) of the CAA for the 2010 SO_2 NAAQS.

I. Background

On June 22, 2010 (75 FR 35520), EPA promulgated a revised NAAQS for the 1-hour primary SO_2 at a level of 75 parts per billion (ppb), based on a 3-year average of the annual 99th percentile of 1-hour daily maximum concentrations. Pursuant to section 110(a)(1) of the CAA, states are required to submit SIPs meeting the applicable requirements of section 110(a)(2) within three years after promulgation of a new or revised NAAQS or within such shorter period as EPA may prescribe. Section 110(a)(2) requires states to address basic SIP elements such as requirements for monitoring, basic program requirements and legal authority that are designed to

assure attainment and maintenance of the NAAQS. Section 110(a) imposes the obligation upon states to make a SIP submittal to EPA for a new or revised NAAQS, but the contents of that submittal may vary depending upon the facts and circumstances. In particular, the data and analytical tools available at the time the state develops and submits the SIP for a new or revised NAAQS affect the content of the submittal. The content of such SIP submittal may also vary depending upon what provisions the state's existing SIP already contains.

In the case of the 2010 SO_2 NAAQS, states typically have met the basic program elements required in section 110(a)(2) through earlier SIP submittals in connection with the SO_2 NAAQS. More specifically, section 110(a)(1) provides the procedural and timing requirements for SIPs. Section 110(a)(2) lists specific elements that states must meet for ''infrastructure'' SIP requirements related to a newly established or revised NAAQS. As mentioned earlier, these requirements include basic SIP elements such as requirements for monitoring, basic program requirements and legal authority that are designed to assure attainment and maintenance of the NAAQS.

II. Summary of State Submittal

On June 25, 2013, West Virginia provided a submittal to satisfy section 110(a)(2) requirements of the CAA, which is the subject of this proposed rulemaking, for the 2010 SO_2 NAAQS. This submittal addressed the following infrastructure elements or portions thereof, which EPA is proposing to approve: section 110(a)(2)(A), (B), (C) (enforcement and minor new source review), (D)(ii), (E)(i) and (iii), (F), (G), (H), (J), (K), (L), and (M). A detailed summary of EPA's review and rationale for approving West Virginia's submittal may be found in the Technical Support Document (TSD) for this rulemaking action which is available on line at *www.regulations.gov*, Docket ID Number EPA–R03–OAR–2014–0299. This rulemaking action does not include any proposed action on section 110(a)(2)(I) of the CAA which pertains to the nonattainment requirements of part D, Title I of the CAA, because this element is not required to be submitted by the 3-year submission deadline of CAA section 110(a)(1), and will be addressed in a separate process. This rulemaking action also does not include proposed action on section 110(a)(2)(D)(i)(I) of the CAA because West Virginia's June 25, 2013 infrastructure SIP submittal did not include provisions for this element. EPA will take later, separate action on section 110(a)(2)(D)(i)(I) for the 2010 SO_2 NAAQS for West Virginia.

Additionally, EPA will take separate action on the portions of CAA section 110(a)(2) infrastructure elements for the 2010 SO_2 NAAQS as they relate to West Virginia's prevention of significant deterioration (PSD) permitting program, as required by part C of Title I of the CAA. This includes portions of the following infrastructure elements: section 110(a)(2)(C), (D)(i)(II), and (J). EPA had previously approved West Virginia's PSD program with the narrow exception of the definition of regulated new source review pollutant for its failure to include condensables. *See* 77 FR 63736 (October 17, 2012) and 78 FR 27062 (May 9, 2013) (finalizing limited, narrow disapproval). At this time, EPA is not proposing action on Section 110(a)(2)(D)(i)(II) for visibility protection for the 2010 SO_2 NAAQS. Although West Virginia's infrastructure SIP submittal for the 2010 SO_2 NAAQS referred to West Virginia's regional haze SIP for section 110(a)(2)(D)(i)(II) for visibility protection, EPA intends to take separate action on West Virginia's submittal for this element at a later date as explained in the TSD. EPA will also take later separate action on West Virginia's June 25, 2013 infrastructure SIP submittal for the 2010 SO_2 NAAQS for section 110(a)(2)(E)(ii) as it relates to section 128, ''State Boards.''

III. EPA's Approach To Review Infrastructure SIPs

EPA is acting upon the SIP submission from West Virginia that addresses the infrastructure requirements of section 110(a)(1) and (2) of the CAA for the 2010 SO_2 NAAQS. The requirement for states to make a SIP submission of this type arises out of 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 section 110(a)(1) and (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 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.[1] 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

[1] 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.

requirements.[2] 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, and section 107(d)(1)(B) allows up to two years or in some cases three years, for such designations to be promulgated.[3] 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 section 110(a)(1) and (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.[4] 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.[5]

Ambiguities within section 110(a)(1) and (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.[6]

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.[7] EPA most recently issued guidance for infrastructure SIPs on September 13, 2013 (2013 Guidance).[8] EPA developed this document 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

[2] *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)).

[3] 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.

[4] *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).

[5] 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.

[6] 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.

[7] 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.

[8] ''Guidance on Infrastructure State Implementation Plan (SIP) Elements under Clean Air Act Sections 110(a)(1) and 110(a)(2),'' Memorandum from Stephen D. Page, September 13, 2013.

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 section 110(a)(1) and (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 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 Guidance 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 section 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 Green House 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 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, EPA's 2013 Guidance 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 section 110(a)(1) and (2) because the CAA provides other

[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.3d 7 (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.

[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.

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 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. Proposed Action

EPA is proposing to approve the following elements or portions thereof of West Virginia's June 25, 2013 SIP revision: section 110(a)(2)(A), (B), (C) (enforcement and minor new source review), (D)(i)(II) (visibility protection), (D)(ii), (E)(i) and (iii), (F), (G), (H), (J), (K), (L), and (M). West Virginia's SIP revision provides the basic program elements specified in section 110(a)(2) necessary to implement, maintain, and enforce the 2010 SO_2 NAAQS. This proposed rulemaking action does not include action on section 110(a)(2)(I) which pertains to the nonattainment planning requirements of part D, Title I of the CAA, because this element is not required to be submitted by the 3-year submission deadline of section 110(a)(1) of the CAA, and will be addressed in a separate process.

Additionally, EPA will take separate action on the portions of CAA section 110(a)(2) infrastructure elements for the 2010 SO_2 NAAQs as they relate to West Virginia's PSD program, as required by part C of Title I of the CAA. This includes portions of the following infrastructure elements: section 110(a)(2)(C), (D)(i)(II), and (J). Finally, EPA will take later separate action on section 110(a)(2)(D)(i)(I) (interstate transport of emission), (D)(i)(II) (visibility protection), and (E)(ii) (section 128, ''State Boards'') for the 2010 SO_2 NAAQS. EPA is soliciting public comments on the issues discussed in this document. These comments will be considered before taking final action.

IV. 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 proposes to approve state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this proposed action:

- Is not a ''significant regulatory action'' subject to review by the Office of Management and Budget under Executive 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 proposed rule, pertaining to West Virginia's section 110(a)(2) infrastructure requirements for the 2010 SO_2 NAAQS, 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, Sulfur oxides, Reporting and recordkeeping requirements.

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

Dated: April 30, 2014.

W.C. Early,

Acting Regional Administrator, Region III.

[FR Doc. 2014–11085 Filed 5–13–14; 8:45 am]

BILLING CODE 6560–50–P

[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).

[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 (January 26, 2011) (final disapproval of such provisions).

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R10–OAR–2011–0446; FRL–9910–82–Region–10]

Approval and Promulgation of Implementation Plans; Oregon: Interstate Transport of Fine Particulate Matter

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve a portion of the State Implementation Plan submittal from the State of Oregon to address Clean Air Act interstate transport requirements in section 110(a)(2)(D)(i)(I) for the 2006 24-hour fine particulate matter ($PM_{2.5}$) National Ambient Air Quality Standards. The Clean Air Act requires that each State Implementation Plan contain adequate provisions prohibiting air emissions that will have certain adverse air quality effects in other states. The EPA is proposing to determine that Oregon's existing State Implementation Plan contains adequate provisions to ensure that air emissions in Oregon do not significantly contribute to nonattainment or interfere with maintenance of the 2006 24-hour $PM_{2.5}$ National Ambient Air Quality Standard in any other state.

DATES: Written comments must be received on or before June 13, 2014.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R10–OAR–2011–0446, by any of the following methods:

- *www.regulations.gov:* Follow the on-line instructions for submitting comments.
- *Email: R10-Public_Comments@epa.gov.*
- *Mail:* Dr. Karl Pepple, EPA Region 10, Office of Air, Waste and Toxics (AWT–107), 1200 Sixth Avenue, Suite 900, Seattle, WA 98101.
- *Hand Delivery/Courier:* EPA Region 10 9th Floor Mailroom, 1200 Sixth Avenue, Suite 900, Seattle, WA 98101. Attention: Dr. Karl Pepple, Office of Air, Waste and Toxics, AWT–107. Such deliveries are only accepted during normal hours of operation, and special arrangements should be made for deliveries of boxed information

Instructions: Direct your comments to Docket ID No. EPA–R10–OAR–2011–0446. The 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 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 disk or CD–ROM 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.

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 the disclosure of which 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. Publicly available docket materials are available either electronically in *www.regulations.gov* or in hard copy during normal business hours at the Office of Air, Waste and Toxics, EPA Region 10, 1200 Sixth Avenue, Seattle, WA 98101.

FOR FURTHER INFORMATION CONTACT: Dr. Karl Pepple at (206) 553–1778, *pepple.karl@epa.gov,* or the above EPA, Region 10 address.

SUPPLEMENTARY INFORMATION: Throughout this document wherever ''we,'' ''us,'' or ''our'' are used, it is intended to mean the EPA. Information is organized as follows:

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I. Background

A. 2006 24-Hour $PM_{2.5}$ NAAQS and Interstate Transport

On September 21, 2006, the EPA promulgated a final rule revising the 1997 24-hour primary and secondary National Ambient Air Quality Standards (NAAQS) for $PM_{2.5}$ from 65 micrograms per cubic meter ($\mu g/m^3$) to 35 $\mu g/m^3$ (October 17, 2006, 71 FR 61144).

The interstate transport provisions in Clean Air Act (CAA) section 110(a)(2)(D)(i) (also called ''good neighbor'' provisions) require each state to submit a State Implementation Plan (SIP) that prohibits emissions that will have certain adverse air quality effects in other states. CAA section 110(a)(2)(D)(i) identifies four distinct elements related to the impacts of air pollutants transported across state lines. In this action, the EPA is addressing the first two elements of this section, specified at CAA section 110(a)(2)(D)(i)(I),[1] for the 2006 24-hour $PM_{2.5}$ NAAQS.

The first element of CAA section 110(a)(2)(D)(i)(I) requires that each SIP for a new or revised NAAQS contain adequate measures to prohibit any source or other type of emissions activity within the state from emitting air pollutants that will ''contribute significantly to nonattainment'' of the NAAQS in another state. The second element of CAA section 110(a)(2)(D)(i)(I) requires that each SIP prohibit any source or other type of emissions activity in the state from emitting pollutants that will ''interfere with maintenance'' of the applicable NAAQS in any other state.

B. Rules Addressing Interstate Transport for the 2006 24-Hour $PM_{2.5}$ NAAQS

The EPA has previously addressed the requirements of CAA section 110(a)(2)(D)(i)(I) in past regulatory actions.[2] The EPA published the final Cross-State Air Pollution Rule (Transport Rule) to address the first two elements of CAA section 110(a)(2)(D)(i)(I) in the eastern portion of the United States with respect to the 2006 $PM_{2.5}$ NAAQS, the 1997 $PM_{2.5}$ NAAQS, and the 1997 8-hour ozone NAAQS (August 8, 2011, 76 FR 48208). The Transport Rule was intended to replace the earlier Clean Air Interstate Rule (CAIR) which was judicially

[1] This proposed action does not address the two elements of the interstate transport SIP provision in CAA section 110(a)(2)(D)(i)(II) regarding interference with measures required to prevent significant deterioration of air quality or to protect visibility in another state. We previously published a notice approving the Oregon SIP for purposes of CAA section 110(a)(2)(D)(I)(II) for the 2006 24-hour $PM_{2.5}$ NAAQS on August 1, 2013 (78 FR46514).

[2] *See* NO_X SIP Call, 63 FR 57371 (October 27, 1998); Clean Air Interstate Rule (CAIR), 70 FR 25172 (May 12, 2005); and Transport Rule or Cross-State Air Pollution Rule, 76 FR 48208 (August 8, 2011).

remanded.[3] *See North Carolina* v. *EPA,* 531 F.3d 896 (D.C. Cir. 2008). On August 21, 2012, the U.S. Court of Appeals for the D.C. Circuit issued a decision vacating the Transport Rule, s*ee EME Homer City Generation, L.P.* v. *E.P.A.,* 696 F.3d 7 (D.C. Cir. 2012), and ordering the EPA to continue implementing CAIR in the interim. However, on April 29, 2014, the U.S. Supreme Court reversed and remanded the D.C. Circuit's ruling and upheld the EPA's approach in the Transport Rule. *EPA* v. *EME Homer City Generation, L.P.,* No. 12–1182, 572 U.S. ____s slip op. (2014).The State of Oregon was not covered by either CAIR or the Transport Rule, and the EPA made no determinations in either rule regarding whether emissions from sources in Oregon significantly contribute to nonattainment or interfere with maintenance of the 2006 24-hour $PM_{2.5}$ NAAQS in another state.

C. Guidance

On September 25, 2009, the EPA issued a guidance memorandum that addresses the requirements of CAA section 110(a)(2)(D)(i) for the 2006 24-hour $PM_{2.5}$ NAAQS (''2006 24-hour $PM_{2.5}$ NAAQS Infrastructure Guidance'' or ''Guidance'').[4] With respect to the requirement in CAA section 110(a)(2)(D)(i)(I) to prohibit emissions that would contribute significantly to nonattainment of the NAAQS in any other state, the 2006 24-hour $PM_{2.5}$ NAAQS Infrastructure Guidance essentially reiterated the recommendations for western states made by the EPA in previous guidance addressing the CAA section 110(a)(2)(D)(i) requirements for the 1997 8-hour Ozone and 1997 $PM_{2.5}$ NAAQS.[5] The 2006 24-hour $PM_{2.5}$ NAAQS Infrastructure Guidance advised states outside of the CAIR region to include in their CAA section 110(a)(2)(D)(i)(I) SIPs adequate technical analyses to support their conclusions regarding interstate pollution transport, *e.g.,* information concerning emissions in the state, meteorological conditions in the state and in potentially impacted states, monitored ambient pollutant concentrations in the state and in potentially impacted states, distances to the nearest areas not attaining the NAAQS in other states, and air quality modeling.[6] With respect to the requirement in CAA section 110(a)(2)(D)(i)(I) to prohibit emissions that would interfere with maintenance of the NAAQS in any other state, the Guidance stated that SIP submissions must address this independent requirement of the statute and provide technical information appropriate to support the state's conclusions, such as information concerning emissions in the state, meteorological conditions in the state and in potentially impacted states, monitored ambient concentrations in the state and in potentially impacted states, and air quality modeling. *See* footnotes 5 and 6. In this action, the EPA is proposing to use the conceptual approach to evaluating interstate pollution transport under CAA section 110(a)(2)(D)(i)(I) that the EPA explained in the 2006 24-hour $PM_{2.5}$ NAAQS Infrastructure Guidance. For the 2006 24-hour $PM_{2.5}$ NAAQS, the EPA believes that nonattainment and maintenance problems in the western United States are generally relatively local in nature with only limited impacts from interstate transport. The EPA believes that the CAA section 110(a)(2)(D)(i)(I) SIP submission from Oregon may be evaluated using a ''weight of the evidence'' approach that takes into account available relevant information. Such information may include, but is not limited to, the amount of emissions in the state relevant to the NAAQS in question, the meteorological conditions in the area, the distance from the state to the nearest monitors in other states that are appropriate receptors, or such other information as may be probative to consider whether sources in the state may contribute significantly to nonattainment or interfere with maintenance of the 2006 24-hour $PM_{2.5}$ NAAQS in other states. These submissions can rely on modeling when acceptable modeling technical analyses are available, but the EPA does not believe that modeling is necessarily required if other available information is sufficient to evaluate the presence or degree of interstate transport in a specific situation.[7]

II. The State Submittal

CAA sections 110(a)(1) and (2) and section 110(l) require that revisions to a SIP be adopted by the state after reasonable notice and public hearing. The EPA has promulgated specific procedural requirements for SIP revisions in 40 CFR part 51, subpart F. These requirements include publication of notices, by prominent advertisement in the relevant geographic area, a public comment period of at least 30 days, and an opportunity for a public hearing.

On June 28, 2010, the State of Oregon submitted a SIP revision to update the State's SIP for ozone and $PM_{2.5}$. The State's SIP submittal cover letter indicated the SIP revision included the ''Oregon SIP Infrastructure for Addressing the Interstate Transport of Ozone and Fine Particulate Matter'' to address the interstate transport SIP requirements of CAA section 110(a)(2)(D)(i) for the 8-hour ozone and $PM_{2.5}$ NAAQS (2010 Interstate Transport SIP). The State's June 28, 2010 submittal included public process documentation for the 2010 Interstate Transport SIP, including documentation of a duly noticed public hearing held on December 22, 2009. The State subsequently notified the EPA that a clerical error was made and that the 2010 Interstate Transport SIP had not been attached to the June 28, 2010, cover letter. The State transmitted the 2010 Interstate Transport SIP to the EPA on December 23, 2010. The State then transmitted a letter to the EPA on March 14, 2011, confirming that the 2010 Interstate Transport SIP was submitted for purposes of meeting the requirements of CAA section 110(a)(2)(D)(i) for the 1997 ozone NAAQS, 1997 $PM_{2.5}$ NAAQS, 2006 24-hour $PM_{2.5}$ NAAQS, and 2008 ozone NAAQS.

We find that the process followed by the State in adopting the 2010 Interstate Transport SIP complies with the procedural requirements for SIP revisions under CAA section 110 and the EPA's implementing regulations.

To address whether emissions from sources in Oregon significantly contribute to nonattainment of the 2006

[3] CAIR addressed the 1997 annual and 24-hour $PM_{2.5}$ NAAQS, and the 1997 8-hour ozone NAAQS. It did not address the 2006 24-hour $PM_{2.5}$ NAAQS. For more information on CAIR, see the July 30, 2012 proposal for Arizona regarding interstate transport for the 2006 $PM_{2.5}$ NAAQS (77 FR 44551, 44552).

[4] *See* Memorandum from William T. Harnett 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),'' September 25, 2009, available at *http://www.epa.gov/ttn/caaa/t1/memoranda/20090925_harnett_pm25_sip_110a12.pdf.*

[5] *See* Memorandum from William T. Harnett entitled ''Guidance for State Implementation Plan (SIP) Submission to Meet Current Outstanding Obligations Under Section 110(a)(2)(D)(i) for the 8-hour ozone and $PM_{2.5}$ National Ambient Air Quality Standards,'' August 15, 2006, available at *http://www.epa.gov/ttn/caaa/t1/memoranda/section110a2di_sip_guidance.pdf.*

[6] The 2006 24-hour $PM_{2.5}$ NAAQS Infrastructure Guidance states that EPA was working on a new rule to replace CAIR to address issues raised by the court in the *North Carolina* case and to provide guidance to states in addressing the requirements related to interstate transport in CAA section 110(a)(2)(D)(i)(I) for the 2006 24-hour $PM_{2.5}$ NAAQS. It also notes that states could not rely on the CAIR rule for section 110(a)(2)(D)(i)(I) submissions for the 2006 24-hour $PM_{2.5}$ NAAQS because the CAIR rule did not address this NAAQS. *See* 2006 $PM_{2.5}$ NAAQS Infrastructure Guidance at 4.

[7] See ''2006 24-hour $PM_{2.5}$ NAAQS Infrastructure Guidance,'' issued September 25, 2009.

24-hour $PM_{2.5}$ NAAQS in another state, the State stated in the 2010 Interstate Transport SIP that meteorological and other characteristics of any areas designated nonattainment for the 2006 24-hour $PM_{2.5}$ NAAQS in the surrounding states of Washington, Idaho, Nevada, and California support a finding that emissions from Oregon sources do not significantly contribute to violations of the 2006 24-hour $PM_{2.5}$ NAAQS in other states. The State explained that the closest 2006 24-hour $PM_{2.5}$ designated nonattainment areas in neighboring states are the Tacoma area (Pierce County) in Washington; the Chico area (portions of Butte County) in California; and the Cache Valley area in Southeast Idaho (portions of Cache County, Utah and Franklin County, Idaho). Oregon stated that the area of highest Oregon emission densities (Portland Metro area) is separated from these 2006 24-hour $PM_{2.5}$ nonattainment areas by significant distances and major mountain ranges up to approximately 7000 feet. The State identified one exception—the Portland, Oregon-Vancouver, Washington metro area, which shares a common air shed between Oregon and Washington. Oregon noted however that both Portland, Oregon and Vancouver, Washington are in attainment with the 2006 24-hour $PM_{2.5}$ NAAQS.

Additionally, the State described typical wind patterns during the winter when $PM_{2.5}$ levels are the highest. It noted that the majority of wind speeds occur at less than eight miles per hour, and a significant portion of low winds occur at less than five miles per hour. The State explained that these low wind speeds and air stagnation conditions do not lend themselves to long distance air pollution transport. The State concluded that general meteorology supports the conclusion that high winter time $PM_{2.5}$ levels in Pacific Northwest communities are typically dominated by local emission sources.

Oregon's 2010 Interstate Transport SIP also pointed to its CAA section 110 infrastructure SIP to demonstrate that Oregon Department of Environmental Quality (ODEQ) has the ability to participate as needed in future studies on regional air pollution issues, can collaborate with other states if air quality concerns are identified that require a case-specific evaluation of interstate transport, and has the legal mechanism to take action as needed to reduce emissions to help attain compliance with Federal NAAQS. Oregon stated that that high $PM_{2.5}$ levels that threaten the NAAQS are investigated as needed to identify contributing sources, including any potential role of interstate transport.

Finally, the State explained that it had consulted with air agencies in Washington, Idaho, Nevada, and California and other agencies to evaluate case-specific air quality problems that may involve regional transport of air pollution. These staff-level communications indicated no impacts on $PM_{2.5}$ concentrations in other states caused by transport from Oregon.

Based on the information provided in its 2010 Interstate Transport SIP, the State concluded that emissions from air pollution sources in Oregon do not significantly contribute to nonattainment of the 2006 24-hour $PM_{2.5}$ NAAQS in other states.

III. The EPA Evaluation

To determine whether the CAA section 110(a)(2)(D)(i)(I) requirement is satisfied, the EPA must determine whether a state's emissions contribute significantly to nonattainment or interfere with maintenance of the NAAQS in other states. If this factual finding is in the negative, then CAA section 110(a)(2)(D)(i)(I) does not require any changes to a state's SIP. Consistent with the EPA's approach in the 1998 NO_X SIP Call, the 2005 CAIR, and the 2011 Transport Rule, the EPA is evaluating these impacts with respect to specific monitors identified as having nonattainment and/or maintenance problems, which we refer to as ''receptors.'' *See* footnote 2.

This proposed approval addresses the requirements of CAA section 110(a)(2)(D)(i)(I) for the 2006 24-hour $PM_{2.5}$ NAAQS in several ways. The EPA notes that no single piece of information is by itself dispositive of the issue. Instead, the total weight of all the evidence taken together is used to evaluate significant contributions to nonattainment or interference with maintenance of the 2006 24-hour $PM_{2.5}$ NAAQS in another state. Our proposed approval takes into account Oregon's 2010 Interstate Transport SIP which explains that meteorological and other characteristics in Oregon and in the surrounding areas reduce the likelihood that emissions from sources in Oregon contribute significantly to nonattainment or interfere with maintenance of the 2006 24-hour $PM_{2.5}$ NAAQS in any downwind state. In addition, we are supplementing the evaluation of the State's submittal with a review of the monitors in other states that are appropriate ''nonattainment receptors'' or ''maintenance receptors'' and additional technical information to consider whether sources in Oregon contribute significantly to nonattainment or interfere with maintenance of the 2006 24-hour $PM_{2.5}$ NAAQS in other states.

Our Technical Support Document (TSD) contains a more detailed evaluation and is available in the public docket for this rulemaking, which may be accessed online at *www.regulations.gov*, docket number EPA–R10–OAR–2011–0446. Below is a summary of our analysis.

A. Identification of Nonattainment and Maintenance Receptors

The EPA evaluated data from existing monitors over three overlapping three-year periods (i.e., 2008–2010, 2009–2011, and 2010–2012) to determine which areas were violating the 2006 24-hour $PM_{2.5}$ NAAQS and which areas might have difficulty maintaining attainment. If a monitoring site measured a violation of the 2006 24-hour $PM_{2.5}$ NAAQS during the most recent three-year period (2010–2012), then this monitor location was evaluated for purposes of the significant contribution to nonattainment element of CAA section 110(a)(2)(D)(i)(I). If, on the other hand, a monitoring site shows attainment of the 2006 24-hour $PM_{2.5}$ NAAQS during the most recent three-year period (2010–2012) but a violation in at least one of the previous two three-year periods (2008–2010 or 2009–2011), then this monitor location was evaluated for purposes of the interference with maintenance element of the statute.

The State of Oregon was not covered by the original modeling analyses conducted for the CAIR and the Transport Rule. The approach described above is similar to the approach utilized by the EPA in promulgating the CAIR and the Transport Rule. By this method, the EPA has identified those areas with monitors to be considered ''nonattainment receptors'' or ''maintenance receptors'' for evaluating whether the emissions from sources in another state could significantly contribute to nonattainment in, or interfere with maintenance in, that particular area.

B. Evaluation of Significant Contribution to Nonattainment

The EPA reviewed Oregon's 2010 Interstate Transport SIP and additional technical information to evaluate the potential for emissions from sources in Oregon to contribute significantly to nonattainment of the 2006 24-hour $PM_{2.5}$ NAAQS at specified monitoring

sites in the western United States.[8] The EPA first identified as ''nonattainment receptors'' all monitoring sites in the western states that had recorded $PM_{2.5}$ design values above the level of the 2006 24-hour $PM_{2.5}$ NAAQS (35 μg/m^3) during the years 2010–2012.[9] See Section III of the TSD for more a more detailed description of the EPA's methodology for selection of nonattainment receptors. All of the nonattainment receptors identified in western states are in California, Idaho, Oregon, and Utah. Because geographic distance is a relevant factor in the assessment of potential pollution transport, the EPA focused its review on information related to potential transport of $PM_{2.5}$ pollution from Oregon to nonattainment receptors in the states bordering Oregon: Idaho and California.[10] [11] As detailed in the TSD, the EPA believes that the following factors support a finding that emissions from Oregon do not significantly contribute to nonattainment of the 2006 24-hour $PM_{2.5}$ NAAQS in these states: (1) Technical information indicating that elevated $PM_{2.5}$ levels at nonattainment receptors are predominantly caused by local emission sources and (2) air quality data indicating that regional background levels of $PM_{2.5}$ are generally low during the time periods of elevated $PM_{2.5}$ at these receptors. In addition, as detailed in the TSD with respect to California, technical information indicating that the dominant air flows across California are from the west to the east additionally supports a finding that emissions from Oregon do not significantly contribute to nonattainment of the 2006 24-hour $PM_{2.5}$ NAAQS in California.

The EPA also evaluated potential $PM_{2.5}$ transport to nonattainment receptors in the more distant western state of Utah. The EPA believes that the following factors support a finding that emissions from Oregon do not significantly contribute to nonattainment of the 2006 24-hour $PM_{2.5}$ NAAQS in Utah: (1) The significant distance from Oregon to the nonattainment receptors in Utah, (2) technical information indicating that elevated $PM_{2.5}$ levels at nonattainment receptors in Utah are predominantly caused by local emission sources, and (3) air quality data indicating that regional background levels of $PM_{2.5}$ are generally low during the time periods of elevated $PM_{2.5}$ at Utah receptors.

Based on this evaluation of Oregon's 2010 Interstate Transport SIP and additional technical information, the EPA proposes to conclude that emissions from sources in Oregon do not significantly contribute to nonattainment of the 2006 24-hour $PM_{2.5}$ NAAQS in any other state.

C. Evaluation of Interference With Maintenance

The EPA reviewed Oregon's 2010 Interstate Transport SIP and additional technical information to evaluate the potential for Oregon emissions to interfere with maintenance of the 2006 24-hour $PM_{2.5}$ NAAQS at specified monitoring sites in the western United States. The EPA first identified as ''maintenance receptors'' all monitoring sites in the western states that had recorded $PM_{2.5}$ design values above the level of the 2006 24-hour $PM_{2.5}$ NAAQS (35 μg/m^3) during the 2008–2010 and/or 2009–2011 periods but below this standard during the 2010–2012 period. See section III of the TSD for more information regarding the EPA's methodology for selection of maintenance receptors. All of the maintenance receptors in the western states are located in California, Montana, Nevada, Oregon, Utah, and Washington. The EPA focused its evaluation of the potential for transport of Oregon emissions to the maintenance receptors located in three states bordering Oregon: California, Nevada, and Washington.[12] [13] As detailed in the TSD, the EPA believes that the following factors support a finding that emissions from sources in Oregon do not interfere with maintenance of the 2006 24-hour $PM_{2.5}$ NAAQS in these border states: (1) Technical information indicating that elevated 24-hour $PM_{2.5}$ levels at these maintenance receptors are predominantly caused by local emission sources, and (2) air quality data indicating that regional background levels of $PM_{2.5}$ are generally low during the time periods of elevated 24-hour $PM_{2.5}$ at these receptors. In addition, with respect to California, technical information indicating that elevated 24-hour $PM_{2.5}$ levels at the maintenance receptors are predominantly caused by local emission sources and that the dominant air flows across California are from the west to the east additionally supports a finding that emissions from sources in Oregon do not interfere with maintenance of the 2006 24-hour $PM_{2.5}$ NAAQS in California.

The EPA also evaluated the potential for transport of Oregon emissions to maintenance receptors in the more distant states of Montana and Utah. As detailed in the TSD, the EPA believes that the following factors support a finding that emissions from sources in Oregon do not interfere with maintenance of the 2006 24-hour $PM_{2.5}$ NAAQS in these more distant states: (1) The significant distance from the Oregon to the maintenance receptors in these states, (2) technical information indicating that elevated 24-hour $PM_{2.5}$ levels at these maintenance receptors are predominantly caused by local emission sources, and (3) air quality data indicating that regional background levels of $PM_{2.5}$ are generally low during the time periods of elevated 24-hour $PM_{2.5}$ at these receptors.

Based on this evaluation of Oregon's 2010 Interstate Transport SIP and additional technical information, the EPA proposes to conclude that emissions from sources in Oregon do not interfere with maintenance of the 2006 24-hour $PM_{2.5}$ NAAQS in any other state.

IV. Proposed Action

The EPA is proposing to approve the portion of the SIP revision submitted by the State of Oregon on June 28, 2010 that addresses the interstate transport requirements of CAA section 110(a)(2)(D)(i)(I) for the 2006 24-hour $PM_{2.5}$ NAAQS. The EPA is proposing to determine that Oregon's existing State Implementation Plan contains adequate provisions to ensure that air emissions in Oregon do not significantly contribute to nonattainment or interfere with maintenance of the 2006 24-hour $PM_{2.5}$ National Ambient Air Quality Standard in any other state. This action

[8] EPA has also considered potential $PM_{2.5}$ transport from Oregon to the nearest nonattainment and maintenance receptors located in the eastern, midwestern, and southern states covered by the Transport Rule and believes it is reasonable to conclude that, given the significant distance from Oregon to the nearest such receptor (in Illinois) and the relatively insignificant amount of emissions from Oregon that could potentially be transported such a distance, emissions from Oregon sources do not significantly contribute to nonattainment or interfere with maintenance of the 2006 24-hour $PM_{2.5}$ NAAQS at this location. These same factors also support a finding that emissions from Oregon sources neither contribute significantly to nonattainment nor interfere with maintenance of the 2006 24-hour $PM_{2.5}$ NAAQS at any location further east. *See* TSD at Section II.C.

[9] Because CAIR did not cover states in the western United States, these data are not significantly impacted by the remanded CAIR at this time and thus could be considered in this analysis.

[10] As this analysis is focused on interstate transport, the EPA did not evaluate the impact of Oregon emissions onnonattainment receptors within Oregon.

[11] Washington and Nevada have no nonattainment receptors. *See* TSD at Table III.A.1.

[12] As this analysis is focused on interstate transport, the EPA did not evaluate the impact of Oregon emissions on maintenance receptors within Oregon.

[13] Idaho has no maintenance receptors. *See* TSD at Table III.A.1.

is being taken under section 110 of the CAA.

V. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, the 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:

- 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 the 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 proposed 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 the 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, Particulate matter, and Reporting and recordkeeping requirements.

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

Dated: April 10, 2014.

Michelle L. Pirzadeh,

Acting Regional Administrator, Region 10.

[FR Doc. 2014–11075 Filed 5–13–14; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R10–OAR–2014–0333, FRL–9910–95–Region 10]

Approval and Promulgation of Implementation Plans; Washington: Infrastructure Requirements for the 2008 Lead National Ambient Air Quality Standards

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The EPA is proposing to partially approve and partially disapprove the State Implementation Plan (SIP) submittal from the State of Washington (Washington or the State) demonstrating that the SIP meets the infrastructure requirements of the Clean Air Act (CAA) for the National Ambient Air Quality Standards (NAAQS) promulgated for lead on October 15, 2008. The CAA requires that each state, after a new or revised NAAQS is promulgated, review their SIP to ensure that it meets the infrastructure requirements necessary to implement the new or revised NAAQS. On April 1, 2014, Washington certified that the Washington SIP meets the infrastructure requirements of the CAA for purposes of the 2008 lead NAAQS, except for those requirements related to the Prevention of Significant Deterioration (PSD) permitting program currently operated under a Federal Implementation Plan (FIP). The EPA is proposing to find that Washington's 2008 lead SIP is adequate for purposes of the infrastructure SIP requirements of CAA section 110, with the exception of the requirements related to PSD permitting and portions of the interstate transport requirements. The EPA finds that the SIP deficiencies related to PSD permitting, however, have been adequately addressed by the existing EPA FIP and, therefore, no further action is required by Washington or the EPA. The EPA will address the remaining interstate transport requirements in a separate action.

DATES: Comments must be received on or before June 13, 2014.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R10–OAR–2014–0333, by any of the following methods:

- *Email: R10-Public_Comments@epa.gov.*
- *www.regulations.gov:* Follow the on-line instructions for submitting comments.
- *Mail:* Jeff Hunt, EPA Region 10, Office of Air, Waste and Toxics (AWT–107), 1200 Sixth Avenue, Suite 900, Seattle, WA 98101
- *Hand Delivery:* EPA Region 10 Mailroom, 9th floor, 1200 Sixth Avenue, Suite 900, Seattle, WA 98101. Attention: Jeff Hunt, Office of Air, Waste and Toxics, AWT–107. Such deliveries are only accepted during normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. EPA–R10–OAR–2014–0333. The 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 the disclosure of which 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 disk or CD–ROM 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.

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 the disclosure of which 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. Publicly available docket materials are available either electronically in *www.regulations.gov* or in hard copy during normal business hours at the Office of Air, Waste and Toxics, EPA Region 10, 1200 Sixth Avenue, Seattle, WA 98101.

FOR FURTHER INFORMATION CONTACT: Jeff Hunt at: (206) 553–0256, *hunt.jeff@epa.gov,* or the above EPA, Region 10 address.

SUPPLEMENTARY INFORMATION: Throughout this document wherever ''we,'' ''us'' or ''our'' is used, it is intended to refer to the EPA. Information is organized as follows:

Table of Contents

I. Background
II. CAA Sections 110(a)(1) and (2) Infrastructure Elements
III. The EPA's Approach to Review of Infrastructure SIP Submittals
IV. Analysis of the State's Submittal
V. Proposed Action
VI. Statutory and Executive Order Reviews

I. Background

On October 15, 2008, the EPA revised the level of the primary and secondary lead NAAQS from 1.5 micrograms per cubic meter (μg/m^3) to 0.15 μg/m^3. The CAA requires SIPs meeting the requirements of sections 110(a)(1) and (2) be submitted by states within three years after promulgation of a new or revised standard. CAA sections 110(a)(1) and (2) require states to address basic SIP requirements to provide for implementation, maintenance and enforcement of the standards, so-called ''infrastructure'' requirements. States were required to submit such SIPs for the 2008 lead NAAQS to the EPA no later than October 15, 2011.

To help states meet this statutory requirement, the EPA issued guidance to address infrastructure SIP elements under CAA sections 110(a)(1) and (2).[1] As noted in the guidance, to the extent an existing SIP already meets the CAA section 110(a)(2) requirements, states may certify that fact via a letter to the EPA. The certification should address all requirements of the CAA section 110(a)(2) infrastructure elements as applicable for the 2008 lead NAAQS. Such certification should include documentation demonstrating a correlation between each infrastructure element specified at 110(a)(2) and an equivalent state authority in the existing or submitted SIP. As for all SIP submittals, a state should provide reasonable public notice of, and an opportunity for a public hearing on, the certification before it is submitted to the EPA.

CAA section 110(a) imposes the obligation upon states to make a SIP submission to the EPA for a new or revised NAAQS, but the contents of that submission may vary depending upon the facts and circumstances. In the case of the 2008 lead NAAQS, states typically have met the basic program elements required in CAA section 110(a)(2) through earlier SIP submissions. On April 1, 2014, Washington made a submittal to the EPA certifying that the current Washington SIP meets the CAA section 110(a)(1) and (2) infrastructure requirements for the 2008 lead NAAQS, except for certain requirements related to PSD permitting, described in the ''Analysis of the State's Submittal'' section of this publication. The submittal included an analysis of Washington's SIP as it relates to each section of the infrastructure requirements with regard to the 2008 lead NAAQS. Washington provided notice and an opportunity for public comment on the submittal from February 14, 2014, through March 24, 2014. A notice offering the public an opportunity to comment and request a hearing was published in the *Daily Journal of Commerce* on February 14, 2014. The Washington Department of Ecology (Ecology) also issued a news release, fact sheet, and hearing notice on Ecology's public involvement Web site and interested parties email list. Ecology received no requests for a public hearing. The EPA has evaluated Washington's submittal and determined that Washington has met the requirements for reasonable notice and public hearing under section 110(a)(2) of the CAA.

II. CAA Sections 110(a)(1) and (2) Infrastructure Elements

CAA section 110(a)(1) provides the procedural and timing requirements for SIP submissions after a new or revised NAAQS is promulgated. CAA section 110(a)(2) lists specific elements that states must meet for infrastructure SIP requirements related to a newly established or revised NAAQS. These requirements include SIP infrastructure elements such as modeling, monitoring, and emissions inventories that are designed to assure attainment and maintenance of the NAAQS. The requirements, with their corresponding CAA subsection, are listed below:

- 110(a)(2)(A): Emission limits and other control measures.
- 110(a)(2)(B): Ambient air quality monitoring/data system.
- 110(a)(2)(C): Program for enforcement of control measures.
- 110(a)(2)(D): Interstate transport.[2]
- 110(a)(2)(E): Adequate resources.
- 110(a)(2)(F): Stationary source monitoring system.
- 110(a)(2)(G): Emergency powers.
- 110(a)(2)(H): Future SIP revisions.
- 110(a)(2)(I): Areas designated nonattainment and meet the applicable requirements of part D.
- 110(a)(2)(J): Consultation with government officials; public notification; and Prevention of Significant Deterioration (PSD) and visibility protection.
- 110(a)(2)(K): Air quality modeling/data.
- 110(a)(2)(L): Permitting fees.
- 110(a)(2)(M): Consultation/participation by affected local entities.

The EPA's October 14, 2011, guidance restated our interpretation that two elements identified in CAA section 110(a)(2) are not governed by the three-year submission deadline of CAA section 110(a)(1) because SIPs incorporating necessary local nonattainment area controls are not due

[1] Stephen D. Page, Director, Office of Air Quality Planning and Standards. 1.) ''Guidance on Infrastructure State Implementation Plan (SIP) Elements Required Under Sections 110(a)(1) and (2) for the 2008 Lead (Pb) National Ambient Air Quality Standards.'' Memorandum to EPA Air Division Directors, Regions I–X, October 14, 2011, and 2.) ''Guidance on Infrastructure State Implementation Plan (SIP) Elements under Clean Air Act Sections 110(a)(1) and 110(a)(2).'' Memorandum to EPA Air Division Directors, Regions I–X, September 13, 2013.

[2] Washington's submittal does not address CAA section 110(a)(2)(D)(i)(I). At the time of the State's submission, in accordance with the panel of the U.S. Court of Appeals for the D.C. Circuit opinion, 110(a)(2)(D)(i)(I) submittals were not required until the EPA quantified the State's obligations under that section. *See EME Homer City generation, L.P.* v. *EPA, 696 F .3d 7* (D.C. Cir. 2012). On April 29, 2014, the U.S. Supreme Court reversed and remanded the D.C. Circuit's ruling. *EPA* v. *EME Homer City Generation, L.P.,* No. 12–182, 572 U.S. __ slip op. (2014). The EPA intends to address Washington's obligations under CAA section 110(a)(2)(D)(i)(I) with respect to the lead NAAQS in a separate action. In contrast, portions of the Washington SIP submittal relating to 110(a)(2)(D)(i)(II) and 110(a)(2)(D)(ii), were submitted. In this notice, we are proposing to act on Washington's submittal for purposes of 110(a)(2)(D)(i)(II) and 110(a)(2)(D)(ii) for the 2008 lead NAAQS.

within three years after promulgation of a new or revised NAAQS, but rather, are due at the time the nonattainment area plan requirements are due pursuant to CAA section 172 and the various pollutant specific subparts 2–5 of part D. These requirements are: (i) Submissions required by CAA section 110(a)(2)(C) to the extent that subsection refers to a permit program as required in part D, title I of the CAA, and (ii) submissions required by CAA section 110(a)(2)(I) which pertain to the nonattainment planning requirements of part D, title I of the CAA. As a result, this action does not address infrastructure elements related to CAA section 110(a)(2)(C) with respect to nonattainment new source review (NSR) or CAA section 110(a)(2)(I). Furthermore, the EPA interprets the CAA section 110(a)(2)(J) provision on visibility as not being triggered by a new NAAQS because the visibility requirements in part C, title I of the CAA are not changed by a new NAAQS.

III. The EPA's Approach to Review of Infrastructure SIP Submittals

The EPA is acting upon the SIP submission from Washington that addresses the infrastructure requirements of CAA sections 110(a)(1) and 110(a)(2) for the 2008 lead 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 the 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.

The 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, the 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 the EPA rule to address the visibility protection requirements of CAA section 169A, and nonattainment new source review 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.[3] The 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, the 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 the 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 the 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.[4] 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 the EPA to establish a schedule for submission of such plans for certain pollutants when the Administrator promulgates the designation of an area as nonattainment, and section 107(d)(1)(B) allows up to two years, or in some cases three years, for such designations to be promulgated.[5] This ambiguity illustrates that rather than apply all the stated requirements of section 110(a)(2) in a strict literal sense, the 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 the 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, the 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, the EPA can elect to act on such submissions either individually or in a larger combined action.[6] Similarly, the 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, the EPA has sometimes elected to act at different times on various elements and sub-

[3] 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.

[4] 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)).

[5] The 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.

[6] 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) (the EPA's final action approving the structural PSD elements of the New Mexico SIP submitted by the State separately to meet the requirements of the 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) (the EPA's final action on the infrastructure SIP for the 2006 $PM_{2.5}$ NAAQS).

elements of the same infrastructure SIP submission.[7]

Ambiguities within sections 110(a)(1) and 110(a)(2) may also arise with respect to infrastructure SIP submission requirements for different NAAQS. Thus, the 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.[8]

The EPA notes that interpretation of section 110(a)(2) is also necessary when the EPA reviews other types of SIP submissions required under the CAA. Therefore, as with infrastructure SIP submissions, the 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), the 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, the 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, the 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, the 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.[9] The EPA most recently issued guidance for infrastructure SIPs on September 13, 2013 (2013 Guidance).[10] The EPA developed this document to provide states with up-to-date guidance for infrastructure SIPs for any new or revised NAAQS. Within this guidance, the 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. The EPA also made recommendations about many specific subsections of section 110(a)(2) that are relevant in the context of infrastructure SIP submissions.[11] The guidance also discusses the substantively important issues that are germane to certain subsections of section 110(a)(2). Significantly, the 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, the EPA reviews each infrastructure SIP submission for compliance with the 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, the 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 Guidance explains the 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 the 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, the 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 the 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. By contrast, structural PSD program requirements do not include provisions that are not required under the EPA's regulations at 40 CFR 51.166 but are

[7] On December 14, 2007, the State of Tennessee, through the Tennessee Department of Environment and Conservation, made a SIP revision to the EPA demonstrating that the State meets the requirements of sections 110(a)(1) and (2). The 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), the EPA took separate proposed and final actions on all other section 110(a)(2) infrastructure SIP elements of Tennessee's December 14, 2007 submittal.

[8] 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.

[9] The EPA notes, however, that nothing in the CAA requires the 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 the EPA provides guidance or regulations pertaining to such submissions. EPA elects to issue such guidance in order to assist states, as appropriate.

[10] ''Guidance on Infrastructure State Implementation Plan (SIP) Elements under Clean Air Act Sections 110(a)(1) and 110(a)(2),'' Memorandum from Stephen D. Page, September 13, 2013.

[11] The 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). The 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, the 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 the EPA elects to provide guidance on a particular section has no impact on a state's CAA obligations.

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 the EPA considers irrelevant in the context of an infrastructure SIP action.

For other section 110(a)(2) elements, however, the 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, the EPA evaluates whether the state has an EPA-approved minor new source review program and whether the program addresses the pollutants relevant to that NAAQS. In the context of acting on an infrastructure SIP submission, however, the 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, the 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 the 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 the EPA; and (iii) existing provisions for PSD programs that may be inconsistent with current requirements of the EPA's ''Final NSR Improvement Rule,'' 67 FR 80186 (December 31, 2002), as amended by 72 FR 32526 (June 13, 2007). Thus, the 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.[12] It is important to note that the 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.

The EPA's approach to review of infrastructure SIP submissions is to identify the CAA requirements that are logically applicable to that submission. The 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 the 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 the EPA evaluates adequacy of the infrastructure SIP submission. The EPA believes that a better approach is for states and the 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 EPA's 2013 Guidance 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, the 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 the EPA to take appropriately tailored action, depending upon the nature and severity of the alleged SIP deficiency. Section 110(k)(5) authorizes the EPA to issue a ''SIP call'' whenever the EPA 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.[13] Section 110(k)(6) authorizes the EPA to correct errors in past actions, such as past approvals of SIP submissions.[14] Significantly, the 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 the 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, the 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.[15]

IV. Analysis of the State's Submittal

110(a)(2)(A): Emission Limits and Other Control Measures

CAA section 110(a)(2)(A) requires SIPs to include enforceable emission limits and other control measures, means or techniques (including economic incentives such as fees,

[12] By contrast, the 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 the 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.

[13] For example, the 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).

[14] The 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). The 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).

[15] See, e.g., the 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).

marketable permits, and auctions of emissions rights), as well as schedules and timetables for compliance, as may be necessary or appropriate to meet the applicable requirements of the CAA.

State submittal: Washington's previous infrastructure certification for the 1997 ozone NAAQS outlined the State's overarching regulatory and statutory authorities to set emission limits and require control measures generally for all criteria pollutants. These statutory authorities include portions of Chapter 70.94 Revised Code of Washington (RCW) *Washington Clean Air Act* and Chapter 43.21A RCW *Department of Ecology.* As noted in Washington's submittal for the lead NAAQS, the underlying statutory authorities remain unchanged since the EPA's last review and approval of the 1997 ozone NAAQS infrastructure certification (May 24, 2012; 77 FR 30902).[16] Like ozone, the State has a long history of regulating lead, therefore the broad regulatory authorities to address criteria pollutants generally, codified in the SIP at 40 CFR part 52, subpart WW, continue to protect and maintain the lead NAAQS. The most significant change to the SIP since the EPA's last review is Washington's submittal of Washington Administrative Code (WAC) section 173–476–120 *Ambient Air Quality Standards for Lead (Pb)* which set state standards for lead that match the EPA lead NAAQS. The EPA approved WAC 173–476–120 on March 4, 2014 (79 FR 12077).

Washington's submittal includes an analysis of potential lead sources in the State. In 2010, the EPA improved the existing lead monitoring network by requiring monitors be placed in areas with sources such as industrial facilities with lead emissions of 0.5 tons or more. Washington currently has no known industrial facilities with lead emissions at these updated monitoring thresholds; nor are there any nonattainment areas for lead in the State. Because leaded aviation gasoline was considered a possible threat to attainment, the EPA required a year-long monitoring study of airports with estimated lead emissions between 0.50 and 1.0 tons per year, including two airports in Washington: Auburn Municipal Airport and Harvey Field in Snohomish. Monitoring results at these Washington airports showed little risk of future nonattainment, with concentrations well below one-half the 2008 lead NAAQS, as discussed in the evaluation of CAA section 110(a)(2)(B), below. Given the lack of air emissions in the State at current reporting and monitoring thresholds for lead, Washington determined that no new control measures or emission standards would be necessary at this time. If any new facilities are found to emit lead, Washington determined that the existing EPA-approved minor source permitting program and the PSD FIP would adequately address these situations in the future.

EPA analysis: The EPA agrees with Washington's determination that no new control measures or emission limits for lead seem necessary at this time, due to the lack of air emission sources in the State. The EPA is proposing to find that the existing Washington SIP, codified in 40 CFR 52, subpart WW, is adequate to protect and maintain the 2008 lead NAAQS.

The EPA is also proposing to find that Washington's SIP meets the requirements of section 110(a)(2)(A) for the 2008 lead NAAQS, subject to the following qualifications. We are not proposing to approve or disapprove any existing state provisions with regard to excess emissions during startup, shutdown, or malfunction (SSM) of operations at a facility. The EPA believes that a number of states may have SSM provisions that are contrary to the CAA and existing EPA guidance and the EPA plans to address such state regulations.[17] In the meantime, the EPA encourages any state having a deficient SSM provision to take steps to correct it as soon as possible. In addition, we are not proposing to approve or disapprove any existing state rules with regard to director's discretion or variance provisions. The EPA believes that a number of states may have such provisions that are contrary to the CAA and existing EPA guidance (52 FR 45109, November 24, 1987) and the EPA plans to take action in the future to address such state regulations. In the meantime, we encourage any state having a director's discretion or variance provision that is contrary to the CAA and the EPA guidance to take steps to correct the deficiency as soon as possible.

110(a)(2)(B): Ambient Air Quality Monitoring/Data System

CAA section 110(a)(2)(B) requires SIPs to include provisions to provide for establishment and operation of ambient air quality monitors, collecting and analyzing ambient air quality data, and making these data available to the EPA upon request.

State submittal: Washington derives its general statutory authority to establish and operate ambient air quality monitors from RCW 70.94.331(5) *Powers and Duties of Department* which states, ''[t]he department is directed to conduct or cause to be conducted a continuous surveillance program to monitor the quality of the ambient atmosphere as to concentrations and movements of air contaminants and conduct or cause to be conducted a program to determine the quantity of emissions to the atmosphere.'' Regulatory authority is contained in the EPA-approved SIP provisions of WAC 173–400–105 *Records, Monitoring and Reporting.* These authorities were reviewed by the EPA as part of the previous 1997 ozone infrastructure approval and have not changed since the EPA's last review.

With respect to lead, Washington's submittal focuses primarily on the airport lead monitoring study conducted from December 2011 through December 2012. This effort was part of a year-long EPA monitoring study of 15 airports with estimated lead emissions between 0.50 and 1.0 ton per year, which included two airports in Washington: Auburn Municipal Airport and Harvey Field in Snohomish. The study found that the maximum three-month rolling average at the Auburn Airport was 0.055 $\mu g/m^3$ (37% of NAAQS) and at Harvey Field was 0.032 $\mu g/m^3$ (21% of NAAQS). Because neither airport measured a three-month rolling average that exceeded 50% of the NAAQS, the lead monitoring at both airports was concluded December 2012, in accordance with 40 CFR part 58. Details on the EPA's lead monitoring study can be found at *http://www.epa.gov/otaq/regs/nonroad/aviation/420f13032.pdf.*

EPA analysis: Washington submitted a comprehensive air quality monitoring plan to meet the requirements of 40 CFR part 58, which the EPA approved on April 15, 1981. This air quality monitoring plan has been updated annually, with the most recent submittal dated May 2013. The EPA approved the plan on March 10, 2014, included in the docket for this action. This approved plan meets the EPA's revised ambient monitoring requirements for lead promulgated on December 14, 2010 (75 FR 81126) as specified in 40 CFR part 58. Washington provides air quality monitoring data summaries and a map of the air monitoring network at: *https://fortress.wa.gov/ecy/enviwa/Default.htm.*

[16] Washington State did make changes to the *Washington Clean Air Act* modifying particulate matter control measures for residential wood combustion, effective June 2012. However, these changes are unrelated to the regulation of the lead NAAQS. The EPA also notes that on January 27, 2014, Ecology submitted an updated version of Chapter 173–400 of the Washington Administrative Code, *General Regulations for Air Pollution Sources,* however the EPA has not yet made a proposed determination on that submittal.

[17] See Scope of Action on Infrastructure Submittals.

Therefore, we are proposing to approve the Washington SIP as meeting the requirements of CAA section 110(a)(2)(B) for the 2008 lead NAAQS.

110(a)(2)(C): Program for Enforcement of Control Measures

CAA section 110(a)(2)(C) requires states to include a program providing for enforcement of all SIP measures and the regulation of construction of new or modified stationary sources, including a program to meet PSD and nonattainment NSR requirements.

State submittal: The Washington submittal refers to EPA-approved regulatory provisions contained in the SIP under WAC 173–400–230 *Regulatory Actions* and WAC 173–400–240 *Criminal Penalties,* as well as the enforcement-related statutory provisions of Chapter 70.94 RCW, *Washington Clean Air Act.* All of these enforcement provisions remain unchanged since the EPA's last review and approval of the 1997 ozone infrastructure submittal (May 24, 2012; 77 FR 30902). Washington also cites the EPA-approved minor source permitting program contained in the SIP under WAC 173–400–110 *New Source Review* and WAC 173–400–113 *Requirements for New Sources in Attainment or Unclassifiable Areas.* Specifically, WAC 173–400–113(3) ensures that, ''[a]llowable emissions from the proposed new source or modification will not delay the attainment date for an area not in attainment nor cause or contribute to a violation of any ambient air quality standard.'' Washington also notes that there are no lead nonattainment areas in the State and any major PSD sources in attainment or unclassifiable areas would be addressed under the existing EPA FIP codified in 40 CFR 52.2497.

EPA analysis: With regard to the requirement to have a program providing for enforcement of all SIP measures, we are proposing to find that the Washington provisions provide the State with authority to enforce the air quality regulations, permits, and orders promulgated pursuant to the SIP. Washington may issue emergency orders to reduce or discontinue emission of air contaminants where air emissions cause or contribute to imminent and substantial endangerment under the EPA-approved provisions of WAC 173–435 *Emergency Episode Plan.* Enforcement cases may be referred to the State Attorney General's Office for civil or criminal enforcement. Therefore, we are proposing to approve the Washington SIP as meeting the requirements of CAA section 110(a)(2)(C) related to enforcement for the 2008 lead NAAQS.

To generally meet the requirements of CAA section 110(a)(2)(C) with regard to the regulation of construction of new or modified stationary sources, a state is required to have PSD, nonattainment NSR, and minor NSR permitting programs adequate to implement the 2008 lead NAAQS. As explained above, in the ''CAA Sections 110(a)(1) and (2) Infrastructure Elements'' discussion, we are not evaluating nonattainment related provisions in this action, such as the nonattainment NSR program required by part D, title I of the CAA. In addition, Washington has no designated nonattainment areas for the 2008 lead NAAQS. With regard to the minor NSR requirement of this element, we have determined that the Washington minor NSR program adopted pursuant to section 110(a)(2)(C) of the CAA is adequate to regulate emissions of lead because WAC 173–400–113 prevents the cause or contribution to a violation of any ambient air quality standard. Lastly, as previously discussed, the PSD permitting program in Washington is operated under an EPA FIP. As noted in the EPA's October 14, 2011, infrastructure guidance, when an area is already subject to a FIP for PSD permitting (whether or not a state, local, or tribal air agency has been delegated federal authority to implement the PSD FIP), the air agency may choose to continue to rely on the PSD FIP to have permits issued pursuant to the FIP. If so, the EPA could not fully approve the infrastructure SIP submission; however, the EPA anticipates that there would be no adverse consequences to the air agency or to sources from this partial disapproval of the infrastructure SIP. Therefore, the EPA is proposing to partially disapprove Washington's SIP for those requirements of CAA section 110(a)(2)(C) related to PSD.[18]

110(a)(2)(D)(i): Interstate Transport

CAA section 110(a)(2)(D)(i) requires state 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 (CAA section 110(a)(2)(D)(i)(I)). Further, this section requires state 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 from interfering with measures required to protect visibility (i.e. measures to address regional haze) in any state (CAA section 110(a)(2)(D)(i)(II)).

State submittal: In accordance with the U.S. Court of Appeals for the D.C. Circuit opinion in *EME Homer City generation, L.P.* v. *EPA,* in effect at the time of the State's submission, Washington's certification notes that states were not required to submit SIPs addressing CAA section 110(a)(2)(D)(i)(I) until the EPA had quantified their obligations under that section. With respect to the CAA section 110(a)(2)(D)(i)(II) requirements, Washington's certification notes that a FIP is in place to address the PSD components. With respect to visibility, Washington submitted a regional haze plan in 2010, which the EPA proposed to partially approve and partially disapprove and supplement with a FIP (December 30, 2013; 78 FR 79344). Notwithstanding the final outcome of the EPA's proposed partial approval and partial FIP, the infrastructure submittal notes that Washington does not currently have any known sources of lead at 0.5 tons per year and concludes, based on the EPA's October 14, 2011, infrastructure guidance, that lead is not a pollutant that contributes towards visibility problems and there are no impacts to Class I areas in neighboring states from sources of lead in Washington State.

EPA analysis: As noted in the EPA's October 14, 2011, infrastructure guidance, the physical properties of lead prevent emissions from experiencing the same travel or formation phenomena as fine particulate matter or ozone. Given the lack of significant stationary sources of lead in the State, it is extremely unlikely that Washington sources would contribute significantly to nonattainment, or interfere with maintenance of the NAAQS in another state. On April 29, 2014, the United States Supreme Court reversed and remanded the decision of the D.C. Circuit in *EME Homer City Generation,* which had been relied upon by the State in making its infrastructure submission. The EPA intends to address the requirements of CAA Section 110(a)(2)(D)(i)(I) in a separate action.

The EPA believes that the CAA section 110(a)(2)(D)(i)(II) PSD sub-element is satisfied when new major sources and major modifications in Washington are subject to a SIP-

[18] On January 27, 2014, Washington submitted PSD regulations for approval into the SIP. The EPA has not finalized our review of that submittal. The EPA's proposed disapproval of the PSD elements in this action to rely on the existing PSD FIP is not a reflection on Ecology's January 27, 2014, submittal. Instead, the EPA has determined that the existing PSD FIP currently provides protection and maintenance of the lead NAAQS so there is no compelling reason to delay a proposed determination on the adequacy of Ecology's infrastructure certification.

approved PSD program that satisfactorily implements the 2008 lead NAAQS. As previously noted, a FIP is in place for the PSD program in Washington. Therefore, the EPA is proposing to disapprove the Washington SIP with respect to the CAA section 110(a)(2)(D)(i)(II) PSD sub-element.

The EPA believes, as noted in the October 14, 2011, infrastructure guidance that, with regard to the CAA section 110(a)(2)(D)(i)(II) visibility sub-element, significant impacts from lead emissions from stationary sources are expected to be limited to short distances from the source and most, if not all lead stationary sources, are located at distances from Class I areas such that visibility impacts would be negligible. The EPA's guidance notes that, ''EPA's experience with initial lead designations suggests that sources that emit less than 0.5 tpy [tons per year] or that are located more than 2 miles from a state border generally appear unlikely to contribute significantly to nonattainment in another state.'' While this statement specifically addressed interstate transport prongs 1 and 2 (nonattainment and maintenance) the physical properties of lead remain the same with respect to prong 4 (visibility). In Washington there are currently no known sources emitting lead at 0.5 tons per year.

Therefore, the EPA is proposing to approve the Washington SIP for purposes of the CAA section 110(a)(2)(D)(i)(II) requirements related to visibility for the 2008 lead NAAQS.

110(a)(2)(D)(ii) Interstate and International transport provisions: CAA section 110(a)(2)(D)(ii) requires SIPs to include provisions insuring compliance with the applicable requirements of CAA sections 126 and 115 (relating to interstate and international pollution abatement). Specifically, CAA section 126(a) requires new or modified major sources to notify neighboring states of potential impacts from the source.

State submittal: Washington's submittal notes that the State has no pending obligations under section 115 or 126(b) of the CAA. CAA section 126(a) obligations are met through the current PSD FIP.

EPA analysis: The EPA agrees that Washington has no pending interstate or international pollution obligations under CAA sections 115 and 126(b). Because Washington does not have SIP-approved provisions addressing the requirements and instead relies on the PSD FIP to satisfy its CAA section 126(a) obligations, the EPA is proposing to partially disapprove the SIP for this element. However, as previously noted, the EPA anticipates that there would be no adverse consequences to Washington or to sources resulting from this proposed partial disapproval of the infrastructure SIP.

110(a)(2)(E): Adequate Resources

CAA section 110(a)(2)(E) requires states to provide (i) necessary assurances that the state will have adequate personnel, funding, and authority under state law to carry out the SIP (and is not prohibited by any provision of Federal or state law from carrying out the SIP or portion thereof), (ii) requires that the state comply with the requirements respecting state boards under CAA section 128 and (iii) necessary assurances that, where the state has relied on a local or regional government, agency, or instrumentality for the implementation of any SIP provision, the state has responsibility for ensuring adequate implementation of such SIP provision.

State submittal: Chapter 43.21A RCW *Department of Ecology* provides authority for the director to employ personnel necessary for administration of this chapter. Chapters 43.21A and 70.94 RCW provide the rule-making authority for Ecology. Ecology's Air Quality Program is funded through the following funding sources: the state general fund, section 105 of the CAA grant program, Air Operating Permit Account (permit fees from large industrial sources), and Air Pollution Control Account (permit fees for burning and annual fees for small industrial air pollution sources).

The EPA-approved provisions of the Washington SIP under WACs 173–400–220 *Requirements for Board Members* and 173–400–260 *Conflict of Interest* provide that no state board or body which approves operating permits or enforcement orders, either in the first instance or upon appeal, shall be constituted of less than a majority of members who represent the public interest and who do not derive a significant portion of their income from persons subject to operating permits. State law also provides that any potential conflicts of interest by members of such board or body or the head of any executive agency with similar powers be adequately disclosed. See RCW 34.05.425 *Administrative Procedure Act;* RCW 42.17 *Public Disclosure Act;* RCW 70.94.100 *Composition of Local Air Authorities' Board; Conflict of Interest Requirements.*

Ecology works with other organizations and agencies and may enter into agreements allowing for implementation of the air pollution controls by another agency. However, RCW 70.94.370 states that no provision of this chapter or any recommendation of the state board or of any local or regional air pollution program is a limitation on the power of a state agency in the enforcement, or administration of any provision of law which it is specifically permitted or required to enforce or administer.

EPA analysis: Regarding adequate personnel, funding and authority, the EPA believes the Washington SIP meets the requirements of this element. Washington receives CAA sections 103 and 105 grant funds from the EPA and provides state matching funds necessary to carry out SIP requirements. Regarding the state board requirements under CAA section 128, the EPA approved WAC 173–400–220 *Requirements for Board Members* and WAC 173–400–260 *Conflict of Interest* as meeting the section 128 requirements on June 2, 1995 (60 FR 28726). As part of the approval for the 1997 ozone infrastructure action, the EPA reviewed these provisions again and found that they still adequately met the section 128 requirements (May 24, 2012; 77 FR 30902). Finally, regarding state responsibility and oversight of local and regional entities, RCW 70.94.370 provides Ecology with adequate authority to carry out SIP obligations with respect to the 2008 lead NAAQS. Therefore, the EPA is proposing to approve the Washington SIP as meeting the requirements of CAA Section 110(a)(2)(E) for the 2008 lead NAAQS.

110(a)(2)(F): Stationary Source Monitoring System

CAA section 110(a)(2)(F) requires (i) 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, (ii) periodic reports on the nature and amounts of emissions and emissions-related data from such sources, and (iii) correlation of such reports by the state agency with any emission limitations or standards established pursuant to the CAA, which shall be available at reasonable times for public inspection.

State submittal: The EPA-approved version of WAC 173–400–105 *Records, Monitoring, and Reporting* currently in the Washington SIP provides the authority to monitor stationary source emissions for compliance purposes and make the information available to the public. The language of WAC 173–400–105(1) provides general authority to require emission reporting, including lead emissions. Meanwhile, WAC 173–400–105(2) allows Ecology to require

stack testing and/or ambient air monitoring, even if not required in a permit or other enforceable requirement as part of a continuous surveillance program to protect air quality. Washington currently has no known lead stationary sources at the EPA's updated stationary source monitoring threshold of 0.5 tons per year. If additional stationary sources are found to emit lead above this threshold, Washington has adequate authority under WAC 173–400–105 to compel additional monitoring.

EPA analysis: The EPA-approved regulatory provisions cited by Washington establish compliance requirements to monitor emissions, keep and report records, and collect ambient air monitoring data in accordance with CAA section 110(a)(2)(F). Additionally, Washington is required to submit emissions data to the EPA for purposes of the National Emissions Inventory (NEI). The NEI is the EPA's central repository for air emissions data. The EPA published the Air Emissions Reporting Rule (AERR) on December 5, 2008, which modified the requirements for collecting and reporting air emissions data (73 FR 76539). All states are required to submit a comprehensive emissions inventory every three years and report emissions for certain larger sources annually through the EPA's online Emissions Inventory System. States report emissions data for the six criteria pollutants and their associated precursors—nitrogen oxides, sulfur dioxide, ammonia, lead, carbon monoxide, particulate matter, and volatile organic compounds. The EPA compiles the emissions data, supplementing it where necessary, and releases it to the general public through the Web site *http://www.epa.gov/ttn/chief/eiinformation.html*.

Based on the analysis above, we are proposing to approve the Washington SIP as meeting the requirements of CAA section 110(a)(2)(F) for the 2008 lead NAAQS.

110(a)(2)(G): Emergency Episodes

CAA section 110(a)(2)(G) requires states to provide for authority to address activities causing imminent and substantial endangerment to public health, including adequate contingency plans to implement the emergency episode provisions in their SIPs.

State submittal: The State cites the EPA-approved Washington SIP provisions of WAC 173–435 *Emergency Episode Plan,* which are consistent with the EPA's regulations contained in 40 CFR part 51, subpart H (51.150–51.153). Similar to the EPA regulations in subpart H, the Washington SIP does not contain specific requirements for lead; however the general emergency episode regulations provide the State with adequate authority to address other emissions that are causing imminent danger to public health or safety.

EPA analysis: As noted in the October 14, 2011, guidance, based on the EPA's experience to date with the lead NAAQS and designating lead nonattainment areas, the EPA expects that an emergency episode associated with lead emissions would be unlikely and, if it were to occur, would be the result of a malfunction or other emergency situation at a relatively large source of lead. Accordingly, the EPA believes that the central components of a contingency plan would be to reduce emissions from the source at issue and public communication, as needed.

Section 303 of the CAA provides authority to the EPA Administrator to restrain any source from causing or contributing to emissions which present an ''imminent and substantial endangerment to public health or welfare, or the environment.'' We find that the EPA-approved Washington SIP at WAC 173–435–050 *Action Procedures* provides Washington with comparable authority. Specifically, WAC 173–435–050(6) states, ''regardless of whether any episode stages have previously been declared, whenever the governor finds that emissions are causing imminent danger to public health or safety, the governor may declare an air pollution emergency and order the persons responsible for the operation of sources causing the danger, to reduce or discontinue emissions consistent with good operating practice, safe operating procedures, and SERPs [source emission reduction plans], if any.'' Further, WAC 173–435–050(5) requires, ''the broadest publicity practicable shall be given to the declaration of any episode stage. Such declaration shall, as soon as possible, be directly communicated to all persons responsible for the carrying out of SERPs within the affected area.'' Accordingly, we are proposing to approve the Washington SIP as meeting the requirements of CAA section 110(a)(2)(G) for the 2008 lead NAAQS.

110(a)(2)(H): Future SIP Revisions

CAA section 110(a)(2)(H) requires that SIPs provide for revision of such plan (i) from time to time as may be necessary to take account of revisions of such national primary or secondary ambient air quality standard or the availability of improved or more expeditious methods of attaining such standard, and (ii), except as provided in paragraph 110(a)(3)(C), whenever the Administrator finds on the basis of information available to the Administrator that the SIP is substantially inadequate to attain the NAAQS which it implements or to otherwise comply with any additional requirements under the CAA.

State submittal: Washington's submittal refers to RCW 70.94 which gives Ecology the authority to promulgate rules and regulations to maintain and protect Washington's air quality and to comply with the federal requirements, including revisions of NAAQS, SIPs, and responding to EPA's findings.

EPA analysis: RCW 70.94.510 specifically requires Ecology to cooperate with the federal government in order to ensure the coordination of the provisions of the federal and state Clean Air Acts. In practice, the State regularly submits revisions to the EPA to revise the SIP. EPA most recently approved revisions to the Washington SIP on October 3, 2013 (78 FR 61188, Thurston County Second 10-Year PM_{10} Limited Maintenance Plan), September 17, 2013 (78 FR 57073, Puget Sound Clean Air Agency Regulatory Updates), and May 29, 2013 (78 FR 32131, Tacoma-Pierce County Nonattainment Area). Accordingly, we are proposing to approve the Washington SIP as meeting the requirements of CAA section 110(a)(2)(H) for the 2008 lead NAAQS.

110(a)(2)(I): Nonattainment Area Plan Revision Under Part D

There are two elements identified in CAA section 110(a)(2) not governed by the three-year submission deadline of CAA section 110(a)(1) because SIPs incorporating necessary local nonattainment area controls are not due within three years after promulgation of a new or revised NAAQS, but are rather due at the time of the nonattainment area plan requirements pursuant to section 172 and the various pollutant specific subparts 2–5 of part D. These elements are: (i) submissions required by CAA section 110(a)(2)(C) to the extent that subsection refers to a permit program as required in part D, title I of the CAA, and (ii) submissions required by section 110(a)(2)(I) which pertain to the nonattainment planning requirements of part D, title I of the CAA. As a result, this action does not address infrastructure elements related to CAA section 110(a)(2)(C) with respect to nonattainment NSR or CAA section 110(a)(2)(I).

110(a)(2)(J): Consultation With Government Officials

CAA section 110(a)(2)(J) requires states to provide a process for

consultation with local governments and federal land managers carrying out NAAQS implementation requirements pursuant to Section 121. CAA section 110(a)(2)(J) further requires states to notify the public if NAAQS are exceeded in an area and to enhance public awareness of measures that can be taken to prevent exceedances. Lastly, CAA section 110(a)(2)(J) requires states to meet applicable requirements of part C, title I of the CAA related to prevention of significant deterioration and visibility protection.

State submittal: The State submittal cites the following regulatory provisions contained in the Washington SIP to meet CAA section 110(a)(2)(J) obligations: WAC 173–435–050 *Action Procedures,* WAC 173–400–151 *Retrofit Requirements for Visibility,* and WAC 173–400–171 *Public Involvement.* Washington also cites the following statutory authorities: RCW 34.05 *Administrative Procedures Act,* RCW 42.30 *Open Public Meetings,* RCW 70.94.141 *Consultation,* and RCW 70.94.240 *Air Pollution Control Advisory Council.* In addition to these SIP measures, Ecology uses the Washington Air Quality Advisory (WAQA) tool for informing the public about the levels and health effects of air pollution. The public can access up-to-date WAQA information on-line at *https://fortress.wa.gov/ecy/enviwa/Default.htm.*

EPA analysis: Under the EPA-approved provisions of WAC 173–400–171 *Public Involvement,* Ecology routinely coordinates with local governments, states, federal land managers and other stakeholders on air quality issues and provides notice to appropriate agencies related to permitting actions. Washington regularly participates in regional planning processes including the Western Regional Air Partnership which is a voluntary partnership of states, tribes, federal land managers, local air agencies and the EPA whose purpose is to understand current and evolving regional air quality issues in the West. Therefore the EPA is proposing to approve the Washington SIP as meeting the requirements of CAA Section 110(a)(2)(J) for consultation with government officials.

Section 110(a)(2)(J) also requires the public be notified if NAAQS are exceeded in an area and to enhance public awareness of measures that can be taken to prevent exceedances. Washington actively participates and submits information to the EPA's AIRNOW program which provides information to the public on the air quality in their locale. In addition, Washington provides the State's annual network monitoring plan, annual air quality monitoring data summaries, specific warnings and advice to those persons who may be most susceptible, and a map of the air monitoring network to the public on their Web site (*http://www.ecy.wa.gov/programs/air/airhome.html*). Therefore, we are proposing to find that the Washington SIP meets the requirements of CAA section 110(a)(2)(J) for public notification for the 2008 lead NAAQS.

Turning to the requirement in CAA section 110(a)(2)(J) that the SIP meet the applicable requirements of part C of title I of the CAA, we have evaluated this requirement in the context of CAA section 110(a)(2)(C) with respect to PSD permitting. As discussed previously, PSD in Washington is operated under a FIP. We are proposing to disapprove the Washington SIP for the requirements of CAA 110(a)(2)(J) with regard to PSD. Instead the State and the EPA will continue to rely on the existing PSD FIP.

With regard to the applicable requirements for visibility protection, the EPA recognizes that states are subject to visibility and regional haze program requirements under part C of the CAA. 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 applicable requirement relating to visibility triggered under CAA section 110(a)(2)(J) when a new NAAQS becomes effective.

Based on the above analysis, we are proposing to approve the Washington SIP as meeting the requirements of CAA section 110(a)(2)(J) for the 2008 lead NAAQS, except for those elements related to PSD which we are proposing to partially disapprove.

110(a)(2)(K): Air Quality and Modeling/Data

CAA section 110(a)(2)(K) requires that SIPs 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 any air pollutant for which the Administrator has established a national ambient air quality standard, and (ii) the submission, upon request, of data related to such air quality modeling to the Administrator.

State submittal: The Washington submittal states that air quality modeling is conducted during development of revisions to the SIP, as appropriate for the State to demonstrate attainment with required air quality standards. Modeling is also addressed in the permitting process (see discussion at CAA section 110(a)(2)(C)). Estimates of ambient concentrations are based on air quality models, data bases and other requirements specified in 40 CFR part 51, Appendix W (Guidelines on Air Quality Models) and are routinely used by Washington. Exceptions to using Appendix W are handled under the provisions of 40 CFR 51.166 which requires written approval from the EPA and an opportunity for public comment.

EPA analysis: As noted in the state submittal, Washington models estimates of ambient concentrations based on 40 CFR part 51, Appendix W (Guidelines on Air Quality Models) for both permitting and SIP development. Any change or substitution from models specified in 40 CFR part 51, Appendix W is subject to notice and opportunity for public comment. While Washington has no nonattainment areas for lead, modeling was used to support maintenance plans and redesignation to attainment requests for the former ozone nonattainment areas of Puget Sound and Vancouver, approved by the EPA on September 26, 1996 (61 FR 50438) and May 19, 1997 (62 FR 27204), respectively. More recently, modeling was used to develop control measures for the Tacoma-Pierce County fine particulate matter nonattainment area, although the area came into attainment before a formal SIP submission was required (78 FR 32131, May 29, 2013). Based on the foregoing, we are proposing to approve Washington's SIP as meeting the requirements of CAA Section 110(a)(2)(K) for the 2008 lead NAAQS.

110(a)(2)(L): Permitting Fees

CAA section 110(a)(2)(L) requires SIPs to require each major stationary source to pay permitting fees sufficient to cover the cost of reviewing, approving, implementing and enforcing a permit, until such fee requirement is superseded with respect to such sources by the EPA's approval of a fee program under title V.

State submittal: The State's submittal notes that there are no major stationary sources or nonattainment areas for lead in Washington, and facilities that would be subject to PSD permitting are covered under the EPA FIP. Notwithstanding that, Washington derives its authority to collect fees for new source review and title V sources from RCW 70.94.151, RCW 70.94.152, and RCW 70.94.162. The EPA reviewed Washington's fee provisions and fully approved the title V program on August 13, 2001 (66 FR 42439), with a revision approved on January 2, 2003 (67 FR 71479).

EPA analysis: As noted in the State's submittal, the EPA approved the Washington title V permitting program on August 13, 2001, with an effective date of September 12, 2001 (66 FR 42439). Meanwhile, Washington does not have a SIP-approved PSD permitting program and, therefore, is not required to have PSD permitting fees in its SIP. As discussed earlier in this notice, PSD permitting in Washington takes place by means of a FIP. Therefore, we are proposing to conclude that Washington has satisfied its current obligations under CAA section 110(a)(2)(L) for the 2008 lead NAAQS by virtue of the EPA's prior approval of Washington's title V permitting program.

110(a)(2)(M): Consultation/Participation by Affected Local Entities

CAA section 110(a)(2)(M) requires states to provide for consultation and participation in SIP development by local political subdivisions affected by the SIP.

State submittal: Washington cites the following regulations and statutes as pertinent to this infrastructure SIP requirement: WAC 173–400–171 *Public Involvement,* RCW 34.05 *Administrative Procedure Act,* RCW 42.30 *Open Public Meetings Act,* and RCW 70.94.240 *Air Pollution Control Advisory Council.*

EPA analysis: As discussed in the preamble relating to CAA section 110(a)(2)(J), Ecology routinely coordinates with local governments and other stakeholders on air quality issues. The public involvement regulations cited in Washington's submittal were previously approved into Washington's federally-approved SIP on June 2, 1995 (60 FR 28726). Therefore, the EPA proposes to find that Washington's SIP meets the requirements of CAA Section 110(a)(2)(M) for the 2008 lead NAAQS.

VI. Proposed Action

The EPA is proposing to partially approve the April 1, 2014, submittal from Washington to demonstrate that the SIP meets the requirements of sections 110(a)(1) and (2) of the CAA for the lead NAAQS promulgated on October 15, 2008, except for the requirements related to PSD permitting and portions of the interstate transport requirements as discussed in detail above. Specifically, we are proposing to find that the current EPA-approved Washington SIP meets the following CAA section 110(a)(2) infrastructure elements for the 2008 lead NAAQS: (A), (B), (C)—except for those elements covered by the PSD FIP, (D)(i)(II)—except for those elements covered by the PSD FIP, (D)(ii)—except for those elements covered by the PSD FIP, (E), (F), (G), (H), (J)—except for those elements covered by the PSD FIP, (K), (L), and (M). As previously noted, the EPA anticipates that there would be no adverse consequences to Washington or to sources in the State resulting from this proposed partial disapproval of the infrastructure SIP related to PSD. The EPA, likewise, has no additional FIP responsibilities as a result of this proposed partial disapproval for requirements related to PSD. Remaining interstate transport requirements arising under CAA Section 110(a)(2)(D)(i)(I) for the 2008 lead NAAQS will be addressed in a separate action.

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

- Is not a ''significant regulatory action'' subject to review by the Office of Management and Budget under Executive 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 the requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because this action does not involve technical standards; and
- Does not provide the 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 it will not impose substantial direct costs on tribal governments or preempt tribal law. The SIP is not approved to apply in Indian country located in the State, except for non-trust land within the exterior boundaries of the Puyallup Indian Reservation, also known as the 1873 Survey Area. Under the Puyallup Tribe of Indians Settlement Act of 1989, 25 U.S.C. 1773, Congress explicitly provided state and local agencies in Washington authority over activities on non-trust lands within the 1873 Survey Area and the EPA is therefore approving this SIP on such lands. Consistent with EPA policy, the EPA nonetheless provided a consultation opportunity to the Puyallup Tribe in a letter dated September 3, 2013. The EPA did not receive a request for consultation.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Intergovernmental relations, Lead, and Reporting and recordkeeping requirements.

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

Dated: May 5, 2014.

Dennis J. McLerran,

Regional Administrator, Region 10.

[FR Doc. 2014–11073 Filed 5–13–14; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R10–OAR–2014–0228; FRL–9910–96–Region 10]

Approval and Promulgation of Implementation Plans; Idaho Franklin County Portion of the Logan Nonattainment Area; Fine Particulate Matter Emissions Inventory

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Idaho Department of Environmental Quality (IDEQ) submitted a revision to the State Implementation Plan (SIP), dated

December 14, 2012, to address Clean Air Act (CAA or the Act) requirements for the Idaho portion (hereafter referred to as ''Franklin County'') of the cross border Logan, Utah-Idaho nonattainment area for the 2006 24-hour fine particulate matter ($PM_{2.5}$) national ambient air quality standards. The EPA is proposing to approve the baseline emissions inventory contained in IDEQ's submittal as meeting the requirement to submit a comprehensive, accurate, and current inventory of direct $PM_{2.5}$ and $PM_{2.5}$ precursor emissions in Franklin County.

DATES: Written comments must be received on or before June 13, 2014.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R10–OAR–2014–0228, by any of the following methods:

- *www.regulations.gov:* Follow the on-line instructions for submitting comments.
- *Email: R10-Public_Comments@epa.gov.*
- *Mail:* Jeff Hunt, EPA Region 10, Office of Air, Waste and Toxics (AWT–107), 1200 Sixth Avenue, Suite 900, Seattle, WA 98101.
- *Hand Delivery/Courier:* EPA Region 10, 1200 Sixth Avenue, Suite 900, Seattle, WA 98101. Attention: Jeff Hunt, Office of Air, Waste and Toxics, AWT–107. Such deliveries are only accepted during normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. EPA–R10–OAR–2014–0228. The 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 the disclosure of which 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 disk or CD–ROM 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.

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, the disclosure of which 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. Publicly available docket materials are available either electronically in *www.regulations.gov* or in hard copy during normal business hours at the Office of Air, Waste and Toxics, EPA Region 10, 1200 Sixth Avenue, Seattle, WA 98101.

FOR FURTHER INFORMATION CONTACT: Jeff Hunt at (206) 553–0256, *hunt.jeff@epa.gov,* or the above EPA, Region 10 address.

SUPPLEMENTARY INFORMATION: Throughout this document whenever ''we,'' ''us,'' or ''our'' is used, we mean the EPA.

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I. Background

A. $PM_{2.5}$ National Ambient Air Quality Standards

Under section 109 of the CAA, the EPA establishes national ambient air quality standards (NAAQS or ''standards'') for certain pervasive air pollutants (referred to as ''criteria pollutants'') and conducts periodic reviews of the NAAQS to determine whether they should be revised or whether new NAAQS should be established.

On July 18, 1997, the EPA revised the NAAQS for particulate matter to add new standards for fine particles, using $PM_{2.5}$ (particles less than or equal to 2.5 micrometers in diameter) as the indicator for the pollutant. The EPA established primary and secondary [1] annual and 24-hour standards for $PM_{2.5}$ (62 FR 38652). The annual standard was set at 15.0 micrograms per cubic meter ($\mu g/m^3$), based on a 3-year average of annual mean $PM_{2.5}$ concentrations, and the 24-hour standard was set at 65 $\mu g/m^3$, based on the 3-year average of the 98th percentile of 24-hour $PM_{2.5}$ concentrations at each population-oriented monitor within an area. On October 17, 2006 (71 FR 61144), the EPA revised the level of the 24-hour $PM_{2.5}$ NAAQS to 35 $\mu g/m^3$, based on a 3-year average of the 98th percentile of 24-hour concentrations.

B. Designation of $PM_{2.5}$ Nonattainment Areas

Effective December 14, 2009, the EPA established the initial air quality designations for most areas in the United States for the 2006 24-hour $PM_{2.5}$ NAAQS (74 FR 58688, November 13, 2009). Among the various areas designated in 2009, the EPA designated the cross border Logan, Utah-Idaho nonattainment area as nonattainment for the 2006 24-hour $PM_{2.5}$ NAAQS. The boundaries for these areas are described in 40 CFR 81.313.

C. Submittal Requirements for $PM_{2.5}$ Nonattainment Areas

Section 172(c)(3) of the CAA requires a state with an area designated as nonattainment to submit for EPA approval a comprehensive, accurate, and current inventory of actual emissions for the nonattainment area. The EPA's requirements for an emissions inventory for the $PM_{2.5}$ NAAQS are set forth in 40 CFR 51.1008, promulgated as part of the EPA's *Clean Air Fine Particle Implementation Rule* published April 25, 2007 (72 FR 20586) (hereafter referred to as the ''$PM_{2.5}$ implementation rule''). Although the U.S. Court of Appeals for the District of Columbia (D.C. Circuit) recently remanded the $PM_{2.5}$ implementation rule and directed the EPA to re-promulgate it pursuant to subpart 4 of part D, title I of the CAA (*see Natural Resources Defense Council* v. *EPA,* 706 F.3d 428 (D.C. Cir. 2013)), the court's ruling in this case does not affect the EPA's action on the emissions inventory. Subpart 4 of part D, title I of the Act contains no specific provision governing emissions inventories for

[1] For a given air pollutant, ''primary'' national ambient air quality standards are those determined by the EPA as requisite to protect the public health, and ''secondary'' standards are those determined by the EPA as requisite to protect the public welfare from any known or anticipated adverse effects associated with the presence of such air pollutant in the ambient air. See CAA section 109(b).

PM_{10} or $PM_{2.5}$ nonattainment areas that supersedes the general emissions inventory requirement for all nonattainment areas in CAA section 172(c)(3). *See* ''State Implementation Plans; General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990,'' (57 FR 13498, 13539, April 16, 1992). This proposed approval is limited to the emissions inventory for direct $PM_{2.5}$ and $PM_{2.5}$ precursors submitted by IDEQ for the Franklin County portion of the Logan, Utah-Idaho nonattainment area as required under section 172(c)(3) of the CAA.

II. Analysis of the State's Submittal

Section 172(c)(3) of the CAA requires states to submit a comprehensive, accurate, and current inventory of actual emissions for each nonattainment area. The EPA's requirements for an emissions inventory for the $PM_{2.5}$ NAAQS are set forth in 40 CFR 51.1008. For the $PM_{2.5}$ NAAQS, the pollutants to be inventoried are $PM_{2.5}$ and $PM_{2.5}$ precursors (i.e., nitrogen oxides (NO_X), volatile organic compounds (VOCs), ammonia (NH_3), and sulfur dioxide (SO_2)).[2]

The Franklin County emissions inventory provides a 2008 inventory in tons per day (tpd) winter-time episode estimates for $PM_{2.5}$ and $PM_{2.5}$ precursors. Monitoring data for Franklin County, and the overall Logan nonattainment area, indicates that high $PM_{2.5}$ concentrations occur during the winter months when meteorological conditions trap pollutants in the valley. Therefore, the Franklin County emissions estimates reflect the winter stagnation episodes when secondary $PM_{2.5}$ formation dominates. The source categories include stationary sources, area sources, on-road mobile sources and off-road mobile sources. A summary of the Franklin County emissions inventory is provided in Table 1 below, and the detailed Franklin County emissions inventory is found in Appendices B and C of IDEQ's submittal.

TABLE 1—FRANKLIN COUNTY 2008 WINTER EMISSIONS INVENTORY IN TONS PER EPISODE DAY

Source category	$PM_{2.5}$	NO_X	SO_2	VOC	NH_3
Agriculture, crops, and livestock	0.008	0	0	2.763	4.65
Gasoline, bulk, and stations	0	0	0	0	0
Commercial cooking	0	0	0	0	0
Construction dust	0.014	0	0	0	0
Fuel combustion, industrial	0.006	0.087	0.061	0.001	0.002
Fuel combustion, commercial/institutional	0.004	0.07	0.018	0.001	0
Fuel combustion, residential non-wood	0.001	0.049	0.014	0.002	0.008
Fuel combustion, residential wood	0.1	0.009	0.002	0.138	0
Miscellaneous Commercial/Industrial Processes	0.001	0.001	0	0	0.008
Solvent, commercial and consumer	0	0	0	0.14	0
Solvent, commercial and industrial	0	0	0	0.26	0
Waste disposal	0	0	0	0.008	0
Mobile, emissions	0.028	0.711	0.004	0.498	0.008
Mobile, road dust	0.596	0	0	0	0
Nonroad mobile	0.035	0.428	0.009	0.636	0
Point sources	0	0	0	0	0
Totals	0.793	1.355	0.108	4.447	4.676

The Franklin County emissions inventory includes emissions estimates from stationary sources, area sources, on-road mobile sources, and off-road mobile sources. The methodologies used to derive the 2008 inventory for $PM_{2.5}$ are as follows:

- The stationary source emissions inventory is based on 2008 data of actual emissions reported by all permitted facilities. In Franklin County there are no industrial point sources of this type.
- Area-wide source emissions were calculated based on reported data for fuel usage, product sales, population, employment data, and other parameters covering a wide range of activities, in conjunction with the 2008 triennial National Emissions Inventory (NEI).
- IDEQ calculated residential wood stove base year and subsequent emission reductions using the EPA's Woodstove Calculator and tax receipt information from certified woodstove change out incentive programs.
- The on-road emissions inventory, which consists of mobile sources such as trucks, automobiles, buses, and motorcycles, was prepared by IDEQ using the EPA's Motor Vehicle Emissions Simulator (MOVES2010a).
- The non-road mobile source category includes aircraft, trains and boats, and off-road vehicles and equipment used for construction, farming, commercial, industrial, and recreational activities. Non-road emissions were estimated by IDEQ and Utah Department of Air Quality using the EPA's NONROAD2008a model as described in Appendix B of the SIP submittal.
- Paved road emissions were estimated by IDEQ, based on the EPA's January 2011 version of AP–42, Section 13.2.1.

The EPA has reviewed the results, procedures, and methodologies for the Franklin County emissions inventory. IDEQ used standard procedures to develop its emissions inventory and appropriately used seasonal emissions inventories to represent episodic meteorological conditions when $PM_{2.5}$ levels are of the greatest concern. After reviewing the IDEQ submittal of the Franklin County emissions inventory and supporting documentation, the EPA is proposing to find that the emissions inventory meets the requirements of the CAA and the EPA's guidance.

III. Proposed Action

The EPA is proposing approval of the $PM_{2.5}$ and $PM_{2.5}$ precursor emissions inventory submitted by IDEQ, dated December 14, 2012, for the Franklin

[2] Emissions Inventory Guidance for Implementation of Ozone and Particulate Matter National Ambient Air Quality Standards (NAAQS) and Regional Haze Regulations, EPA–454/R–05–001, August 2005, updated November 2005. *http://www.epa.gov/ttn/chief/eidocs/eiguid/eiguidfinal_nov2005.pdf.*

County, Idaho portion of the cross border Logan, Utah-Idaho nonattainment area. The EPA has determined that this action is consistent with sections 110 and 172(c)(3) of the CAA.

IV. 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, the 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 proposed 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 the 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 the 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, Nitrogen dioxide, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

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

Dated: April 28, 2014.

Dennis J. McLerran,

Regional Adminstrator, Region 10.

[FR Doc. 2014–11092 Filed 5–13–14; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 70

[EPA–R07–OAR–2014–0164; FRL 9910–68–Region 7]

Approval and Promulgation of Implementation Plans; State of Iowa; Ambient Air Quality Standards, and Controlling Pollution

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve revisions to the State Implementation Plan (SIP) for the state of Iowa. These revisions will amend the SIP to include revisions to Iowa air quality rules necessary to allow for implementation of revised National Ambient Air Quality Standards (NAAQS) for fine particulate matter ($PM_{2.5}$), lead, and sulfur dioxide (SO_2) as they apply to construction permit exemptions. The spray booth ''permit by rule'' proposed revision will add content limits for lead-containing spray materials. The updated Federal references for the revised NAAQS are also included in this revision.

EPA is also proposing to approve revisions to the Iowa Title V Operating Permits Program to modify requirements for insignificant activities. The changes will correspond to the revisions to the construction permit exemptions amended with this SIP revision.

DATES: Comments on this proposed action must be received in writing by June 13, 2014.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R07–OAR–2014–0164, by mail to Amy Algoe-Eakin, Environmental Protection Agency, Air Planning and Development Branch, 11201 Renner Boulevard, Lenexa, Kansas 66219. Comments may also be submitted electronically or through hand delivery/courier by following the detailed instructions in the **ADDRESSES** section of the direct final rule located in the rules section of this **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Amy Algoe-Eakin, Environmental Protection Agency, Air Planning and Development Branch, 11201 Renner Boulevard, Lenexa, Kansas 66219 at 913–551–7942, or by email at *algoe-eakin.amy@epa.gov.*

SUPPLEMENTARY INFORMATION: In the final rules section of the **Federal Register**, EPA is approving the state's SIP revision as a direct final rule without prior proposal because the Agency views this as a noncontroversial revision amendment and anticipates no relevant adverse comments to this action. A detailed rationale for the approval is set forth in the direct final rule. If no relevant adverse comments are received in response to this action, no further activity is contemplated in relation to this action. If EPA receives relevant adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed action. EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time. Please note that if EPA receives adverse comment on part of this rule and if that part can be severed from the remainder of the rule, EPA may adopt as final those parts of the rule that are not the subject of an adverse comment. For additional information, see the direct final rule which is located in the rules section of this **Federal Register**.

Dated: April 29, 2014.

Karl Brooks,

Regional Administrator, Region 7.

[FR Doc. 2014–10966 Filed 5–13–14; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 170

[EPA–HQ–OPP–2011–0184; FRL–9910–56]

RIN 2070–AJ22

Pesticides; Agricultural Worker Protection Standard Revisions; Extension of Comment Period

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule; extension of comment period.

SUMMARY: EPA issued a proposed rule in the **Federal Register** issue of March 19, 2014, concerning protections from pesticides for agricultural workers. This document extends the comment period for 60 days, from June 17, 2014, to August 18, 2014. The comment period is being extended to provide additional time for commenters to prepare their responses.

DATES: Comments, identified by docket identification (ID) number EPA–HQ–OPP–2011–0184, must be received on or before August 18, 2014.

ADDRESSES: Follow the detailed instructions as provided under **ADDRESSES** in the **Federal Register** document of March 19, 2014.

FOR FURTHER INFORMATION CONTACT: Kathy Davis, Field and External Affairs Division (7506P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001; telephone number: (703) 308–7002; email address: *davis.kathy@epa.gov.*

SUPPLEMENTARY INFORMATION: This document extends the public comment period established in the **Federal Register** issue of March 19, 2014 (79 FR 15444) (FRL–9395–8). In that document, public comments were required to be submitted on or before June 17, 2014. EPA is hereby extending that comment period to August 18, 2014.

To submit comments, or access the docket, please follow the detailed instructions as provided under **ADDRESSES** in the March 19, 2014 **Federal Register** document. If you have questions, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

List of Subjects in 40 CFR Part 170

Environmental protection, Agricultural worker, Farms, Pesticides and pests, Worker protection standards.

Dated: May 6, 2014.

Louise P. Wise,

Acting Assistant Administrator, Office of Chemical Safety and Pollution Prevention.

[FR Doc. 2014–10990 Filed 5–13–14; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

[Docket No. FWS–R4–ES–2013–0007; 4500030113]

RIN 1018–AZ30

Endangered and Threatened Wildlife and Plants; Designating Critical Habitat for the Neosho Mucket and Rabbitsfoot

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule; reopening of comment period.

SUMMARY: We, the U.S. Fish and Wildlife Service, announce the reopening of the public comment period on our October 16, 2012, proposed designation of critical habitat for the Neosho mucket (*Lampsilis rafinesqueana*) and rabbitsfoot (*Quadrula cylindrica cylindrica*) mussels under the Endangered Species Act of 1973, as amended. In response to requests we received, we are reopening the comment period to allow all interested parties an opportunity to comment on the proposed designation of critical habitat, draft environmental assessment, and draft economic analysis. Comments previously submitted need not be resubmitted, as they will be fully considered in our determinations on this rulemaking action.

DATES: We will consider all comments received or postmarked on or before July 14, 2014. Comments submitted electronically using the Federal eRulemaking Portal (see **ADDRESSES**, below) must be received by 11:59 p.m. Eastern Time on the closing date.

ADDRESSES: *Document availability:* You may obtain copies of the proposed rule on the Internet at *http://www.regulations.gov* at Docket No. FWS–R4–ES–2013–0007, or by mail from the Arkansas Ecological Services Field Office (see **FOR FURTHER INFORMATION CONTACT**). You may obtain a copy of the draft economic analysis and the draft environmental assessment at Docket No. FWS–R4–ES–2013–0007.

Comment submission: You may submit written comments by one of the following methods:

(1) *Electronically:* Go to the Federal eRulemaking Portal: *http://www.regulations.gov.* Search for Docket No. FWS–R4–ES–2013–0007.

(2) *By hard copy:* Submit comments by U.S. mail or hand-delivery to: Public Comments Processing, Attn: FWS–R4–ES–2013–0007; Division of Policy and Directives Management; U.S. Fish and Wildlife Service; 4401 N. Fairfax Drive, MS 2042–PDM; Arlington, VA 22203.

We request that you send comments only by the methods described above. We will post all comments on *http://www.regulations.gov.* This generally means that we will post any personal information you provide us (see the Public Comments section below for more information).

FOR FURTHER INFORMATION CONTACT: Jim Boggs, Field Supervisor, U.S. Fish and Wildlife Service, Arkansas Ecological Services Field Office, 110 South Amity Road, Suite 300, Conway, AR 72032; by telephone 501–513–4475; or by facsimile 501–513–4480. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 800–877–8339.

SUPPLEMENTARY INFORMATION:

Background

On October 16, 2012, the U.S. Fish and Wildlife Service published a proposed rule in the **Federal Register** (77 FR 63440) to list the Neosho mucket (*Lampsilis rafinesqueana*) as an endangered species and the rabbitsfoot (*Quadrula cylindrica cylindrica*) as a threatened species and to designate critical habitat for these two mussels under the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*) (Act). We proposed to designate approximately 779.1 river kilometers (rkm) (484.1 river miles (rmi)) of critical habitat for the Neosho mucket in the Cottonwood, Elk, Fall, Illinois, Neosho, Shoal, Spring, North Fork Spring, and Verdigris Rivers in Arkansas, Kansas, Missouri, and Oklahoma.

We proposed to designate 2,664 rkm (1,655 rmi) of critical habitat for the rabbitsfoot in the Neosho, Spring (Arkansas River system), Verdigris, Black, Buffalo, Little, Ouachita, Saline, Middle Fork Little Red, Spring (White River system), South Fork Spring, Strawberry, White, St. Francis, Big Sunflower, Big Black, Paint Rock, Duck, Tennessee, Red, Ohio, Allegheny, Green, Tippecanoe, Walhonding, Middle Branch North Fork Vermilion, and North Fork Vermilion Rivers and Bear, French, Muddy, Little Darby and Fish Creeks in Alabama, Arkansas, Illinois, Indiana, Kansas, Kentucky, Mississippi, Missouri, Ohio, Oklahoma, Pennsylvania, and Tennessee. That proposal had a 60-day comment period, ending December 17, 2012.

On May 9, 2013, we announced the reopening of the comment period for the proposed listing of Neosho mucket and

rabbitsfoot and the availability of our draft environmental assessment (DNEPA–EA) and draft economic analysis (DEA) of the proposed critical habitat (78 FR 27171). The comment period was reopened for 30 days, ending on June 10, 2013.

Subsequently, we received two requests for the reopened comment period to be extended so the public could have additional time to review the DNEPA–EA and DEA. The requests were from Senator Mark Pryor of Arkansas and the Kansas Farm Bureau. In response to these requests, we reopened the comment period for an additional 60 days from August 27, 2013, to October 28, 2013 (78 FR 52894).

There has been significant interest in Arkansas about this proposed critical habitat designation. We received an additional request from Senator Pryor for the reopened comment period to be extended again so that the public could have more time to review the draft environmental assessment and draft economic analysis. We concurred with this request.

Therefore, with this notice we are reopening the comment period on the proposed designation of critical habitat and on the DEA and DNEPA–EA for an additional 60 days. Further, in order to facilitate a better understanding of the proposed designation and the potential effects on stakeholders, the Service intends to hold public information meetings in Arkansas. The date, time, and locations of these meetings will be coordinated with interested stakeholders and noticed in newspapers and other media outlets.

Additional information may be found in the October 16, 2012, proposed rule (77 FR 63440) and the May 9, 2013, and August 27, 2013, documents to reopen the comment period and announce the availability of the DNEPA–EA and DEA (78 FR 27171 and 78 FR 52894).

Public Comments

We are again seeking written comments and information during this reopened comment period on our proposed designation of critical habitat for Neosho mucket and rabbitsfoot that published in the **Federal Register** on October 16, 2012 (77 FR 63440), and on our DEA and DNEPA–EA of the proposed critical habitat designation that were made available for review on May 9, 2013, and August 27, 2013 (78 FR 27171 and 78 FR 52894).

With regard to the proposed critical habitat determination, we are particularly interested in comments concerning:

(1) The reasons why we should or should not designate habitat as ''critical habitat'' under section 4 of the Act, including whether there are threats to the species from human activity, the degree of which can be expected to increase due to the designation, and whether that increase in threat outweighs the benefit of designation such that the designation of critical habitat is not prudent.

(2) Specific information on:

(a) The amount and distribution of the species' habitat;

(b) What areas occupied by the species at the time of listing that contain features essential to the conservation of the species we should include in the designation and why;

(c) Special management considerations or protection that may be needed in critical habitat areas we are proposing, including managing for the potential effects of climate change; and

(d) What areas not occupied at the time of listing are essential for the conservation of the species and why.

(3) Land use designations and current or planned activities in the subject areas and their possible impacts on proposed critical habitat.

(4) Any foreseeable economic, national security, or other relevant impacts that may result from designating any area that may be included in the final designation. We are particularly interested in any impacts on small entities and the benefits of including or excluding areas from the proposed designation that are subject to these impacts.

(5) Whether our approach to designating critical habitat could be improved or modified in any way to provide for greater public participation and understanding, or to assist us in accommodating public concerns and comments.

If you submitted comments or information on the proposed rule (77 FR 63440) during the initial comment period from October 16, 2012, to December 17, 2012, or the reopened comment periods from May 9, 2013, to June 10, 2013 (78 FR 27171), or August 27, 2013, to October 28, 2013 (78 FR 52894), please do not resubmit them. We have incorporated them into the public record as part of the original comment period, and we will fully consider them in our final determination.

You may submit your comments and materials concerning the proposed rule by one of the methods listed in **ADDRESSES**. We request that you send comments only by the methods described in **ADDRESSES**.

If you submit a comment via *http://www.regulations.gov,* your entire comment—including any personal identifying information—will be posted on the Web site. We will post all hardcopy comments on *http://www.regulations.gov* as well. If you submit a hardcopy comment that includes personal identifying information, you may request at the top of your document that we withhold this information from public review. However, we cannot guarantee that we will be able to do so.

Comments and materials we receive, as well as supporting documentation we used in preparing the proposed rule, are available for public inspection on *http://www.regulations.gov* at Docket No. FWS–R4–ES–2013–0007, or by appointment, during normal business hours, at the U.S. Fish and Wildlife Service, Arkansas Ecological Services Field Office (see **FOR FURTHER INFORMATION CONTACT**).

Authority

The authority for this action is the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*).

Dated: May 7, 2014.

Michael J. Bean,

Acting Principal Deputy Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 2014–10944 Filed 5–13–14; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

[Docket No. FWS–R5–ES–2013–0097; 4500030114]

RIN 1018–AY17

Endangered and Threatened Wildlife and Plants; Proposed Threatened Status for the Rufa Red Knot (Calidris canutus rufa)

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule; extension of comment period; public hearing announcement.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), announce the extension of the public comment period on our September 30, 2013, proposal to list the rufa red knot (*Calidris canutus rufa*) as a threatened species under the Endangered Species Act of 1973, as amended (Act). In accordance with section 4(b)(5) of the Act, we are holding a second public hearing in North Carolina. A public informational session will be held immediately

preceding the public hearing. Extending the comment period until June 15, 2014, will allow all interested parties an opportunity to attend the second North Carolina public hearing and provide testimony and additional comments on the proposed rufa red knot listing. Comments previously submitted need not be resubmitted, as they will be fully considered in preparation of the final rule.

DATES: The comment period for the proposed rule published September 30, 2013 (78 FR 60024), is extended. We will consider comments received or postmarked on or before June 15, 2014. Comments submitted electronically using the Federal eRulemaking Portal (see **ADDRESSES**, below) must be received by 11:59 p.m. Eastern Time on the closing date.

Public Informational Session and Public Hearing: We will hold a third public informational session and public hearing, and the second in North Carolina, on this proposed rule on June 5, 2014; see **ADDRESSES** for location:

- Manteo, NC: Public informational session from 5 p.m. to 6:30 p.m., followed by a public hearing from 7 p.m. to 8 p.m.

Registration to present oral comments on the proposed rule at the public hearing will begin at the start of the informational session.

ADDRESSES: *Document availability:* You may obtain copies of the September 30, 2013, proposed rule and its four supplemental documents on the Internet at http://*www.regulations.gov* at Docket Number FWS–R5–ES–2013–0097. Documents may also be obtained by mail from the New Jersey Ecological Services Field Office (see **FOR FURTHER INFORMATION CONTACT**).

Written comments: You may submit written comments by one of the following methods:

(1) *Electronically:* Go to the Federal eRulemaking Portal: *http://www.regulations.gov.* In the Search box, enter FWS–R5–ES–2013–0097, which is the docket number for the proposed rulemaking. You may submit a comment by clicking on ''Comment Now!''

(2) *By hard copy:* Submit by U.S. mail or hand-delivery to: Public Comments Processing, Attn: FWS–R5–ES–2013–0097; Division of Policy and Directives Management; U.S. Fish and Wildlife Service; 4401 N. Fairfax Drive, MS 2042–PDM; Arlington, VA 22203.

We request that you send comments only by the methods described above. We will post all comments on *http://www.regulations.gov.* This generally means that we will post any personal information you provide us (see the Public Comments section below for more details).

Public Informational Session and Public Hearing: The informational session and public hearing will be located in:

- North Carolina—Alligator National Wildlife Refuge, Visitor Center, 100 Conservation Way, Manteo, NC 27954.

FOR FURTHER INFORMATION CONTACT: Eric Schrading, Field Office Supervisor, U.S. Fish and Wildlife Service, New Jersey Field Office, 927 North Main Street, Building D, Pleasantville, New Jersey 08232, by telephone 609–383–3938 or by facsimile 609–646–0352. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 800–877–8339.

SUPPLEMENTARY INFORMATION:

Public Comments

We will accept written comments and information during this extended comment period on our proposal to list the rufa red knot as a threatened species that was published in the **Federal Register** on September 30, 2013 (78 FR 60024). We will consider information we receive from all interested parties. We intend that any final action resulting from this proposal will be based on the best scientific and commercial data available and be as accurate and as effective as possible.

If you submitted comments or information on the proposed rule (78 FR 60024) during the initial comment period from September 30, 2013, to November 29, 2013, or during the reopened public comment period that started on April 4, 2014, please do not resubmit them. We have incorporated them into the public record as part of the previous comment period, and we will fully consider them in the preparation of our final determination.

You may submit your comments and materials concerning the proposed listing rule by one of the methods listed in **ADDRESSES**. We request that you send comments only by the methods described in **ADDRESSES**.

If you submit a comment via *http://www.regulations.gov,* your entire comment—including any personal identifying information—will be posted on the Web site. We will post all hardcopy comments on *http://www.regulations.gov* as well. If you submit a hardcopy comment that includes personal identifying information, you may request at the top of your document that we withhold this information from public review. However, we cannot guarantee that we will be able to do so.

Comments and materials we receive, as well as supporting documentation we used in preparing the proposed rule, are available for public inspection on *http://www.regulations.gov* at Docket No. FWS–R5–ES–2013–0097, or by appointment, during normal business hours, at the U.S. Fish and Wildlife Service, New Jersey Ecological Services Field Office (see **FOR FURTHER INFORMATION CONTACT**).

Background

It is our intent to discuss only those topics directly relevant to the rufa red knot threatened listing proposal in this document. For more information on previous Federal actions concerning the rufa red knot, or information regarding its biology, status, distribution, and habitat, refer to the proposed rule published in the **Federal Register** on September 30, 2013 (78 FR 60024) and its four supplemental documents, all of which are available online at *http://www.regulations.gov* at Docket No. FWS–R5–ES–2013–0097 or by mail from the New Jersey Ecological Services Field Office (see **FOR FURTHER INFORMATION CONTACT**).

In our September 30, 2013, proposed rule (78 FR 60024), we proposed to list the rufa red knot as threatened. We have determined that the rufa red knot is threatened due to loss of both breeding and nonbreeding habitat; potential for disruption of natural predator cycles on the breeding grounds; reduced prey availability throughout the nonbreeding range; and increasing frequency and severity of asynchronies (''mismatches'') in the timing of the birds' annual migratory cycle relative to favorable food and weather conditions.

On April 4, 2014, we reopened the comment period on the proposed listing rule for 45 days, to end on May 19, 2014, to accommodate two public hearings, one in Morehead City, North Carolina, and one in Corpus Christi, Texas (79 FR 18869). Both of those public hearings will be held on May 6, 2014. We subsequently received a request, dated April 15, 2014, to hold a second public hearing in North Carolina, specifically in Dare County. We concur with the request and will hold a second public hearing as described above. Therefore, we are extending the reopened comment period to June 15, 2014, to accommodate the second North Carolina public hearing.

Authors

The primary authors of this notice are the staff members in the Endangered Species Program, Northeast Regional Office, U.S. Fish and Wildlife Service.

Authority

The authority for this action is the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*).

Dated: May 2, 2014.

Rowan W. Gould,

Director, U.S. Fish and Wildlife Service.

[FR Doc. 2014–10873 Filed 5–13–14; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 216

[Docket No. 140304190–4190–01]

RIN 0648–BE03

Subsistence Taking of Northern Fur Seals on the Pribilof Islands; Summary of Fur Seal Harvests for 2011–2013 and Proposed Annual Harvest Estimates for 2014–2016

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

ACTION: Notice of availability; request for comments.

SUMMARY: Pursuant to the regulations governing the subsistence taking of northern fur seals, this document summarizes the annual fur seal subsistence harvests on St. George and St. Paul Islands (the Pribilof Islands) for 2011–2013 and proposes annual estimates of fur seal subsistence harvests for 2014–2016 on the Pribilof Islands, Alaska. NMFS solicits public comments on the proposed estimates.

DATES: Comments must be received no later than June 13, 2014.

ADDRESSES: You may submit comments, identified by FDMS docket Number NOAA–NMFS–2011–0187, by either 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-2011-0187,* click the ''Comment Now!'' icon, complete the required fields, and enter or attach your comments.

Mail: Submit written comments to Jon Kurland, Assistant Regional Administrator for Protected Resources, Alaska Region NMFS, Attn: Ellen Sebastian, P.O. Box 21668, Juneau, AK 99802–1668.

Instructions: Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered by NMFS. All comments received are a part of the public record and will generally be posted for public viewing on *www.regulations.gov* without change. All personal identifying information (e.g., name, address, etc.), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. NMFS will accept anonymous comments (enter ''N/A'' in the required fields if you wish to remain anonymous). Attachments to electronic comments will be accepted in Microsoft Word, Excel, or Adobe PDF file formats only.

FOR FURTHER INFORMATION CONTACT: Michael Williams, NMFS Alaska Region, 907–271–5117, *Michael.Williams@noaa.gov;* or Shannon Bettridge, NMFS Office of Protected Resources, 301–427–8402, *Shannon.Bettridge@noaa.gov.*

SUPPLEMENTARY INFORMATION:

Electronic Access

An Environmental Impact Statement is available on the Internet at the following address: *http://alaskafisheries.noaa.gov/protectedresources/seals/fur/eis/final0505.pdf.*

Background

The subsistence harvest from the depleted stock of northern fur seals (*Callorhinus ursinus*), on the Pribilof Islands, Alaska, is governed by regulations found in 50 CFR part 216, subpart F. The purpose of these regulations, published under the authority of the Fur Seal Act (FSA), 16 U.S.C. 1151, *et seq.,* and the Marine Mammal Protection Act (MMPA), 16 U.S.C. 1361, *et seq.,* is to limit the take of fur seals to an allowable harvest level providing for the subsistence needs of the Pribilof residents, while restricting taking by sex, age, and season for herd conservation. To further minimize negative effects on the Pribilof Islands' fur seal population, the harvest has been limited to a 47-day season annually (June 23 to August 8).

Pursuant to the regulations governing the taking of fur seals for subsistence purposes, NMFS must publish a summary of the fur seal harvest for the previous 3-year period and an estimate of the number of seals expected to be taken in the subsequent three-year period to meet the subsistence needs of the Aleut residents of the Pribilof Islands. Beginning in 2000, the allowable take ranges of estimated annual northern fur seal subsistence harvests have been discussed with each tribal government as part of the co-management relationship and agreement. Accurately predicting the annual subsistence needs of the Pribilof communities has faced practical and social difficulties; however, the process to develop estimates of the number of fur seals required to meet subsistence needs has resulted in acceptance of the different allowable take ranges since those first established in 1986. The current upper harvest take limit of 2,500 sub-adult (juveniles, 2–4 years old) male fur seals has been accepted every year since 1997. The lower harvest take limit of 1,945 provides a degree of flexibility the communities feel comfortable with regarding changes and unanticipated needs within the community and the environment.

Several factors and conditions affect both the subsistence harvest of northern fur seals and the number of fur seals required to meet subsistence needs. Weather conditions and availability of animals varies annually. The availability of wage earning jobs reduces the time available for community members to harvest fur seals and hunt other subsistence resources. Thus, individual community members may be unavailable to harvest fur seals during the season in certain years or have more financial resources to hunt other marine mammals in subsequent years or seasons. Several specific seasonal employment opportunities may interfere with community members' ability to harvest fur seals under the current regulations. The current timing of the northern fur seal subsistence harvest season overlaps with the local halibut fishing season, and many of the community members who participate in the harvest are also fishermen. In addition, crab fishery rationalization and a renewal of the crab harvest in the Pribilof region has provided local job opportunities that may extend into the spring hunting season for Steller sea lions. Both Steller sea lions and northern fur seals combine to meet the subsistence needs of the local communities along with numerous other species, though one species does not replace the lack of another. Northern fur seals provide the more reliable resource of the two species, despite being available during a 6-week harvest season.

The communities of St. Paul and St. George Islands rely on marine mammals as a major food source and a cornerstone of their culture. The harvest of sub-adult male northern fur seals has occurred for well over 200 years and the biological implications of this harvest are reasonably well understood. Subsistence harvests under the current

regulations are very small compared to the commercial harvests that occurred during the 20th Century.

Summary of Harvest Operations and Monitoring From 2011 to 2013

The annual harvests from 2011 to 2013 were conducted in the established manner and employed the standard methods required under regulations at 50 CFR 216.72. NMFS personnel, a contract veterinarian, and tribal government staff monitored the harvest and communicated to further improve the efficiency of the annual harvest and full utilization of the animals taken. NMFS received annual northern fur seal harvest reports from the tribal governments of both islands.

The reported male northern fur seal subsistence harvests for St. Paul was 322 animals in 2011, 383 in 2012, and 298 in 2013, (Lestenkof et al. 2011, Lestenkof et al. 2012, Lestenkof et al. 2014), and for St. George was 120 animals in 2011, 63 in 2012, and 80 in 2013 (Merculief 2011, Lekanof 2012, Kasheverof 2013). The number of male northern fur seals harvested on St. Paul Island from 1986 to 2013 ranged from 269 to 1704, and the number harvested on St. George Island from 1986 to 2013 ranged from 78 to 319. The average number of male seals harvested during the past ten years on St. Paul and St. George Islands has been 365 seals (range: 269 to 493) and 130 seals (range: 63 to 212), respectively (Table 1).

The northern fur seal is designated as depleted under the Marine Mammal Protection Act. The annual upper harvest take level is 2,500 sub-adult male fur seals to satisfy the subsistence requirements for both St. Paul and St. George. The current abundance estimate is 611,617 fur seals, and the potential biological removal (PBR) level in the 2012 stock assessment was 11,130 animals. The harvest is regulated to select sub-adult male fur seals and the proposed 2014–2016 harvest levels would have no more than a negligible impact on the stock. The upper limit of the harvest is 22.5% of the PBR. Because the calculation of PBR assumes random mortality at all ages and both sexes, the effects of only sub-adult male subsistence harvest on the stock would be less than if the harvest of fur seals included females and males of all ages. Fewer than 10% of all adult males contribute to reproduction, such that there are excess males in the northern fur seal population at all ages, and the excess of males has been the basis of the sustainable male harvests for over 100 years. Moreover, the upper harvest take level is significantly lower than the PBR level, and the actual harvest has not reached the lower take level of 1,945 in the past decade. The mortality from the subsistence harvest is in addition to other sources of known human-caused mortality, which are described in the annual stock assessment report, and include such things as bycatch in commercial fisheries, entanglement in derelict fishing gear, illegal shooting, and accidental death during research. The estimates of all sources of known human-caused mortality, including subsistence harvest takes, do not reach or approach PBR.

The accidental harvest of young female fur seals has occurred intermittently during the male harvest. Thirty-six females on St. Paul and five females on St. George have been killed accidentally since 1987. The average accidental killing of females on St. Paul and St. George Islands during the last 10 years is two and less than one, respectively.

Under section 119 of the Marine Mammal Protection Act, NMFS signed agreements with St. Paul in 2000 and with St. George in 2001 for the cooperative management of subsistence uses of northern fur seals and Steller sea lions. The processes defined in the cooperative agreements have facilitated a collaborative working relationship between NMFS and tribal authorities. This has led to more coordinated efforts by the tribal governments of both islands to promote full utilization of inedible seal parts for traditional arts, crafts, and other uses permitted under regulations at 50 CFR 216.73. The result has been an expanded use of these materials by the Aleut residents.

TABLE 1—SUBSISTENCE HARVEST LEVELS OF SUB-ADULT MALE NORTHERN FUR SEALS ON THE PRIBILOF ISLANDS, 1986–2013

Year	Estimated take range		Actual harvest	
	St. Paul	St. George	St. Paul	St. George
1986	2,400–8,000	800–1,800	1,299	124
1987	1,600–2,400	533–1,800	1,704	92
1988	1,800–2,200	600–740	1,145	113
1989	1,600–1,800	533–600	1,340	181
1990	1,145–1,800	181–500	1,077	164
1991	1,145–1,800	181–500	1,644	281
1992	1,645–2,000	281–500	1,480	194
1993	1,645–2,000	281–500	1,518	319
1994	1,645–2,000	281–500	1,615	161
1995	1,645–2,000	281–500	1,263	259
1996	1,645–2,000	281–500	1,588	232
1997	1,645–2,000	300–500	1,153	227
1998	1,645–2,000	300–500	1,297	256
1999	1,645–2,000	300–500	1,000	193
2000	1,645–2,000	300–500	754	121
2001	1,645–2,000	300–500	595	184
2002	1,645–2,000	300–500	646	202
2003	1,645–2,000	300–500	522	132
2004	1,645–2,000	300–500	493	123
2005	1,645–2,000	300–500	466	139
2006	1,645–2,000	300–500	396	212
2007	1,645–2,000	300–500	269	206
2008	1,645–2,000	300–500	328	170
2009	1,645–2,000	300–500	341	113
2010	1,645–2,000	300–500	357	78
2011	1,645–2,000	300–500	322	120

TABLE 1—SUBSISTENCE HARVEST LEVELS OF SUB-ADULT MALE NORTHERN FUR SEALS ON THE PRIBILOF ISLANDS, 1986–2013—Continued

Year	Estimated take range		Actual harvest	
	St. Paul	St. George	St. Paul	St. George
2012	1,645–2,000	300–500	383	63
2013	1,645–2,000	300–500	298	80

Estimate of Subsistence Need for 2014 Through 2016

The projected subsistence harvest estimates are an allowable take range, the lower end of which may be exceeded if NMFS is given notice and the NOAA Assistant Administrator for Fisheries determines that the annual subsistence needs of the Pribilof Islands Aleuts have not been satisfied. Conversely, the harvest can be terminated before the lower end of the range is reached if the annual subsistence needs of the Pribilof Islands residents are determined to have been met or the harvest has been conducted in a wasteful manner.

For the 3-year period from 2014 through 2016, NMFS proposes no change to the previous allowable take ranges of 1,645–2,000 sub-adult male fur seals for St. Paul Island and 300–500 sub-adult male fur seals for St. George Island. Retaining these allowable harvest levels will provide adequate flexibility and enable adaptive management of the subsistence harvest through the co-management process within the regulations. NMFS seeks public comments on these proposed estimates.

As described above, if the Aleut residents of either island reach the lower end of this annual harvest estimate and have unmet subsistence needs and no indication of waste, they may request an additional number of seals to be harvested prior to August 8 (the end of the designated harvest season) up to the upper limit of the respective harvest take level. The residents of St. George and St. Paul Islands may substantiate any additional need for seals by submitting in writing the information upon which they base their decision that subsistence needs are unfulfilled. The regulations at 50 CFR 216.72(e)(1) and (3) require a suspension of the fur seal harvest for up to 48 hours once the lower end of the estimated harvest level is reached, followed either by a finding that the subsistence needs have been met or by a revised estimate of the number of seals necessary to satisfy the Aleuts' subsistence needs.

The harvest of fur seals between 2014–2016 is anticipated to be non-wasteful and in compliance with the regulations specified at 50 CFR 216.72 which detail the restrictions and harvest methods. NMFS will continue to monitor the harvest on St. Paul Island and St. George Islands during 2014, 2015, and 2016.

Classification

National Environmental Policy Act

NMFS prepared an Environmental Impact Statement (EIS) evaluating the impacts on the human environment of the subsistence harvest of northern fur seals, which is available on the NMFS Web site (see Electronic Access). A draft EIS was available for public review (69 FR 53915, September 3, 2004), and NMFS incorporated the comments into the final EIS (May 2005).

Executive Order 12866 and Regulatory Flexibility Act

This proposed action is exempt from the procedures of E.O. 12866 because the action contains no implementing regulations.

The Chief Counsel for Regulation, Department of Commerce, certified to the Chief Counsel for Advocacy of the Small Business Administration that this proposed action would not have a significant economic impact on a substantial number of small entities. The harvest of northern fur seals on the Pribilof Islands, Alaska, is for subsistence purposes only. This action directly regulates the subsistence harvest of northern fur seals by Alaska Natives in the communities of St. Paul and St. George. The estimates of subsistence need are derived based on historic harvest levels and direct consultation with the Tribal Governments from each community. NMFS has identified two small entities that may be directly regulated by this action—the communities of St. Paul and St. George, both of which have populations below 500 people, and therefore are small governmental jurisdictions under the Regulatory Flexibility Act, 5 U.S.C. 601(5).

Estimate of Economic Impacts on Small Entities

This action would have no adverse economic impact on the affected entities, but may provide them with a net benefit. The estimated allowable take ranges of the subsistence harvests are unlikely to restrict the number of animals taken by subsistence hunters. NMFS compared historic harvest levels on each island to the upper and lower ends of the allowable take range of the estimated subsistence harvest. The total annual harvests on each island has never exceeded the upper end of the proposed allowable take ranges, and has only exceeded the lower end of the proposed ranges, in 1991 on both islands, and in 1993 on St. George. The regulated entities will not experience any change from the status quo since the proposed allowable take ranges are the same ranges that have been used since 1997.

The subsistence harvest of fur seals provides a local, affordable source of fresh and frozen meat for the communities' consumption. Fresh meat from alternative (e.g., commercial) sources is unavailable on either St. Paul or St. George. Subsistence hunting and fishing are the primary means by which the communities meet their dietary need. No other fish and wildlife species are predictably available to replace fresh fur seal meat. Replacement of the frozen fur seal meat with livestock meat that is shipped to the islands is extremely expensive and only available when air or barge service can access the communities, which can be highly uncertain. In addition, marine mammals such as fur seals are the preferred meat resource for Aleuts and other coastal Alaska Natives.

Explanation of the Criteria Used To Evaluate Whether the Action Would Impose ''Significant Economic Impacts''

Both affected entities are small governmental jurisdictions, and thus the action will not have a disparate impact on small versus large entities.

The criteria recommended to determine the significance of the economic impacts of the action are profitability and disproportionality. The guidance states that ''the concept of profitability may not be appropriate for a non-profit small organization or a small government jurisdiction.'' Based on this guidance NMFS believes

disproportionality is the appropriate standard given the regulated entities are small government jurisdictions. No large entities are allowed to harvest northern fur seals; therefore the regulatory allowance for the small entities on St. Paul and St. George to harvest northern fur seals does not create a disproportionate impact that would disadvantage them.

Explanation of the Criteria Used To Evaluate Whether the Action Would Impose Impacts on a ''Substantial Number'' of Small Entities

This action will have beneficial economic impacts on the directly regulated Alaska Native residents of St. Paul and St. George, and will not have a significant economic impact on a substantial number of small entities, or indeed any small entities. Therefore, a regulatory flexibility analysis is not required and none was prepared.

Paperwork Reduction Act

This proposed action does not require the collection of information.

Executive Order 13132—Federalism

This proposed action does not contain policies with federalism implications sufficient to warrant preparation of a federalism assessment under E.O. 13132 because this action does 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. Nonetheless, NMFS worked closely with local governments in the Pribilof Islands, and these estimates of subsistence harvests were prepared by the local governments in St. Paul and St. George, with assistance from NMFS officials.

Executive Order 13175—Native Consultation

Executive Order 13175 of November 6, 2000 (25 U.S.C. 450 Note), the Presidential Memorandum of April 29, 1994 (25 U.S.C. 450 note), the American Indian Native Policy of the U.S. Department of Commerce (March 30, 1995), the Department of Commerce's Tribal Consultation Policy (including the Department of Commerce Administrative Order 218–8, April 26, 2012), and the NOAA Procedures for Government-to-Government Consultation With Federally Recognized Indian Tribes and Alaska Native Corporations (November 12, 2013) outline the responsibilities of NMFS in matters affecting tribal interests. Section 161 of Public Law 108–100 (188 Stat. 452) as amended by section 518 of Public Law 108–447 (118 Stat. 3267), extends the consultation requirements of E.O. 13175 to Alaska Native corporations. NMFS has contacted the tribal governments of St. Paul and St. George Islands and their respective local Native corporations (Tanadgusix and Tanaq) about setting the next three years harvest estimates and received their input.

Dated: May 8, 2014.

Samuel D. Rauch III,

Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.

[FR Doc. 2014–11103 Filed 5–13–14; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 635

[Docket No. 140207123–4405–01]

RIN 0648–BD96

Atlantic Highly Migratory Species; North and South Atlantic 2014 Commercial Swordfish Quotas

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

ACTION: Proposed rule; request for comments.

SUMMARY: This proposed rule would adjust the 2014 fishing season quotas for North and South Atlantic swordfish based upon 2013 commercial quota underharvests and international quota transfers consistent with the International Commission for the Conservation of Atlantic Tunas (ICCAT) Recommendations 13–02 and 13–03. Additionally, this proposed rule would modify the regulations to comply with future changes to the North Atlantic swordfish underharvest carryover limits, which become effective in 2015. This proposed rule could affect commercial and recreational fishing for swordfish in the Atlantic Ocean, including the Caribbean Sea and Gulf of Mexico. This action implements ICCAT recommendations, consistent with the Atlantic Tunas Convention Act (ATCA), and furthers domestic management objectives under the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act).

DATES: Written comments must be received by June 13, 2014. An operator-assisted, public conference call and webinar will be held on June 5, 2014, from 1:00 p.m. to 4:00 p.m., EST.

ADDRESSES: The conference call information is phone number 650–479–3207; participant pass code 995 328 809. Participants are strongly encouraged to log/dial in fifteen minutes prior to the meeting. NMFS will show a brief presentation via webinar followed by public comment. To join the webinar go to: *https://noaa-meets.webex.com/noaa-meets/j.php?MTID=mbec5ad6bcd832af41ef2ad34b64b498d*, enter your name and email address, and click the ''JOIN'' button. Participants that have not used WebEx before will be prompted to download and run a plug-in program that will enable them to view the webinar.

You may submit comments on this document, identified by NOAA–NMFS–2014–0054, by any of the following methods:

Electronic Submission: Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to *www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2014-0054*, click the ''Comment Now!'' icon, complete the required fields, and enter or attach your comments.

Mail: Submit written comments to Margo Schulze-Haugen, NMFS/SF1, 1315 East-West Highway, National Marine Fisheries Service, SSMC3, Silver Spring, MD 20910.

Instructions: Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered by NMFS. All comments received are a part of the public record and will generally be posted for public viewing on *www.regulations.gov* without change. All personal identifying information (e.g., name, address, etc.), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. NMFS will accept anonymous comments (enter ''N/A'' in the required fields if you wish to remain anonymous). Attachments to electronic comments will be accepted in Microsoft Word, Excel, or Adobe PDF file formats only.

The call-in information for the public hearing is phone number 650–479–3207; participant pass code 995 328 809. We will also provide a brief presentation via webinar. Participants can join the webinar at *https://noaa-meets.webex.com/noaa-meets/j.php?MTID=mbec5ad6bcd832af41ef2ad34b64b498d*. Enter your name and email address, and click the ''JOIN'' button. Participants that have not used WebEx before will be prompted to download

and run a plug-in program that will enable them to view the webinar. Presentation materials and other supporting information will be posted on the HMS Web site at: *http://www.nmfs.noaa.gov/sfa/hms*.

Copies of the supporting documents—including the 2012 Environmental Assessment (EA), Regulatory Impact Review (RIR), and Final Regulatory Flexibility Analysis (FRFA) for North Atlantic swordfish; the 2007 EA, RIR, and FRFA for South Atlantic swordfish; and the 2006 Consolidated Atlantic Highly Migratory Species Fishery Management Plan and associated documents—are available from the HMS Management Division Web site at *http://www.nmfs.noaa.gov/sfa/hms/* or by contacting Alexis Jackson by phone at 301–427–8503.

FOR FURTHER INFORMATION CONTACT: Alexis Jackson by phone at 301–427–8503 or Steve Durkee by phone at 202–670–6637.

SUPPLEMENTARY INFORMATION:

Background

The U.S. Atlantic swordfish fishery is managed under the 2006 Consolidated Highly Migratory Species (HMS) Fishery Management Plan (FMP). Implementing regulations at 50 CFR part 635 are issued under the authority of the Magnuson-Stevens Act, 16 U.S.C. 1801 *et seq.,* and ATCA, 16 U.S.C. 971 *et seq.* ATCA authorizes the Secretary of Commerce (Secretary) to promulgate regulations, as may be necessary and appropriate to implement ICCAT recommendations.

North Atlantic Swordfish Quota

At the 2013 ICCAT annual meeting, Recommendation 13–02 was adopted, maintaining the North Atlantic swordfish total allowable catch (TAC) of 10,301 metric tons (mt) dressed weight (dw) (13,700 mt whole weight (ww)) through 2016. Of this TAC, the United States' baseline quota is 2,937.6 mt dw (3,907 mt ww) per year. ICCAT Recommendation 13–02 also includes an 18.8 mt dw (25 mt ww) annual quota transfer from the United States to Mauritania and limits allowable 2013 underharvest carryover to 25 percent of a contracting party's baseline quota. Underharvest accrued in 2014 and beyond is limited to 15 percent of a contracting party's baseline quota. Therefore, the United States may carry over a maximum of 734.4 mt dw (976.8 mt ww) of underharvest from 2013 and add it to the 2014 baseline quota. This proposed rule would adjust the U.S. baseline quota for the 2014 fishing year to account for the annual quota transfer to Mauritania and the 2013 underharvest. Additionally, this proposed rule considers modifying the regulations to comply with the reduced underharvest carryover limit, which becomes effective in 2015 and thus would apply to underharvest accrued in 2014 and beyond.

The preliminary North Atlantic swordfish underharvest for 2013 was 1,480.4 mt dw as of December 31, 2013; therefore, NMFS is proposing to carry forward 734.4 mt dw, the maximum carryover allowed per ICCAT Recommendation 13–02. The 2,937.6 mt dw baseline quota would be reduced by the 18.8 mt dw annual quota transfer to Mauritania and increased by the underharvest carryover maximum of 734.4 mt dw, resulting in 3,653.2 mt dw (2,937.6 − 18.8 + 734.4 = 3,653.2 mt dw), which is the proposed adjusted North Atlantic swordfish quota for the 2014 fishing year. From that proposed adjusted quota, 50 mt dw would be allocated to the reserve category for inseason adjustments and research, and 300 mt dw would be allocated to the incidental category, which includes recreational landings and landings by incidental swordfish permit holders, for the 2014 fishing season, per § 635.27(c)(1)(i)(B). This would result in an allocation of 3,303.2 mt dw (3,653.2 − 50 − 300 = 3,303.2 mt dw) for the directed category, which would be split equally between two seasons in 2014 (January through June, and July through December) (Table 1).

The preliminary landings and proposed adjusted quota for North Atlantic swordfish are based on commercial dealer reports and reports by anglers in the HMS Non-Tournament Recreational Swordfish and Billfish Landings Database and the Recreational Billfish Survey received as of December 31, 2013, and do not include dead discards or late landings reports. The estimates are preliminary and have not yet undergone quality control and assurance procedures. NMFS will adjust the quotas in the final rule based on updated data, including dead discard data, if available. Note that the United States has carried over the full amount of underharvest allowed under ICCAT recommendations for the past several years, and NMFS does not expect fishing activity to vary significantly from these past years. For the final adjusted quota to deviate from the proposed quota, the sum of updated landings data (from late reports) and dead discard estimates would need to reach or exceed 746.0 mt dw, which is the difference between the current estimate of the 2013 underharvest (1,480.4 mt dw) and the maximum carryover cap of 734.4 mt dw (1,480.4 − 734.4 = 746.0 mt dw). In 2012, dead discards were estimated to equal 194.0 mt dw and late reports equaled 201.3 mt dw. Consequently, NMFS does not believe updated data and dead discard estimates will alter the proposed adjusted quota. Thus, while the 2014 proposed North Atlantic swordfish quota is subject to further adjustments and this rule notifies the public of that potential change, NMFS does not expect the final quota to change from the proposed quota.

In addition to adjusting the quota, this proposed rule considers modifying regulatory text to reflect an upcoming change in the underharvest carryover limit. Recommendation 13–02 reduced the amount of underharvest that may be carried forward to 15 percent of the baseline quota, effective in 2015. Therefore, if this rule is implemented, the 2013 underharvest would be the last year subject to the 25 percent carryover limit; the underharvest in 2014 and subsequent years would not be able to exceed 15 percent of the baseline quota. This proposed rule will consider these changes.

South Atlantic Swordfish Quota

In 2013, ICCAT Recommendation 13–03 established the South Atlantic swordfish TAC at 11,278.2 mt dw (15,000 mt ww) for 2014, 2015, and 2016. Of this, the United States received 75.2 mt dw (100 mt ww). ICCAT Recommendation 13–03 limits the amount of South Atlantic swordfish underharvest that can be carried forward. For South Atlantic swordfish, the United States may carry forward up to 100 percent of the baseline quota (75.2 mt dw). Recommendation 13–03 also included a total of 75.2 mt dw (100 mt ww) of quota transfers from the United States to other countries. These transfers were 37.6 mt dw (50 mt ww) to Namibia, 18.8 mt dw (25 mt ww) to Côte d'Ivoire, and 18.8 mt dw (25 mt ww) to Belize.

In 2013, U.S. fishermen landed 0.1 mt dw of South Atlantic swordfish as of December 31, 2013. Therefore, 75.1 mt dw of underharvest is available to carry over to 2014. NMFS is proposing to carry forward 75.1 mt dw to be added to the 75.2 mt dw baseline quota. The quota would then be reduced by the 75.2 mt dw of annual international quota transfers outlined above, resulting in 75.1 mt dw, which is the proposed adjusted South Atlantic swordfish quota for the 2014 fishing year.

As with the landings and proposed quota for North Atlantic swordfish, the South Atlantic swordfish landings and proposed quota are based on dealer

reports received as of December 31, 2013, do not include dead discards or late landings reports, and are preliminary landings estimates that have not yet undergone quality control and assurance procedures. NMFS will adjust the quotas in the final rule based on any updated data, including dead discard data, if available. Thus, the 2014 proposed South Atlantic swordfish quota is subject to further adjustments. However, the United States has only landed South Atlantic swordfish twice in the past several years (0.2 mt dw in April 2010 and 0.1 mt dw in April 2013) and therefore does not anticipate additional landings or discard data that would change the final quota from the proposed quota.

TABLE 1—2014 NORTH AND SOUTH ATLANTIC SWORDFISH QUOTAS

North Atlantic Swordfish Quota (mt dw)		2013	2014
Baseline Quota		2,937.6	2,937.6.
International Quota Transfer		(−)112.8 (to Morocco)	(−)18.8 (to (Mauritania).
Total Underharvest from Previous Year +		814.1	1,480.4.
Underharvest Carryover from Previous Year +		(+)734.4	(+)734.4.
Adjusted Quota		3,559.2	3,653.2.
Quota Allocation	Directed Category	3,209.2	3,303.2.
	Incidental Category	300	300.
	Reserve Category	50	50.
South Atlantic Swordfish Quota (mt dw)		**2013**	**2014**
Baseline Quota		75.2	75.2.
International Quota Transfers *		(−)75.2	(−)75.2.
Total Underharvest from Previous Year +		75.2	75.1.
Underharvest Carryover from Previous Year +		75.2	75.1.
Adjusted quota		75.2	75.1.

+ 2013 underharvest carryover is capped at 25 percent of the baseline quota allocation for the North Atlantic and 75.2 dw (100 mt ww) for the South Atlantic. 2013 underharvest current as of December 31, 2013; does not include dead discards, late reports, or changes to the data as a result of quality control adjustments.

* Under Recommendation 13–03, 100 mt ww of the U.S. underharvest and baseline quota, as necessary, was transferred to Namibia (37.6 mt dw, 50 mt ww), Côte d'Ivoire (18.8 mt dw, 25 mt ww), and Belize (18.8 mt dw, 25 mt ww).

Ecological and Socioeconomic Impacts

The ecological and socio-economic impacts of continued harvesting of substantially the same amount of annual baseline quota proposed in the 2014 North Atlantic swordfish specifications were analyzed in the EA, RIR, and FRFA that were prepared for the 2012 swordfish quota specifications final rule (July 31, 2012; 77 FR 45273). Similarly, the impacts of harvesting the amount of annual baseline quota proposed in the 2014 South Atlantic swordfish specifications were analyzed in the EA, RIR, and FRFA that were prepared for the 2007 Swordfish Quota Specification Final Rule (October 5, 2007; 72 FR 56929).

The proposed North Atlantic swordfish quota adjustments would result in an adjusted quota similar to that analyzed in the 2012 EA, RIR, and FRFA (3,559.2 mt dw) and in subsequent years (2013 final adjusted quota = 3,559.2 mt dw, and 2014 proposed adjusted quota = 3,653.2 mt dw, which is an increase of 94 mt dw). The 2014 proposed quota is not expected to increase fishing effort, protected species interactions, or environmental effects in a manner not considered in the 2012 EA. Implementing ICCAT Recommendation 13–02 would result in two minor changes in the adjusted quota calculation methodology that, once effective, would result in a reduction in the overall adjusted quota relative to previous years. First, ICCAT Recommendation 13–02 reduces the underharvest carryover limit beginning in 2015. Any underharvest available to be carried over from 2013 to 2014 would be capped at 25 percent of the baseline quota, but beginning in 2015, the underharvest carryover limit would be 15 percent of the baseline quota. In the 2012 EA, North Atlantic swordfish underharvest carryovers less than or equal to 25 percent were analyzed. Since the proposed change in the underharvest carryover limit is within this range (i.e., it is less than 25 percent), the change has been previously analyzed. Furthermore, once effective, the reduction in the underharvest carryover limit would result in a lower overall North Atlantic swordfish adjusted quota. For these reasons, additional NEPA analysis regarding the underharvest carryover limit is not necessary.

The second change in the adjusted quota calculation methodology from ICCAT Recommendation 13–02 is the elimination of the 112.8 mt dw quota transfer to Morocco and the introduction of a lower 18.8 mt dw quota transfer to Mauritania. This change in the quota transfer amount effectively results in a 3-percent increase to the North Atlantic adjusted quota in 2014 (from 3,559.2 mt dw in 2013 to 3,653.2 mt dw in 2014). No additional NEPA analysis is needed for the change in international quota transfers. As mentioned above, the ecological and socio-economic impacts of continued harvesting of substantially the same amount of annual baseline quota proposed in the 2014 North Atlantic swordfish specifications was analyzed in 2012 and no additional impacts are expected from the small increase. It would not result in an increase in overall quota, fishing effort, or interactions with directed, incidental, or bycatch species. Thus, NMFS has determined that the North Atlantic swordfish quota portion of the specifications and impacts to the human environment as a result of the proposed quota adjustments do not require additional NEPA analysis beyond that discussed in the 2012 EA.

The proposed South Atlantic swordfish quota adjustments would not change overall quotas and are not expected to increase fishing effort, protected species interactions, or environmental effects beyond those analyzed in the 2007 EA. While ICCAT conducted a stock assessment for South Atlantic swordfish, due to uncertainties

in the analyses and newly derived stock status, the committee has not altered the stock status or TAC from the previous ICCAT recommendation in place when 2007 EA analyses were conducted. Therefore, because there would be no changes to the South Atlantic swordfish management measures in this proposed rule, or to the affected environment or any environmental effects that have not been previously analyzed, NMFS has determined that the South Atlantic swordfish quota portion of the specifications and impacts to the human environment as a result of the proposed quota adjustments do not require additional NEPA analysis beyond that analyzed in the 2007 EA.

Request for Comments

NMFS is requesting comments on any of the measures or analyses described in this proposed rule. During the comment period, NMFS will hold one conference call and webinar for this proposed rule. The conference call and webinar will be held on June 5, 2014, from 1:00–4:00pm EST. Please see the **DATES** and **ADDRESSES** headings for more information.

The public is reminded that NMFS expects participants on phone conferences to conduct themselves appropriately. At the beginning of the conference call, a representative of NMFS will explain the ground rules (e.g., all comments are to be directed to the agency on the proposed action; attendees will be called to give their comments in the order in which they registered to speak; each attendee will have an equal amount of time to speak; attendees may not interrupt one another; etc.). NMFS representative(s) will structure the meeting so that all attending members of the public will be able to comment, if they so choose, regardless of the controversial nature of the subject(s). Attendees are expected to respect the ground rules, and those that do not may be removed from the conference call.

Classification

Pursuant to the Magnuson-Stevens Act, the NMFS Assistant Administrator has determined that the proposed rule is consistent with the 2006 Consolidated HMS FMP and its amendments, other provisions of the Magnuson-Stevens Act, the Atlantic Tuna Convention Act, and other applicable law, subject to further consideration after public comment.

This proposed rule has been determined to be not significant for purposes of Executive Order 12866.

NMFS determined that the proposed rules to implement the North Atlantic swordfish quota framework (77 FR 25669, May 1, 2012) and South Atlantic swordfish quota framework (75 FR 35432, June 22, 2010) are consistent to the maximum extent practicable with the enforceable policies of the approved coastal management program of coastal states on the Atlantic including the Gulf of Mexico and the Caribbean Sea. Pursuant to 15 CFR 930.41(a), NMFS provided the Coastal Zone Management Program of each coastal state a 60-day period to review the consistency determination and to advise the Agency of their concurrence. NMFS received concurrence with the consistency determinations from several states and inferred consistency from those states that did not respond within the 60-day time period. This proposed action to establish the 2014 North and South Atlantic swordfish quotas does not change the framework previously consulted upon; therefore, no additional consultation is required.

The Chief Council for Regulation of the Department of Commerce certified to the Chief Council for Advocacy of the Small Business Administration that this proposed rule, if adopted, would not have a significant economic impact on a substantial number of small entities because the proposed quota adjustments are the same as in 2013 and the United States is not expected to catch its entire quota in 2014.

As described above, this proposed rule would adjust the 2014 baseline quota for North Atlantic swordfish (January 1, 2014, through December 31, 2014) to account for 2013 underharvests as allowable and international quota transfers per § 635.27(c)(1)(i) and (3)(ii) based on ICCAT recommendation 13–02. The United States can carry over 2013 underharvest at a level not to exceed 25 percent of the baseline quota. This proposed rule would also change the limit of underharvest accrued in 2014 and beyond to 15 percent of a contracting party's baseline quota. Additionally, ICCAT Recommendation 13–02 stipulates that the United States transfer 18.8 mt dw (25 mt ww) of quota to Mauritania.

In 2013, U.S. fishermen landed 2,028.8 mt dw of North Atlantic swordfish as of December 31, 2013, leaving 1,480.4 mt dw of quota underharvest. This underharvest amount exceeds the maximum underharvest carryover of 734.4 mt dw, therefore, only 734.4 mt dw of 2013 underharvest would be carried over and added to the 2014 baseline quota. The quota transfer of 18.8 mt dw to Mauritania would be deducted, leaving a proposed 2014 North Atlantic swordfish adjusted quota of 3,653.2 mt dw (Table 1).

This proposed rule would also adjust the 2014 baseline quota for South Atlantic swordfish (January 1, 2014, through December 31, 2014) to account for 2013 underharvests and international quota transfers per § 635.27(c)(1)(ii) and (3)(ii) based on ICCAT Recommendation 13–03. The United States can carry over 2013 underharvest at a level not to exceed 100 percent of the baseline quota. Additionally, ICCAT Recommendation 13–03 stipulates that the United States transfer the following quota amounts to other countries: 37.6 mt dw (50 mt ww) to Namibia; 18.8 mt dw (25 mt ww) to Côte d'Ivoire; and 18.8 mt dw (25 mt ww) to Belize.

In 2013, U.S. fishermen landed 0.1 mt dw of South Atlantic swordfish as of December 31, 2013. Therefore, 75.1 mt dw of underharvest is available to carry over to 2014. NMFS is proposing to carry forward 75.1 mt dw to be added to the 75.2 mt dw base quota. The quota would then be reduced by the 75.2 mt dw of annual international quota transfers outlined above, resulting in 2014 South Atlantic swordfish adjusted quota of 75.1 mt dw (Table 1).

The commercial swordfish fishery is comprised of fishermen who hold one of three swordfish limited access permits (LAPs) (i.e., directed, incidental, or handgear), fishermen who hold a new swordfish general commercial permit, fishermen who hold an HMS incidental squid trawl permit, and the related industries including processors, bait houses, and equipment suppliers. NMFS considers all participants in the commercial swordfish fishery to be small entities, based on the relevant NAICS codes and size standards set by the Small Business Administration (SBA). Under 5 U.S.C. 604(a)(3), Federal agencies must provide an estimate of the number of small entities to which the rule would apply. The Small Business Administration (SBA) has established size criteria for all major industry sectors in the United States, including fish harvesters. Previously, a business involved in fish harvesting was classified as a small business if it is independently owned and operated, is not dominant in its field of operation (including its affiliates), and has combined annual receipts not in excess of $4.0 million (NAICS code 114111, finfish fishing) for all its affiliated operations worldwide. On June 20, 2013, SBA issued a final rule revising the small business size standards for several industries effective July 22, 2013 (78 FR 37398; June 20, 2013). 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. NMFS has reviewed the analyses prepared for this action in light of the new size standards. Under the former, lower size standards, all entities subject to this action were considered small entities, thus they all would continue to be considered small under the new standards. The new size standards do not affect analyses prepared for this action.

As of November 2013, there were approximately 179 vessels with a directed swordfish LAP, 67 vessels with an incidental swordfish LAP, 76 vessels with a handgear LAP for swordfish, and 203 vessels that held a swordfish general commercial permit. Additionally, there were approximately 74 HMS incidental squid trawl permit holders, which allow vessels in the *Illex* squid fishery to retain up to 15 incidentally-caught swordfish while trawling for squid. Based on the 2013 average price for swordfish of $4.69/lb (based on 2013 eDealer data), the 2014 North and South Atlantic swordfish baseline quotas could result in gross revenues of $30,373,533 (2,937.6 mt dw (6,476,233 lbs dw) * $4.69/lb) and $776,927 (75.1 mt dw (165,565 lbs dw) * $4.69/lb), respectively, if the quotas were fully utilized. Under the adjusted quotas of 3,653.2 mt dw (8,053,845 lbs dw) for North Atlantic swordfish and 75.1 mt dw (165,565 lbs dw) for South Atlantic swordfish, the gross revenues could be $37,772,533 and $776,927, respectively, for fully utilized quotas.

Potential revenues per vessel resulting from full utilization of the adjusted quotas, could be $59,295 for the North Atlantic swordfish fishery and $4,340 for the South Atlantic swordfish fishery, considering a total of 599 swordfish permit holders in the North Atlantic and 179 directed permit holders in the South Atlantic. The North Atlantic estimate, however, represents an average across all permit types, despite permit differences in retention limits, target species, and geographical range. For North Atlantic swordfish, directed swordfish permit holders would likely experience higher than average per-vessel ex-vessel revenues due to the use of pelagic longline gear and the lack of a retention limit per trip, although trip expenses are likely to be fairly high. HMS incidental squid trawl permit holders would likely experience per vessel ex-vessel revenues well below those received by pelagic longline vessels due to the low retention limit per trip (15 swordfish) and because these vessels do not target swordfish and only catch them incidentally. Swordfish general commercial permit holders would likely experience lower than average per-vessel ex-vessel revenues, despite higher ex-vessel prices and lower fishing expenses. Historically, U.S. fishermen do not often harvest the full North Atlantic swordfish quota. In addition, the 2014 proposed quota is the same as the 2013 quota for North Atlantic swordfish, therefore there are no economic impacts expected due to this proposed rulemaking setting the 2014 quota. For South Atlantic swordfish, only directed swordfish permit holders can land these fish; therefore, potential revenue per vessel is higher than the average for these directed swordfish permit holders since the other permit types land no swordfish. Additionally, U.S. fishermen rarely catch South Atlantic swordfish. Over the past 5 years, only 0.3 mt dw of South Atlantic swordfish catch has been reported.

Because the United States' commercial swordfish fishery is not expected to catch its entire quota in 2014, the adjustments to the quota and management measures proposed in this rule will not have a significant impact on a substantial number of small entities. As a result, no initial regulatory flexibility analysis is required, and none has been prepared.

List of Subjects in 50 CFR Part 635

Fisheries, Fishing, Fishing vessels, Foreign relations, Imports, Penalties, Reporting and recordkeeping requirements, Treaties.

Dated: May 9, 2014.

Samuel D. Rauch III,

Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.

For reasons set out in the preamble, 50 CFR part 635 is proposed to be amended as follows:

PART 635—ATLANTIC HIGHLY MIGRATORY SPECIES

■ 1. The authority citation for part 635 continues to read as follows:

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

■ 2. In § 635.27, paragraph (c)(3)(ii) is revised to read as follows:

§ 635.27 Quotas.

* * * * *

(c) * * *

(3) * * *

(ii) If consistent with applicable ICCAT recommendations, total landings above or below the specific North Atlantic or South Atlantic swordfish annual quota will be subtracted from, or added to, the following year's quota for that area. As necessary to meet management objectives, such adjustments may be apportioned to fishing categories and/or to the reserve. Carryover adjustments for the North Atlantic shall be limited to 25 percent of the baseline quota allocation for that year. Starting in the 2015 fishing year, carryover adjustments shall be limited to 15 percent of the annual baseline quota allocation. Carryover adjustments for the South Atlantic shall be limited to 100 mt ww (75.2 mt dw) for that year. Any adjustments to the 12-month directed fishery quota will be apportioned equally between the two semiannual fishing seasons. NMFS will file with the Office of the Federal Register for publication any adjustment or apportionment made under this paragraph.

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[FR Doc. 2014–11052 Filed 5–13–14; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 140218151–4151–01]

RIN 0648–BD98

Fisheries of the Exclusive Economic Zone Off Alaska; Groundfish of the Gulf of Alaska; Groundfish of the Bering Sea and Aleutian Islands

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

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS proposes regulations to implement Amendment 100 to the Fishery Management Plan for Groundfish of the Bering Sea and Aleutian Islands Management Area (BSAI FMP) and Amendment 91 to the Fishery Management Plan for Groundfish of the Gulf of Alaska (GOA FMP). This proposed action would add regulations to improve reporting of grenadiers, limit retention of grenadiers, and prevent direct fishing for grenadiers by federally permitted groundfish fishermen and is necessary to limit and monitor the incidental catch of grenadiers in the groundfish fisheries. This action is intended to promote the goals and objectives of the Magnuson-Stevens Fishery Conservation and Management Act, the FMPs, and other applicable law.

DATES: Comments must be received no later than June 13, 2014.

ADDRESSES: You may submit comments on this document, identified by NOAA–NMFS–2014–0023, by any of the following methods:

• Electronic Submission: Submit all electronic public comments via the Federal e Rulemaking Portal. Go to *www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2014-0023,* click the ''Comment Now!'' icon, complete the required fields, and enter or attach your comments.

• Mail: Submit written comments to Glenn Merrill, Assistant Regional Administrator, Sustainable Fisheries Division, Alaska Region NMFS, Attn: Ellen Sebastian. Mail comments to P.O. Box 21668, Juneau, AK 99802–1668.

Instructions: Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered by NMFS. All comments received are a part of the public record and will generally be posted for public viewing on *www.regulations.gov* without change. All personal identifying information (e.g., name, address), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. NMFS will accept anonymous comments (enter ''N/A'' in the required fields if you wish to remain anonymous). Attachments to electronic comments will be accepted in Microsoft Word, Excel, or Adobe PDF file formats only.

Electronic copies of Amendment 100 to the BSAI FMP, Amendment 91 to the GOA FMP, and the Environmental Assessment, the Regulatory Impact Review (RIR), and the Initial Regulatory Flexibility Analysis (IRFA) (collectively, Analysis) prepared for this action are available from *www.regulations.gov* or from the NMFS Alaska Region Web site at *alaskafisheries.noaa.gov.*

Written comments regarding the burden-hour estimates or other aspects of the collection-of-information requirements contained in this proposed rule may be submitted to NMFS and by email to *OIRA_Submission@omb.eop.gov* or fax to (202) 395–7285.

FOR FURTHER INFORMATION CONTACT: Gretchen Harrington, 907–586–7228.

SUPPLEMENTARY INFORMATION: NMFS manages the groundfish fisheries in the exclusive economic zone of the GOA and BSAI under the GOA FMP and BSAI FMP (collectively, the FMPs). The North Pacific Fishery Management Council (Council) prepared these FMPs under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), 16 U.S.C. 1801 *et seq.* Regulations implementing the FMPs appear at 50 CFR part 679. General regulations governing U.S. fisheries also appear at 50 CFR part 600.

The Council has submitted Amendment 100 to the BSAI FMP and Amendment 91 to the GOA FMP for review by the Secretary of Commerce, and a Notice of Availability of this amendment was published in the **Federal Register** on May 5, 2014) 79 FR 25558) with comments invited through July 7, 2014. All relevant written comments received by the end of the applicable comment period, whether specifically directed to the FMP amendments, this proposed rule, or both, will be considered in the approval/disapproval decision for these amendments and addressed in the response to comments in the final decision.

Background

The groundfish fisheries in the BSAI and GOA incidentally catch grenadiers (family Macrouridae) while harvesting target groundfish. For many years, the Council has considered how best to classify grenadiers in the FMPs. As explained in the Analysis (see **ADDRESSES**), from 1980 to 2010, grenadiers were included in the FMPs in the nonspecified species category. Nonspecified species were defined as a residual category of species and species groups of no current or foreseeable economic value or ecological importance, which are taken in the groundfish fishery as incidental catch and are in no apparent danger of depletion, and for which virtually no data exists that would allow population assessments.

In 2010, the Council recommended and NMFS removed the nonspecified species category from the FMPs when the FMPs were revised to meet Magnuson-Stevens Act requirements for annual catch limits (ACLs) and accountability measures (AMs) under Amendment 96 to the BSAI FMP and Amendment 87 to the GOA FMP (Amendments 96/87, 75 FR 38454, July 2, 2010). The nonspecified species, including grenadiers, were removed from the FMPs because these species were too poorly understood to set ACLs and AMs or to develop a management regime.

Amendments 96/87 also amended the FMPs to organize the species remaining in the FMPs according to the National Standard 1 guidelines (50 CFR 600.310). In the National Standard 1 guidelines NMFS recommends two categories for species in an FMP: ''stocks in the fishery'' and ''ecosystem component (EC) species.''

''Stocks in the fishery'' are defined in the National Standard 1 guidelines (§ 600.310(d)(2)). ''Stocks in the fishery'' include (1) stocks that are targeted, and retained for sale or personal use; (2) stocks that are not directly targeted but are taken incidentally in other directed fisheries, and are retained for sale or personal use; or (3) stocks not targeted or retained but are taken as incidental catch and for which overfishing or overfished status may be a concern.

NMFS created the EC species category to encourage ecosystem approaches to management and to incorporate ecosystem considerations for species that are not ''stocks in the fishery'' (74 FR 3178, January 16, 2009). EC species are defined in the National Standard 1 guidelines (§ 600.310(d)(5)). In order to be designated an EC species, the species or species group should be (1) a non-targeted species or species group; (2) not subject to overfishing, overfished, or approaching an overfished condition; (3) not likely to become subject to overfishing or overfished in the absence of conservation and management measures; and (4) not generally retained for sale or personal use.

Amendments 96/87 established the EC category and designated prohibited species (which include salmon, steelhead trout, crab, halibut, and herring) and forage fish (as defined in Table 2c to part 679 and § 679.20(i)) as EC species in the FMPs. For EC species, NMFS maintained conservation regulations applicable to the specific EC species. These include prohibiting the retention of prohibited species, prohibiting directed fishing for forage fish, and establishing a limit on the incidental harvest of forage fish while directed fishing for other groundfish species, known as a maximum retainable amount, of 2 percent. Regulations at 50 CFR 679.2 define the term ''directed fishing.'' Regulations at § 679.20(e) describe the application and calculation of maximum retainable amounts.

When the Council recommended Amendments 96/87, it recognized that as information on a nonspecified species improves, it would consider moving that species back into the FMP, either as a ''stock in the fishery'' or as an EC species. In 2010, the Council initiated an analysis to consider moving grenadiers back into the FMPs. The Council determined that sufficient information exists for grenadiers to address them in the FMPs, as reflected in the Analysis prepared for this action (see **ADDRESSES**). The Analysis provides

the best available information on grenadiers and considers two action alternatives: Include grenadiers in the FMP as an EC species, or include grenadiers in the FMP as a ''stock in the fishery.''

Amendments 100/91 to the FMPs

In February 2014, the Council voted unanimously to recommend Amendments 100/91 to the FMPs to add grenadiers to the EC category in the FMPs. The Council and NMFS recognized that adding grenadiers to the FMPs in the EC category would acknowledge their role in the ecosystem and limit the groundfish fisheries' impact on grenadiers. Adding grenadiers to the EC category would allow for improved data collection and catch monitoring appropriate for grenadiers given their abundance, distribution, and catch. The Council and NMFS determined that grenadiers are not a ''stock in the fishery'' because (1) grenadiers are not a target stock; (2) they are not generally retained for sale or personal use; and (3) they are not overfished, subject to overfishing, or approaching an overfished or overfishing status. The following information describes why grenadiers would be appropriate to include in the FMPs as an EC species group based on information summarized from the Analysis.

Grenadiers are not a targeted species group and are not generally retained for sale or personal use. Grenadiers have no current or foreseeable economic value. Section 3.3 of the Analysis explains that grenadiers are incidentally caught in deep water trawl and hook-and-line fisheries, but are not actively targeted or retained. In 2013, there was almost no reported retention of grenadiers in the BSAI (only 1 metric ton (t) or 2,205 pounds (lb)), and only 55 t (121,254 lb) of grenadiers were retained in the GOA. This represents a GOA fishery-wide retention rate of less than one half of one percent. Of this retention of grenadiers, 35 t (77,162 lb) was made into fish meal, 17 t (37,479 lb) was discarded at the dock, 3 t (6,614 lb) was retained for bait, and less than 1 t (2,205 lb) was sold. Thus, there is no evidence that grenadiers are presently being targeted or purposely retained. It is likely that grenadiers are being retained only when mixed with other catch.

Grenadiers are not generally retained for sale or personal consumption. As explained in Section 3.3.4 of the Analysis, attempts in Alaska to create a marketable product from giant grenadiers have been unsuccessful. Grenadiers have very low protein content, high moisture content, and are generally regarded as mushy and unpalatable. No current market exists for grenadiers, and it is unlikely that one will be developed in the foreseeable future.

Grenadiers are not generally retained for personal use. A small portion of the total catch of grenadiers is known to be retained for use as bait (e.g., 3 t (6,614 lb) in the GOA in 2013). Although grenadiers may be retained for use as bait in hook-and-line fisheries, there is no indication that this is a general practice throughout the hook-and-line fleets. NMFS notes that existing recordkeeping and reporting for the use of grenadiers is voluntary, and could underestimate the amount of grenadiers used for bait. However, the best available information indicates that grenadiers are not generally retained for bait.

At the current level of catch, grenadiers are not subject to overfishing, overfished, or approaching an overfished condition, and are not likely to become subject to overfishing or overfished in the absence of conservation and management measures. Section 3.2 of the Analysis explains that NMFS has been conducting a stock assessment for grenadiers since 2006. At present, stock assessment information for giant grenadier is relatively good compared to many other non-target species off Alaska. Since 2010, the stock assessment has been used to estimate an acceptable biological catch (ABC) and an overfishing level (OFL), using reliable estimates of biomass and natural mortality. Giant grenadier served as a proxy for the grenadier species group and the estimated ABC and estimated OFL are based on giant grenadier (*Albatrossia pectoralis*) because relatively few other grenadier species (family Macrouridae) are caught in the groundfish fisheries or are taken in NMFS surveys. NMFS estimates the incidental catch of grenadiers in the groundfish fisheries using observer data. In the BSAI, the estimated grenadier OFL is 135,236 t (298 million lb) and the estimated catch is 5,294 t (12 million lb, mean for 2003–2013). In the GOA, the estimated grenadier OFL is 46,635 t (103 million lb) and the estimated catch is 8,707 t (19 million lb, mean for 2003–2013).

Additionally, the Council recognized that adding grenadiers to the FMPs in the EC category would acknowledge their role in the ecosystem and limit the groundfish fisheries' impact on grenadiers. Section 3.6 of the Analysis describes the current state of research and understanding about the ecological importance of grenadiers. For example, giant grenadiers have an important ecological role given their role as apex predators. Apex predators reside at the top of their food chain and have few to no predators of their own. In bottom trawl surveys conducted by NMFS in the Bering Sea and the GOA, giant grenadiers are the most abundant fish, in terms of weight, in depths from 600 to 3,000 feet (183–914 meters). Giant grenadier extend much deeper than 3,000 feet (914 meters). There are reports that they have been caught deeper than 6,000 feet (1,829 meters), but little is known about their abundance in waters deeper than 3,000 feet because neither the NMFS surveys nor fishing effort presently extend below this depth.

Proposed Rule

In addition to adding grenadiers as an EC in the FMPs under Amendments 100/91, the Council recommended and NMFS proposes regulations for groundfish fishery participants to limit and monitor the catch of grenadiers. This proposed rule would:

- Require recordkeeping and reporting of grenadiers in the BSAI and GOA groundfish fisheries;
- Add two grenadier species codes;
- Add grenadier product recovery rates (PRRs);
- Prohibit directed fishing for grenadiers; and
- Establish a grenadier maximum retainable amount (MRA) of 8 percent.

To require recordkeeping and reporting, this proposed rule would make changes to 50 CFR part 679. This proposed rule would add a definition for grenadiers and revise the definition for non-allocated or nonspecified species at § 679.2. This proposed rule would also modify regulations at § 679.5 to require a vessel operator or manager in a BSAI or GOA groundfish fishery to record and report retained and discarded grenadier catch. NMFS notes that this proposed regulation would be expected to improve the collection of information on the catch and retention of grenadiers. Specifically, this proposed regulation would improve the ability for NMFS to monitor the retention of grenadiers for use as bait, or in the unlikely event that grenadiers are retained for sale.

NMFS would modify regulations in Table 2c to part 679 to add two grenadier species codes so that NMFS could track the retention of giant grenadiers and other grenadier species. NMFS would remove grenadiers from Table 2d to part 679. Section 2 of the Analysis notes that nearly all grenadiers encountered in the groundfish fisheries are giant grenadiers; therefore, it is not

necessary to establish more than two species codes for grenadiers (one for giant grenadiers and one for all other grenadier species) to provide the information necessary to adequately monitor grenadier catch.

This proposed rule would modify Table 3 to part 679 to include PRRs for grenadiers of 100 percent for whole fish, 50 percent for headed and gutted fish, and 24.3 percent for fillets. These PRRs are established based on food science studies of grenadiers that estimated product recovery rates (see Section 3.3.4 of the Analysis for additional detail).

These proposed regulatory changes would enable NMFS to collect data on the harvest and disposition of grenadier catch retained in the groundfish fisheries. The proposed changes in recordkeeping and reporting, definition of grenadier species codes, and grenadier PRRs would aid NMFS in determining if grenadiers become generally retained for sale or personal use, and would provide the information needed in any potential future consideration to modify the designation of grenadiers in the FMPs as a ''stock in the fishery.''

This proposed rule would revise regulations at § 679.20(i) and § 679.22(i) to prohibit directed fishing for grenadiers at all times in the BSAI and GOA groundfish fisheries. NMFS proposes prohibiting directed fishing as a precautionary measure to prevent groundfish fishermen from directed fishing for grenadiers without a clear and conscious decision by the Council to provide that opportunity. This prohibition is consistent with the regulations for other EC species. NMFS prohibits directed fishing for forage fish and prohibits retaining or possessing prohibited species, except as provided under the Prohibited Species Donation Program. As noted in Section 4.6 of the Analysis, prohibiting directed fishing would prevent the development of an uncontrolled fishery on grenadiers in the absence of applicable management measures.

This proposed rule would add a grenadier incidental catch species MRA of 8 percent to Table 10 to part 679 and Table 11 to part 679. The MRA is the percentage of the retained catch of a species closed for directed fishing (incidental catch species) to the retained catch of a species open for directed fishing (basis species). An 8 percent MRA would allow vessels fishing for groundfish to retain a quantity of grenadiers equal to but no more than 8 percent of the round weight or round weight equivalent of groundfish species open to directed fishing that are retained on board the vessel during a fishing trip. The requirement to not exceed MRA proportions at any time during a trip limits the vessel operators' ability to maximize incidental catch of grenadiers.

Section 2.2 of the Analysis provides additional detail on MRA management. The Council and NMFS considered a range of MRA percentages of 2 to 20 percent for grenadiers. The Council recommended and NMFS agrees that an 8 percent MRA is not likely to substantially increase the incentive for vessels to retain grenadiers relative to a lower MRA percentage (e.g., 2 percent), but would limit the amount of incidental catch more conservatively than a higher MRA percentage (e.g., 20 percent). Given the lack of any market for grenadiers, NMFS has no indication that grenadier retention is likely to increase beyond current levels. Section 2.2 of the Analysis notes that a de minimus amount of grenadiers are retained in the BSAI, and only 0.1 percent of all groundfish fishing trips in the GOA would be expected to exceed an MRA of 8 percent. Therefore, an MRA of 8 percent would be expected to accommodate all current fishing practices and, if a market should develop, this MRA would limit the potential retention of grenadiers until the Council and NMFS could develop measures to manage grenadiers appropriately.

Classification

Pursuant to section 304(b)(1)(A) of the Magnuson-Stevens Act, the NMFS Assistant Administrator has determined that this proposed rule is consistent with the FMP amendments, other provisions of the Magnuson-Stevens Act, and other applicable law, subject to further consideration of comments received during the public comment period.

This proposed rule has been determined to not be significant for the purposes of Executive Order 12866.

Regulatory Impact Review (RIR)

An RIR was prepared to assess all costs and benefits of available regulatory alternatives. The RIR considers all quantitative and qualitative measures. A copy of this analysis is available from NMFS (see **ADDRESSES**). The Council recommended Amendments 100/91 based on those measures that maximized net benefits to the Nation. Specific aspects of the economic analysis are discussed below in the initial regulatory flexibility analysis section.

Initial Regulatory Flexibility Analysis (IRFA)

An IRFA was prepared, 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 proposed action, why it is being considered, and the legal basis for this proposed action are contained in the **SUPPLEMENTARY INFORMATION** section of the preamble and are not repeated here. A summary of the IRFA follows. Copies of the IRFA are available from NMFS (see **ADDRESSES**).

Number and Description of Small Entities Regulated by the Proposed Action

In the GOA, NMFS estimates that there are a total of 1,114 small catcher vessels and 5 small catcher/processors. The majority of these (581) are catcher vessels in the hook-and-line gear sector. In the BSAI, NMFS estimates that there are 118 small catcher vessels and 7 small catcher/processors. NMFS estimates that 72 small shoreside processors would be directly regulated by this action. This number includes entities located in both the BSAI and GOA, as some groundfish may be caught in one area and delivered to the other. Thus, NMFS estimates that the total number of small entities that would be directly regulated by this action is 1,316 small entities (1,232 catcher vessels, 12 catcher/processors, 72 shoreside processors).

Description of Significant Alternatives that Minimize Adverse Impacts on Small Entities

The two aspects of this proposed rule that directly regulate small entities are the requirement to report grenadier catch under regulations at § 679.5(a)(3) and the requirement that vessels not exceed an MRA of 8 percent, under regulations at Tables 10 and 11 to part 679. These requirements would have a de minimus economic impact on small entities, as explained in Section 5.7 of the Analysis. The reporting requirements were the same under all of the action alternatives.

The Council considered an MRA range of 2 percent to 20 percent, ultimately choosing an 8 percent grenadier MRA. The Council selected an 8 percent MRA to accommodate the current amount of grenadiers incidentally caught. The Council considered that there are very few instances when grenadier retention exceeds 8 percent; however, allowing a higher MRA of as much as 20 percent may not meet the objectives of

providing precautionary management and placing limits on harvest, as identified in the purpose and need for the action.

Thus, there are no significant alternatives that would accomplish the objectives of accounting for grenadier catch or MRA management and minimize adverse economic impacts on small entities.

Duplicate, Overlapping, or Conflicting Federal Rules

NMFS has not identified any duplication, overlap, or conflict between this proposed action and existing Federal rules.

Recordkeeping and Reporting Requirements

The proposed rule would modify the recordkeeping and reporting requirements of the vessels and processors participating in the BSAI and GOA groundfish fisheries.

Presently, NMFS requires catcher vessel operators, catcher/processor operators, buying station operators, mothership operators, shoreside processor managers, and stationary floating processor managers to record and report all FMP species in logbooks, forms, eLandings, and eLogbooks. Recording is optional for non-FMP species. Grenadiers are currently listed as non-FMP species.

The proposed rule would amend regulations to change the status of grenadiers (giant grenadiers and other grenadiers) from non-FMP species to FMP species and require operators to record and report grenadier species in logbooks, forms, eLandings, and eLogbooks. If operators retain and land grenadiers, then landings and disposition would be reported on fish tickets and production reports.

Collection-of-Information Requirements

This rule contains collection-of-information requirements subject to the Paperwork Reduction Act (PRA), and which have been approved by Office of Management and Budget (OMB) under OMB Control Number 0648–0213 (paper recordkeeping and reporting) and OMB Control Number 0648–0515 (electronic recordkeeping and reporting). However, this rule only mentions these collections and does not change either collection-of-information.

Send comments regarding this burden estimate, or any other aspect of this data collection, including suggestions for reducing the burden, to NMFS (see **ADDRESSEES**) and by email to *OIRA_Submission@omb.eop.gov,* or fax to (202) 395–7285.

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.

List of Subjects in 50 CFR Part 679

Alaska, Fisheries, Reporting and recordkeeping requirements.

Dated: May 8, 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 679 as follows:

PART 679—FISHERIES OF THE EXCLUSIVE ECONOMIC ZONE OFF ALASKA

■ 1. The authority citation for 50 CFR part 679 continues to read as follows:

Authority: 16 U.S.C. 773 *et seq.;* 1801 *et seq.;* 3631 *et seq.;* Pub. L. 108–447.

■ 2. In § 679.2, add a definition for ''Grenadiers'' in alphabetical order and revise the definition for ''Non-allocated or nonspecified species'' to read as follows:

§ 679.2 Definitions.

* * * * *

Grenadiers (see Table 2c to this part and § 679.20(i)).

* * * * *

Non-allocated or nonspecified species means those fish species, other than prohibited species, for which TAC has not been specified (e.g., prowfish and lingcod).

* * * * *

■ 3. In § 679.5, revise paragraph (a)(3) introductory text, and paragraphs (c)(3)(vi)(F) and (c)(4)(vi)(E) to read as follows:

§ 679.5 Recordkeeping and reporting (R&R).

(a) * * *

(3) *Fish to be recorded and reported.* The operator or manager must record and report the following information (see paragraphs (a)(3)(i) through (iv) of this section) for all groundfish (see Table 2a to this part), prohibited species (see Table 2b to this part), forage fish (see Table 2c to this part), and grenadiers (see Table 2c to this part). The operator or manager may record and report the following information (see paragraphs (a)(3)(i) through (iv) of this section) for non-groundfish (see Table 2d to this part):

* * * * *

(c) * * *

(3) * * *

(vi) * * *

(F) *Species codes.* The operator must record and report required information for all groundfish (see Table 2a to this part), prohibited species (see Table 2b to this part), forage fish (see Table 2c to this part), and grenadiers (see Table 2c to this part). The operator may record and report information for non-groundfish (see Table 2d to this part).

* * * * *

(4) * * *

(vi) * * *

(E) *Species codes.* The operator must record and report the required information for all groundfish (see Table 2a to this part), prohibited species (see Table 2b to this part), forage fish (see Table 2c to this part), and grenadiers (see Table 2c to this part). The operator may also record and report the required information for non-groundfish (see Table 2d to this part).

* * * * *

■ 4. In § 679.20, revise paragraph (i) to read as follows:

§ 679.20 General limitations.

* * * * *

(i) *Forage fish and grenadiers*—(1) *Definition.* See Table 2c to this part.

(2) *Applicability.* The provisions of § 679.20(i) apply to all vessels fishing for groundfish in the BSAI or GOA, and to all vessels processing groundfish harvested in the BSAI or GOA.

(3) *Closure to directed fishing.* Directed fishing for forage fish and grenadiers is prohibited at all times in the BSAI and GOA.

(4) *Limits on sale, barter, trade, and processing.* The sale, barter, trade, or processing of forage fish or grenadiers is prohibited, except as provided in paragraph (i)(5) of this section.

(5) *Allowable fishmeal production.* Retained catch of forage fish or grenadier not exceeding the maximum retainable amount may be processed into fishmeal for sale, barter, or trade.

* * * * *

■ 5. In § 679.22, add paragraph (i) to read as follows:

§ 679.22 Closures.

* * * * *

(i) *Forage fish and grenadiers closures.* See § 679.20(i)(3).

■ 6. Revise Table 2c to part 679 to read as follows:

TABLE 2C TO PART 679—SPECIES CODES: FMP FORAGE FISH SPECIES (ALL SPECIES OF THE FOLLOWING FAMILIES) AND GRENADIER SPECIES

Species identification	Code
FORAGE FISH:	
Bristlemouths, lightfishes, and anglemouths (family *Gonostomatidae*)	209
Capelin smelt (family *Osmeridae*)	516
Deep-sea smelts (family *Bathylagidae*)	773
Eulachon smelt (family *Osmeridae*)	511
Gunnels (family *Pholidae*)	207
Krill (order *Euphausiacea*)	800
Lanternfishes (family *Myctophidae*)	772
Pacific Sand fish (family *Trichodontidae*)	206
Pacific Sand lance (family *Ammodytidae*)	774
Pricklebacks, war-bonnets, eelblennys, cockscombs and Shannys (family *Stichaeidae*)	208
Surf smelt (family *Osmeridae*)	515
GRENADIERS:	
Giant Grenadiers (*Albatrossia pectoralis*)	214
Other Grenadiers	213

■ 10. Revise Table 2d to part 679 to read as follows:

TABLE 2D TO PART 679—SPECIES CODES: NON-FMP SPECIES

Species description	Code
GENERAL USE	
Arctic char, anadromous	521
Dolly varden, anadromous	531
Eels or eel-like fish	210
Eel, wolf	217
GREENLING:	
Kelp	194
Rock	191
Whitespot	192
Jellyfish (unspecified)	625
Lamprey, pacific	600
Lingcod	130
Lumpsucker	216
Pacific flatnose	260
Pacific hagfish	212
Pacific hake	112
Pacific lamprey	600
Pacific saury	220
Pacific tomcod	250

TABLE 2D TO PART 679—SPECIES CODES: NON-FMP SPECIES—Continued

Species description	Code
Poacher (Family Algonidae)	219
Prowfish	215
Ratfish	714
Rockfish, black (GOA)	142
Rockfish, blue (GOA)	167
Rockfish, dark	173
Sardine, Pacific (pilchard)	170
Sea cucumber, red	895
Shad	180
Skilfish	715
Snailfish, general (genus *Liparis* and genus *Careproctus*)	218
Sturgeon, general	680
Wrymouths	211
Shellfish:	
Abalone, northern (pinto)	860
Clams:	
Arctic surf	812
Cockle	820
Eastern softshell	842
Pacific geoduck	815
Pacific littleneck	840

TABLE 2D TO PART 679—SPECIES CODES: NON-FMP SPECIES—Continued

Species description	Code
Pacific razor	830
Washington butter	810
Coral	899
Mussel, blue	855
Oyster, Pacific	880
Scallop, weathervane	850
Scallop, pink (or calico)	851
SHRIMP:	
Coonstripe	864
Humpy	963
Northern (pink)	961
Sidestripe	962
Spot	965
Snails	890
Urchin, green sea	893
Urchin, red sea	892

■ 11. Revise Table 3 to part 679 to read as follows:

BILLING CODE 3510–22–P

Table 3 to Part 679--Product Recovery Rates for groundfish species and conversion rates for Pacific halibut

Species Code	FMP Species	Product Code											
		1, 41, 86,92, 93, 95 Whole fish	3 Bled	4 Gutted head on	5 Gutted head off	6 H&G with roe	7 H&G west cut	8 H&G east cut	10 H&G w/o tail	11 Kirimi	12 Salted & Split	13 Wings	14 Roe
110	Pacific Cod	1.00	0.98	0.85	---	0.63	0.57	0.47	0.44	---	0.45	---	0.05
	Flatfish other than Pacific Halibut	1.00	0.98	0.90	---	0.80	0.72	0.65	0.62	0.48	---	---	0.08
143	Thornyhead Rockfish	1.00	0.98	0.88	---	0.55	0.60	0.50	---	---	---	---	---
160	Sculpins	1.00	0.98	0.87	---	---	0.50	0.40	---	---	---	---	---
193	Atka Mackerel	1.00	0.98	0.87	---	0.67	0.64	0.61	---	---	---	---	---
214	Giant grenadiers	1.00	---	---	---	---	0.50	0.50	---	---	---	---	---
270	Pollock	1.00	0.98	0.80	---	0.70	0.65	0.56	0.50	0.25	---	---	0.07
510	Smelts	1.00	0.98	0.82	---	---	0.71	---	---	---	---	---	---
511	Eulachon	1.00	0.98	0.82	---	---	0.71	---	---	---	---	---	---
516	Capelin	1.00	0.98	0.89	---	---	0.78	---	---	---	---	---	---
	Sharks	1.00	0.98	0.83	---	---	0.72	---	---	---	---	---	---
	Skates	1.00	0.98	0.90	---	---	---	0.32	---	---	---	0.32	---
710	Sablefish	1.00	0.98	0.89	---	---	0.68	0.63	0.50	---	---	---	---
870	Octopus	1.00	0.98	0.81	---	---	---	---	---	---	---	---	---
875	Squid	1.00	0.98	0.69	---	---	---	---	---	---	---	---	---
	Rockfish	1.00	0.98	0.88	---	---	0.60	0.50	---	---	---	---	---
200	PACIFIC HALIBUT Conversion rates to Net Weight.	---	---	0.90	1.0	---	---	---	---	---	---	---	---

Species Code	FMP Species	Product Code											
		15 Pectoral Girdle	16 Heads	17 Cheeks	18 Chins	19 Belly	20 Fillets with skin & ribs	21 Fillets with skin no ribs	22 Fillets with ribs no skin	23 Fillets skinless boneless	24 Fillets deep skin	30 Surimi	31 Mince
110	Pacific Cod	0.05	---	0.05	---	0.01	0.45	0.35	0.25	0.25	---	0.15	0.5
	Flatfish other than Pacific Halibut	---	---	---	---	---	0.32	0.27	0.27	0.22	---	0.18	---
143	Thornyhead Rockfish	---	0.20	0.05	0.05	0.05	0.40	0.30	0.35	0.25	---	---	---
160	Sculpins	---	---	---	---	---	---	---	---	---	---	---	---
214	Giant Grenadiers	---	---	---	---	---	---	24.3	---	---	---	---	---
193	Atka Mackerel	---	---	---	---	---	---	---	---	---	---	0.15	---
270	Pollock	---	0.15	---	---	---	0.35	0.30	0.30	0.21	0.16	0.16[1] 0.17[2]	0.22
510	Smelts	---	---	---	---	---	---	0.38	---	---	---	---	---
511	Eulachon	---	---	---	---	---	---	---	---	---	---	---	---
516	Capelin	---	---	---	---	---	---	---	---	---	---	---	---
	Sharks	---	---	---	---	---	---	0.30	0.30	0.25	---	---	---
	Skates	---	---	---	---	---	---	---	---	---	---	---	---
710	Sablefish	---	---	0.05	---	---	0.35	0.30	0.30	0.25	---	---	---
870	Octopus	---	---	---	---	---	---	---	---	---	---	---	---
875	Squid	---	---	---	---	---	---	---	---	---	---	---	---
	Rockfish	---	0.15	0.05	0.05	0.10	0.40	0.30	0.33	0.25	---	---	---
200	PACIFIC HALIBUT Conversion rates to Net Weight.	---	—	—	---	---	---	---	---	---	---	---	---

[1]Standard pollock surimi rate during January through June.

[2]Standard pollock surimi rate during July through December.

■ 12. Revise Table 10 to part 679 to read as follows:

Species Code	FMP Species	Product Code							
		32 Meal	33 Oil	34 Milt	35 Stomachs	36 Mantles	37 Butterfly Backbone Removed	88, 89 Infested or Decomposed Fish	98, 99 Discards
110	Pacific Cod	0.17	---	---	---	---	0.43	0.00	1.00
	Flatfish other than Pacific Halibut	0.17	---	---	---	---	---	0.00	1.00
122	Flathead Sole	0.17	---	---	---	---	---	0.00	1.00
123	Rock Sole	0.17	---	---	---	---	---	0.00	1.00
124	Dover Sole	0.17	---	---	---	---	---	0.00	1.00
125	Rex Sole	0.17	---	---	---	---	---	0.00	1.00
127	Yellowfin Sole	0.17	---	---	---	---	---	0.00	1.00
134	Greenland Turbot	0.17	---	---	---	---	---	0.00	1.00
143	Thornyhead Rockfish	0.17	---	---	---	---	---	0.00	1.00
160	Sculpins	0.17	---	---	---	---	---	0.00	1.00
193	Atka Mackerel	0.17	---	---	---	---	---	0.00	1.00
270	Pollock	0.17	---	---	---	---	0.43	0.00	1.00
510	Smelts	0.17	---	---	---	---	---	0.00	1.00
511	Eulachon	0.17	---	---	---	---	---	0.00	1.00
516	Capelin	0.17	---	---	---	---	---	0.00	1.00
	Sharks	0.17	---	---	---	---	---	0.00	1.00
	Skates	0.17	---	---	---	---	---	0.00	1.00
710	Sablefish	0.17	---	---	---	---	---	0.00	1.00
870	Octopus	0.17	---	---	---	0.85	---	0.00	1.00
875	Squid	0.17	---	---	---	0.75	---	0.00	1.00
---	Rockfish	---	---	---	---	---	---	0.00	1.00
200	PACIFIC HALIBUT Conversion rates to Net Weight	---	---	---	---	---	---	0.00	0.75

Notes: To obtain round weight of groundfish, divide the product weight of groundfish by the table PRR.
To obtain IFQ net weight of Pacific halibut, multiply the product weight of halibut by the table conversion rate.
To obtain round weight from net weight of Pacific halibut, divide net weight by 0.75 or multiply by 1.33333.

Table 10 to Part 679—Gulf of Alaska Retainable Percentages

BASIS SPECIES		INCIDENTAL CATCH SPECIES (for DSR caught on catcher vessels in the SEO, see § 679.20 (j)[6])															
Code	Species	Pollock	Pacific Cod	DW Flat (2)	Rex sole	Flathead sole	SW Flat (3)	Arrow-tooth	Sable-fish	Aggregated Rockfish (8)	SR/RE ERA (1)	DSR SEO (C/Ps only) (6)	Atka mackerel	Aggregated forage fish(10)	Skates (11)	Other species (7)	Grenadiers (13)
110	Pacific cod	20	n/a(9)	20	20	20	20	35	1	5	(1)	10	20	2	20	20	8
121	Arrowtooth	5	5	20	20	20	20	n/a	1	5	0	0	20	2	20	20	8
122	Flathead sole	20	20	20	20	n/a	20	35	7	15	7	1	20	2	20	20	8
125	Rex sole	20	20	20	n/a	20	20	35	7	15	7	1	20	2	20	20	8
136	Northern rockfish	20	20	20	20	20	20	35	7	15	7	1	20	2	20	20	8
141	Pacific ocean perch	20	20	20	20	20	20	35	7	15	7	1	20	2	20	20	8
143	Thornyhead	20	20	20	20	20	20	35	7	15	7	1	20	2	20	20	8
152/151	Shortraker/rougheye (1)	20	20	20	20	20	20	35	7	15	n/a	1	20	2	20	20	8
193	Atka mackerel	20	20	20	20	20	20	35	1	5	(1)	10	n/a	2	20	20	8
270	Pollock	Na	20	20	20	20	20	35	1	5	(1)	10	20	2	20	20	8
710	Sablefish	20	20	20	20	20	20	35	n/a	15	7	1	20	2	20	20	8
Flatfish, deep-water(2)		20	20	n/a	20	20	20	35	7	15	7	1	20	2	20	20	8
Flatfish, shallow-water(3)		20	20	20	20	20	n/a	35	1	5	(1)	10	20	2	20	20	8
Rockfish, other (4)		20	20	20	20	20	20	35	7	15	7	1	20	2	20	20	8
Rockfish, pelagic (5)		20	20	20	20	20	20	35	7	15	7	1	20	2	20	20	8
Rockfish, DSR-SEO (6)		20	20	20	20	20	20	35	7	15	7	n/a	20	2	20	20	8
Skates(11)		20	20	20	20	20	20	35	1	5	(1)	10	20	2	n/a	20	8
Other species (7)		20	20	20	20	20	20	35	1	5	(1)	10	20	2	20	n/a	8
Aggregated amount of non-groundfish species(12)		20	20	20	20	20	20	35	1	5	(1)	10	20	2	20	20	8

Notes to Table 10 to Part 679					
1	Shortraker/rougheye rockfish				
		SR/RE	Shortraker rockfish (152)		
			Rougheye rockfish (151)		
		SR/RE ERA	Shortraker/rougheye rockfish in the Eastern Regulatory Area (ERA).		
	Where numerical percentage is not indicated, the retainable percentage of SR/RE is included under Aggregated Rockfish				
2	Deep-water flatfish	Dover sole, Greenland turbot, and deep-sea sole			
3	Shallow-water flatfish	Flatfish not including deep-water flatfish, flathead sole, rex sole, or arrowtooth flounder			
4	Other rockfish	Western Regulatory Area	means slope rockfish and demersal shelf rockfish		
		Central Regulatory Area			
		West Yakutat District			
		Southeast Outside District	means slope rockfish		
		Slope rockfish			
		S. aurora (aurora)	*S. variegates* (harlequin)	*S. brevispinis* (silvergrey)	
		S. melanostomus (blackgill)	*S. wilsoni* (pygmy)	*S. diploproa* (splitnose)	
		S. paucispinis (bocaccio)	*S. babcocki* (redbanded)	*S. saxicola* (stripetail)	
		S. goodei (chilipepper)	*S. proriger* (redstripe)	*S. miniatus* (vermilion)	
		S. crameri (darkblotch)	*S. zacentrus* (sharpchin)	*S. reedi* (yellowmouth)	
		S. elongatus (greenstriped)	*S. jordani* (shortbelly)		
		In the Eastern GOA only, Slope rockfish also includes *S. polyspinis* (northern)			
5	Pelagic shelf rockfish	*S. variabilis* (dusky)	*S. entomelas* (widow)	*S. flavidus* (yellowtail)	
6	Demersal shelf rockfish (DSR)	*S. pinniger* (canary)	*S. maliger* (quillback)	*S. ruberrimus* (yelloweye)	
		S. nebulosus (china)	*S. helvomaculatus* (rosethorn)		
		S. caurinus (copper)	*S. nigrocinctus* (tiger)		
		DSR-SEO = Demersal shelf rockfish in the Southeast Outside District (SEO)(see § 679.7(b)(4) and § 679.20(j)).			
7	Other species	Sculpins	Octopus	Sharks	Squid
8	Aggregated rockfish	Means rockfish as defined at § 679.2 except in:			
		Southeast Outside District	where DSR is a separate category for those species marked with a numerical percentage		
		Eastern Regulatory Area	where SR/RE is a separate category for those species marked with a numerical percentage		

■ 13. Revise Table 11 to part 679 to read as follows:

Notes to Table 10 to Part 679			
9	n/a	Not applicable	
10	Aggregated forage fish (all species of the following taxa)		
		Bristlemouths, lightfishes, and anglemouths (family *Gonostomatidae*)	209
		Capelin smelt (family *Osmeridae*)	516
		Deep-sea smelts (family *Bathylagidae*)	773
		Eulachon smelt (family *Osmeridae*)	511
		Gunnels (family *Pholidae*)	207
		Krill (order *Euphausiacea*)	800
		Lanternfishes (family *Myctophidae*)	772
		Pacific Sand fish (family *Trichodontidae*)	206
		Pacific Sand lance (family *Ammodytidae*)	774
		Pricklebacks, war-bonnets, eelblennys, cockscombs and Shannys (family *Stichaeidae*)	208
		Surf smelt (family *Osmeridae*)	515
11	Skates Species and Groups	Big Skates (*Raja binoculata*)	702
		Longnose Skates (*R. rhina*)	701
		Other Skates (all skates that are not Big Skate or Longnose Skate)	700
12	Aggregated non-groundfish	All legally retained species of fish and shellfish, including IFQ halibut, that are not listed as FMP groundfish in Tables 2a and 2c to this part.	
13	Grenadiers	Giant grenadiers (*Albatrossia pectoralis*)	214
		Other grenadiers	213

Table 11 to Part 679–BSAI Retainable Percentages

BASIS SPECIES		INCIDENTAL CATCH SPECIES																	
Code	Species	Pollock	Pacific cod	Atka mackerel	Alaska plaice	Arrow-tooth	Kam-chatka	Yellow fin sole	Other flatfish[2]	Rock sole	Flat-head sole	Green-land turbot	Sable-fish[1]	Short-raker/ rougheye	Agg. Rock-fish[6]	Squid	Agg. forage fish[7]	Other species[4]	Grenadiers[9]
110	Pacific cod	20	na[5]	20	20	35	35	20	20	20	20	1	1	2	5	20	2	20	8
121	Arrowtooth	20	20	20	20	na	20	20	20	20	20	7	1	2	5	20	2	3	8
117	Kamchatka	20	20	20	20	20	na	20	20	20	20	7	1	2	5	20	2	3	8
122	Flathead sole	20	20	20	35	35	35	35	35	35	na	35	15	7	15	20	2	20	8
123	Rock sole	20	20	20	35	35	35	35	35	na	35	1	1	2	15	20	2	20	8
127	Yellowfin sole	20	20	20	35	35	35	na	35	35	35	1	1	2	5	20	2	20	8
133	Alaska Plaice	20	20	20	na	35	35	35	35	35	35	1	1	2	5	20	2	20	8
134	Greenland turbot	20	20	20	20	35	35	20	20	20	20	na	15	7	15	20	2	20	8
136	Northern	20	20	20	20	35	35	20	20	20	20	35	15	7	15	20	2	20	8
141	Pacific Ocean perch	20	20	20	20	35	35	20	20	20	20	35	15	7	15	20	2	20	8
152/ 151	Shortraker/ Rougheye	20	20	20	20	35	35	20	20	20	20	35	15	na	5	20	2	20	8
193	Atka mackerel	20	20	na	20	35	35	20	20	20	20	1	1	2	5	20	2	20	8
270	Pollock	na	20	20	20	35	35	20	20	20	20	1	1	2	5	20	2	20	8
710	Sablefish[1]	20	20	20	20	35	35	20	20	20	20	35	na	7	15	20	2	20	8
875	Squid	20	20	20	20	35	35	20	20	20	20	1	1	2	5	na	2	20	8
Other flatfish[2]		20	20	20	35	35	35	35	na	35	35	1	1	2	5	20	2	20	8
Other rockfish[3]		20	20	20	20	35	35	20	20	20	20	35	15	7	15	20	2	20	8
Other species[4]		20	20	20	20	35	35	20	20	20	20	1	1	2	5	20	2	na	8
Aggregated amount non-groundfish species[8]		20	20	20	20	35	35	20	20	20	20	1	1	2	5	20	2	20	8

[1] **Sablefish**: for fixed gear restrictions, see § 679.7(f)(3)(ii) and (f)(11).

[2] **Other flatfish** includes all flatfish species, except for Pacific halibut (a prohibited species), flathead sole, Greenland turbot, rock sole, yellowfin sole, Alaska plaice, arrowtooth flounder and Kamchatka flounder.

[3] **Other rockfish** includes all "rockfish" as defined at § 679.2, except for Pacific ocean perch; and northern, shortraker, and rougheye rockfish.

[4] The **Other species** includes sculpins, sharks, skates and octopus.

[5] **na** = not applicable

[6] **Aggregated rockfish** includes all "rockfish" as defined at § 679.2, except shortraker and rougheye rockfish.

[7] **Forage fish** are defined at Table 2c to this part.

[8] All legally retained species of fish and shellfish, including CDQ halibut and IFQ halibut that are not listed as FMP groundfish in Tables 2a and 2c to this part.

[9] **Grenadiers** are defined in Table 2c to this part.

[FR Doc. 2014–11050 Filed 5–13–14; 8:45 am]

BILLING CODE 3510–22–P

Notices

Federal Register

Vol. 79, No. 93

Wednesday, May 14, 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

Farm Service Agency

Information Collection; County Committee Elections

AGENCY: Farm Service Agency, USDA.

ACTION: Notice; request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, the Farm Service Agency (FSA) is requesting comments from all interested individuals and entities on an extension of a currently approved information collection associated with the FSA County Committee Elections. The collection of information from FSA Farmers and Ranchers is used to receive nominations from eligible voters for the County Committee.

DATES: We will consider comments we receive by July 14, 2014.

Additional Information: We invite you to submit comments on this notice. In your comment, include volume, date and page number of this issue of the **Federal Register**. You may submit comments by any of the following methods:

- *Federal eRulemaking Portal:* Go to: *www.regulations.gov.* Follow the online instructions for submitting comments.
- *Mail:* Deborah Johnson, Field Operations Specialist for the Deputy Administrator for Field Operations, Farm Service Agency, USDA, STOP 0542, 1400 Independence Avenue SW., Washington, DC 20250.

You may also send comments to the Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503. Copies of the information collection may be requested by contacting Deborah Johnson at the above address.

FURTHER INFORMATION CONTACT: Deborah Johnson, (202) 720–0067.

SUPPLEMENTARY INFORMATION:

Title: County Committee Election.

OMB Control Number: 0560–0229.

Expiration Date of Approval: November 30, 2014.

Type of Request: Extension.

Abstract: This information collection is necessary to effectively allow farmers and ranchers to nominate potential candidates for the county committee election in accordance with the requirements as authorized by the Soil Conservation and Domestic Allotment Act, as amended. Specifically, FSA uses the information annually or if needed throughout the year for special elections to create ballots for county committee elections. There are no changes to the burden hours since the last OMB approval.

The formulas used to calculate the total burden hours is estimated average time per response (includes travel times). The estimated annual burden per respondent is different from the estimated average time per response because one or more forms are filed more than once a year.

Estimate of Respondent Burden: Public reporting burden for this collection of information is estimated to average 10 minutes per response. The average travel time, which is included in the total burden, is estimated to be 1 hour per respondent.

Respondents: Any individual with farming interest in the Local Administrative Area (LAA) (eligible voters).

Estimated Number of Respondents: 10,000.

Estimated Number of Responses per Respondent: 1.

Estimated Total Annual Reponses: 10,000.

Estimated Average Time per Response: 0.067.

Estimated Total Annual Burden on Respondents: 6,700.

We are requesting on all aspects of this information collection to help us:

(1) Evaluate whether the collection of information is necessary for the proper performance of the functions of the agency, including whether information will have practical utility;

(2) Evaluate the accuracy of FSA's estimate of burden including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility and clarity of the information collected; or

(4) Minimize the burden of the information collection on those who are to respond through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

All responses received in response to this notice, including names and addresses when provided, will be summarized and included in the request for Office of Management and Budget approval of the information collection.

Signed on May 8, 2014.

Juan M. Garcia,

Administrator, Farm Service Agency.

[FR Doc. 2014–11042 Filed 5–13–14; 8:45 am]

BILLING CODE 3410–05–P

COMMISSION ON CIVIL RIGHTS

Agenda and Notice of Public Meeting of the Texas Advisory Committee

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights (Commission) and the Federal Advisory Committee Act (FACA) that a planning meeting the Texas Advisory Committee (Committee) to the Commission will be held on May 29, 2014, at Lone Star Legal Aid, 1415 Fannin Street, Houston, TX 77002. The meeting is scheduled to begin at 1:00 p.m. and adjourn at approximately 2:30 p.m. The purpose of the meeting is to discuss the Committee's voting rights project.

Members of the public are entitled to submit written comments. The comments must be received in the Western Regional Office of the Commission by June 29, 2014. The address is Western Regional Office, U.S. Commission on Civil Rights, 300 N. Los Angeles Street, Suite 2010, Los Angeles, CA 90012. Persons wishing to email their comments, or to present their comments verbally at the meeting, or who desire additional information should contact Angelica Trevino, Civil Rights Analyst, Western Regional Office, at (213) 894–3437, (or for hearing impaired TDD 913–551–1414), or by email to *atrevino@usccr.gov.* Hearing-impaired persons who will attend the meeting and require the services of a sign language interpreter should contact the Regional Office at least ten (10) working days before the scheduled date of the meeting.

Records generated from this meeting may be inspected and reproduced at the Western Regional Office, as they become available, both before and after the meeting. Persons interested in the work of this advisory committee are advised to go to the Commission's Web site, *www.usccr.gov,* or to contact the Western Regional Office at the above email or street address. The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission and FACA.

Dated May 9, 2014.

David Mussatt,

Acting Chief, Regional Programs Coordination Unit.

[FR Doc. 2014–11064 Filed 5–13–14; 8:45 am]

BILLING CODE 6335–01–P

DEPARTMENT OF COMMERCE

Submission for OMB Review; Comment Request

The Department of Commerce will submit to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: National Oceanic and Atmospheric Administration (NOAA).

Title: A Formative Evaluation of NOAA's Sentinel Site Program.

OMB Control Number: 0648–xxxx.

Form Number(s): NA.

Type of Request: Regular submission (request for a new information collection).

Number of Respondents: 125.

Average Hours per Response: 20 minutes.

Burden Hours: 42.

Needs and Uses: This request is for a new collection.

The NOAA Sentinel Site Program (SSP) is a cooperative program to promote resilient coastal communities and ecosystems in the face of change. A primary purpose of the program is to directly engage local, state, and federal managers as part of a Sentinel Site Cooperative (SSC) team. By doing so, managers can help ensure the types of science conducted, information gathered, and products developed are immediately used for better management. It is important to know who is actually using the products and services developed by these Cooperatives, and to what degree is capacity being built among and between coastal professionals and organizations through communications generated through the SSCs.

The purpose of this survey is to better understand the frequency and patterns of communication as a result of the efforts of the SSP. To help gather this information, NOAA will survey individuals known to have experience with the SSP and inquire on the communications and collaborations that have resulted. This survey is intended to serve as a means of formative evaluation for this effort. A formative evaluation is used to assess programs or projects early in their development or implementation to provide information about how best to revise and modify for improvement.

Affected Public: Federal government; state, local and tribal governments.

Frequency: Annually for two years.

Respondent's Obligation: Voluntary.

This information collection request may be viewed at reginfo.gov. Follow the instructions to review Department of Commerce collections currently under review by OMB.

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *OIRA_Submission@omb.eop.gov* or faxed to (202) 395–5806.

Dated: May 8, 2014.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 2014–11037 Filed 5–13–14; 8:45 am]

BILLING CODE 3510–08–P

DEPARTMENT OF COMMERCE

Submission for OMB Review; Comment Request

The Department of Commerce will submit to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: National Oceanic and Atmospheric Administration (NOAA).

Title: Greater Atlantic Region, Atlantic Sea Scallop Fishery Management Plan Data Collection.

OMB Control Number: 0648–0491.

Form Number(s): NA.

Type of Request: Regular submission (extension of a current information collection).

Number of Respondents: 620.

Average Hours per Response: Trip terminations including power-downs, Trip termination and compensation trip identification, daily catch reports, 2 minutes each; pre-landing reports, ownership forms and IFQ transfers, 5 minutes; broken trip adjustments, 10 minutes; access area trip exchanges, 15 minutes; replacement and permit history applications, 3 hours; cost recovery forms, 2 hours; sector proposals, 300 hours, and sector operations plans, 150 hours.

Burden Hours: 3,388.

Needs and Uses: This request is for extension of a currently approved information collection.

National Marine Fisheries Service (NMFS) Northeast Region manages the Atlantic sea scallop (scallop) fishery of the Exclusive Economic Zone (EEZ) off the East Coast under the Atlantic Sea Scallop Fishery Management Plan (FMP). The regulations implementing the FMP are at 50 CFR part 648. To successfully implement and administer components of the FMP, OMB Control No. 0648–0491 includes the following information collections for scallop vessel owners, operators, and fishery participants: Vessel monitoring system (VMS) trip declarations for all scallop vessels, including powerdown declarations; notification of access area trip termination for limited access scallop vessels; submission of access area compensation trip identification; submission of broken trip adjustment and access area trip exchange forms; VMS purchase and installation for individuals that purchase a federally permitted scallop vessel; submission of ownership cap forms for individual fishing quota (IFQ) scallop vessels; submission of vessel replacement, upgrade and permit history applications for IFQ, Northern Gulf of Maine (NGOM), and Incidental Catch (IC) scallop vessels; submission of VMS pre-landing notification form by IFQ vessels; enrollment into the state waters exemption program; submission of requests for IFQ transfers; payment of cost recovery bills for IFQ vessels; sector proposals for IFQ vessels and industry participants; and sector operations plans for approved sector proposals.

Data collected through these programs are incorporated into the NMFS database and are used to track and confirm vessel permit status and eligibility, scallop landings, and scallop vessel allocations. Aggregated summaries of the collected information will be used to evaluate the management program and future management proposals.

Affected Public: Business or other for-profit organizations.

Frequency: Daily and on occasion.

Respondent's Obligation: Mandatory.

This information collection request may be viewed at reginfo.gov. Follow the instructions to view Department of Commerce collections currently under review by OMB.

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *OIRA_Submission@omb.eop.gov* or faxed to (202) 395–5806.

Dated: May 8, 2014.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 2014–11038 Filed 5–13–14; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

Census Bureau

Proposed Information Collection; Comment Request; Census Employment Inquiry

AGENCY: U.S. Census Bureau, Commerce.

ACTION: Notice.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995.

DATES: To ensure consideration, written comments must be submitted on or before July 14, 2014.

ADDRESSES: Direct all written comments to Jennifer Jessup, Departmental Paperwork Clearance Officer, Department of Commerce, Room 6616, 14th and Constitution Avenue NW., Washington, DC 20230 (or via the Internet at *jjessup@doc.gov*).

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument(s) and instructions should be directed to Viola Lewis-Willis, Bureau of the Census, 4600 Silver Hill Road, Room 5H043, Washington, DC 20233, (301) 763–3285 (or via the Internet at *viola.l.lewis.willis@census.gov*).

SUPPLEMENTARY INFORMATION:

I. Abstract

The BC–170, Census Employment Inquiry, is used to collect information such as personal data and work experience from job applicants. The BC–170 is used throughout the census and intercensal periods for surveys, special censuses, decennial census pretests, and dress rehearsals. Applicants completing the form for a census related position are applying for temporary jobs in office and field positions (clerks, enumerators, crew leaders, supervisors). In addition, as an option to the OF–612, Optional Application for Federal Employment, the BC–170A may be used when applying for temporary/permanent office and field positions (clerks, field representatives, supervisors) on a recurring survey in one of the Census Bureau's 6 Regional Offices (ROs) throughout the United States. This form is completed by job applicants at the time they are tested. Selecting officials review the information shown on the form to evaluate an applicant's eligibility for employment. During the decennial census and the associated pre-tests, the BC–170D is intended to expedite hiring and selection in situations requiring large numbers of temporary employees for assignments of a limited duration.

The use of this form is limited to only situations that involve special, one-time or recurring survey operations at one of the ROs and/or which require the establishment of a temporary office. The form has been demonstrated to meet our recruitment needs for field workers and requires significantly less burden than the Office of Personnel Management (OPM) Optional Forms that are available for use by the public when applying for Federal positions. Over the next three years, we expect to recruit approximately 61,500 applicants for census jobs (i.e., one-time censuses, special censuses and decennial pretests and dress rehearsals), which would equate to a significant reduction in the required paperwork and public burden, as compared to other federal application forms.

The bulk of the proposed changes to the form are related to standardizing the information collected across the three variations of the forms which we currently utilized and to collect additional applicant data to facilitate the processing of the application.

II. Method of Collection

We collect this information at the time of testing for temporary and permanent positions. Potential employees being tested complete a four-page to six-page paper application at the time of testing.

III. Data

OMB Control Number: 0607–0139.

Form Number(s): BC–170A, BC–170B, BC–170D.

Type of Review: Regular submission.

Affected Public: Individuals.

Estimated Number of Respondents: 75,000.

Estimated Time per Response: 15 minutes.

Estimated Total Annual Burden Hours: 18,750.

Estimated Total Annual Cost to Public: The only cost to the respondent is his/her time for completing the BC–170A (recurring surveys), BC–170B (special censuses), or BC–170D (decennial censuses).

Respondent's Obligation: Required to obtain a benefit.

Legal Authority: Title 13, U.S.C. Section 23.

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: May 8, 2014.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 2014–10967 Filed 5–13–14; 8:45 am]

BILLING CODE 3510–07–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[B–1–2014]

Authorization of Production Activity, Foreign-Trade Subzone 181B, Mitsubishi Electric Power Products Inc., (Circuit Breakers), Sebring, Ohio

On December 26, 2013, Mitsubishi Electric Power Products Inc., operator of Subzone 181B, submitted a notification of proposed production activity to the Foreign-Trade Zones (FTZ) Board for its facility in Sebring, Ohio.

The notification was processed in accordance with the regulations of the FTZ Board (15 CFR part 400), including notice in the **Federal Register** inviting public comment (79 FR 3175–3176, 1–17–2014). The FTZ Board has determined that no further review of the activity is warranted at this time. The

production activity described in the notification is authorized, subject to the FTZ Act and the FTZ Board's regulations, including Section 400.14.

Dated: April 28, 2014.

Andrew McGilvray,

Executive Secretary.

[FR Doc. 2014–11120 Filed 5–13–14; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[B–37–2014]

Foreign-Trade Zone (FTZ) 183—Austin, Texas, Notification of Proposed Production Activity, Samsung Austin Semiconductor, L.L.C., Subzone 183B (Semiconductors), Austin, Texas

Samsung Austin Semiconductor, L.L.C. (Samsung) submitted a notification of proposed production activity to the FTZ Board for its facility in Austin, Texas within Subzone 183B. The notification conforming to the requirements of the regulations of the FTZ Board (15 CFR 400.22) was received on April 28, 2014.

Samsung already has authority to produce semiconductor memory devices for export within Subzone 183B. The current request would add foreign status materials/components to the scope of authority. Pursuant to 15 CFR 400.14(b), additional FTZ authority would be limited to the specific foreign-status materials/components and specific finished products described in the submitted notification (as described below) and subsequently authorized by the FTZ Board.

Export production under FTZ procedures could exempt Samsung from customs duty payments on the foreign status materials/components noted below and in the existing scope of authority. Customs duties also could possibly be deferred or reduced on foreign status production equipment.

The materials/components sourced from abroad include: copper sulfate and hexachlorosilane (duty rate ranges from 1.4 to 3.7%).

Public comment is invited from interested parties. Submissions shall be addressed to the Board's Executive Secretary at the address below. The closing period for their receipt is June 23, 2014.

A copy of the notification will be available for public inspection at the Office of the Executive Secretary, Foreign-Trade Zones Board, Room 21013, U.S. Department of Commerce, 1401 Constitution Avenue NW., Washington, DC 20230–0002, and in the ''Reading Room'' section of the Board's Web site, which is accessible via *www.trade.gov/ftz.*

FOR FURTHER INFORMATION CONTACT: Elizabeth Whiteman at *Elizabeth.Whiteman@trade.gov* or (202) 482–0473.

Dated: May 8, 2014.

Andrew McGilvray,

Executive Secretary.

[FR Doc. 2014–11118 Filed 5–13–14; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–933]

Frontseating Service Valves From the People's Republic of China: Final Results of Sunset Review and Revocation of Antidumping Duty Order

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: On March 3, 2014, the Department of Commerce (''the Department'') initiated the sunset review of the antidumping duty order on frontseating service valves from the People's Republic of China (''PRC'').[1] Because no domestic interested party filed a notice of intent to participate in response to the *Initiation Notice* by the applicable deadline, the Department is revoking the antidumping duty order on frontseating service valves from the PRC.

DATES: *Effective Date:* April 28, 2014.

FOR FURTHER INFORMATION CONTACT: Laurel LaCivita at (202) 482–4243, AD/CVD Operations, Office III, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230.

SUPPLEMENTARY INFORMATION:

Background

On April 28, 2009, the Department published the antidumping duty order on frontseating service valves from the PRC in the **Federal Register**.[2] On March 3, 2014, the Department initiated the sunset review of the antidumping duty *Order* pursuant to section 751(c) of the Tariff Act of 1930, as amended (''the Act'').[3] We received no notice of intent to participate in response to the *Initiation Notice* from domestic interested parties by the applicable deadline.[4] As a result, the Department concludes that no domestic party intends to participate in this sunset review.[5] On March 24, 2014, we notified the International Trade Commission, in writing, that we intend to revoke the *Order.*[6]

Scope of the Order

The merchandise covered by this *Order* is frontseating service valves, assembled or unassembled, complete or incomplete, and certain parts thereof. Frontseating service valves contain a sealing surface on the front side of the valve stem that allows the indoor unit or outdoor unit to be isolated from the refrigerant stream when the air conditioning or refrigeration unit is being serviced. Frontseating service valves rely on an elastomer seal when the stem cap is removed for servicing and the stem cap metal to metal seat to create this seal to the atmosphere during normal operation.[7]

For purposes of the scope, the term ''unassembled'' frontseating service valve means a brazed subassembly requiring any one or more of the following processes: the insertion of a valve core pin, the insertion of a valve stem and/or O ring, the application or installation of a stem cap, charge port cap or tube dust cap. The term ''complete'' frontseating service valve means a product sold ready for installation into an air conditioning or refrigeration unit. The term ''incomplete'' frontseating service valve means a product that when sold is in multiple pieces, sections, subassemblies or components and is incapable of being installed into an air conditioning or refrigeration unit as a single, unified valve without further assembly.

The major parts or components of frontseating service valves intended to be covered by the scope under the term ''certain parts thereof'' are any brazed subassembly consisting of any two or more of the following components: a valve body, field connection tube, factory connection tube or valve charge port. The valve body is a rectangular

[1] *See Initiation of Five-Year (''Sunset'') Review,* 79 FR 11762 (March 3, 2014) (''*Initiation Notice*'').

[2] *See Antidumping Duty Order: Frontseating Service Valves From the People's Republic of China,* 74 FR 19196 (April 28, 2009) (''*Order*'').

[3] *See Initiation Notice.*

[4] *See* 19 CFR 351.218(d)(1)(i).

[5] *See* 19 CFR 351.218(d)(1)(iii)(A).

[6] *See* 19 CFR 351.218(d)(1)(iii)(B)(2).

[7] The frontseating service valve differs from a backseating service valve in that a backseating service valve has two sealing surfaces on the valve stem. This difference typically incorporates a valve stem on a backseating service valve to be machined of steel, where a frontseating service valve has a brass stem. The backseating service valve dual stem seal (on the back side of the stem), creates a metal to metal seal when the valve is in the open position, thus, sealing the stem from the atmosphere.

block, or brass forging, machined to be hollow in the interior, with a generally square shaped seat (bottom of body). The field connection tube and factory connection tube consist of copper or other metallic tubing, cut to length, shaped and brazed to the valve body in order to create two ports, the factory connection tube and the field connection tube, each on opposite sides of the valve assembly body. The valve charge port is a service port via which a hose connection can be used to charge or evacuate the refrigerant medium or to monitor the system pressure for diagnostic purposes.

The scope includes frontseating service valves of any size, configuration, material composition or connection type. Frontseating service valves are classified under subheading 8481.80.1095, and also have been classified under subheading 8415.90.80.85, of the Harmonized Tariff Schedule of the United States (''HTSUS''). It is possible for frontseating service valves to be manufactured out of primary materials other than copper and brass, in which case they would be classified under HTSUS subheadings 8481.80.3040, 8481.80.3090, or 8481.80.5090. In addition, if unassembled or incomplete frontseating service valves are imported, the various parts or components would be classified under HTSUS subheadings 8481.90.1000, 8481.90.3000, or 8481.90.5000. The HTSUS subheadings are provided for convenience and customs purposes, but the written description of the scope of this order is dispositive.

Revocation

Pursuant to section 751(c)(3)(A) of the Act and 19 CFR 351.218(d)(1)(iii)(B)(3), if no domestic interested party files a notice of intent to participate, the Department shall issue a final determination revoking the order within 90 days of the initiation of the review. Because no domestic interested party filed a timely notice of intent to participate in this sunset review, the Department finds that no domestic interested party is participating in this sunset review. Therefore, we are revoking the *Order.* The effective date of revocation is April 28, 2014, the fifth anniversary of the date of publication in the **Federal Register** of the *Order.*[8]

Pursuant to section 751(c)(3)(A) of the Act and 19 CFR 351.222(i)(2)(i), the Department intends to issue instructions to U.S. Customs and Border Protection to terminate the suspension of liquidation of entries of the merchandise subject to the order which were entered, or withdrawn from warehouse, for consumption on or after April 28, 2014. Entries of subject merchandise prior to April 28, 2014, will continue to be subject to the suspension of liquidation and requirements for deposits of estimated antidumping duties. The Department will conduct administrative reviews of the order with respect to subject merchandise entered prior to the effective date of revocation in response to appropriately filed requests for review.

These final results of the five-year (sunset) review and notice are published in accordance with sections 751(c) and 777(i)(1) of the Act.

Dated: April 30, 2014.

Paul Piquado,

Assistant Secretary for Enforcement and Compliance.

[FR Doc. 2014–11136 Filed 5–13–14; 8:45 am]

BILLING CODE 3510–DS–P

[8] *See* 19 CFR 351.222(i)(2); *see also Order,* 74 FR 19196.

DEPARTMENT OF COMMERCE

International Trade Administration

[C–570–959]

Coated Paper Suitable for High-Quality Print Graphics Using Sheet-Fed Presses 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 coated paper suitable for high-quality print graphics using sheet-fed presses (coated paper) from the People's Republic of China (PRC) for the period January 1, 2012, through December 31, 2012.

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

FOR FURTHER INFORMATION CONTACT: Joseph Shuler, 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) 482–1293.

SUPPLEMENTARY INFORMATION:

Background

The Department initiated an administrative review of the CVD order on coated paper from the PRC with respect to 10 companies for the period January 1, 2012, through December 31, 2012, based on a request by Appleton Coated LLC, NewPage Corporation, and S.D. Warren d/b/a Sappi Fine Paper North America, and United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service Workers International Union, (collectively, Petitioners).[1]

On March 28, 2014, Petitioners withdrew their request for an administrative review in its entirety.[2] No other party requested a review.

Rescission of Review

Pursuant to 19 CFR 351.213(d)(l), the Department will rescind an administrative review, in whole or in part, if the party that requested a review withdraws its request within 90 days of the date of publication of the notice of initiation of the requested review. In this case, Petitioners withdrew their request within the 90-day deadline, and no other parties requested an administrative review of the CVD order. Therefore, we are rescinding the administrative review of the CVD order on coated paper 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 coated paper from the PRC during the period 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)(l)(i). The Department intends to issue appropriate assessment instructions to CBP 15 days after the date of 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 an APO in

[1] *See Initiation of Antidumping and Countervailing Duty Administrative Reviews and Request for Revocation in Part,* 78 FR 79392, 79398 (December 30, 2013).

[2] *See* Letter from Petitioners, *Coated Paper Suitable for High-Quality Print Graphics Using Sheet-Fed Presses From the People's Republic of China: Withdrawal of Request for Administrative Review,* dated March 28, 2014.

accordance with 19 CFR 351.305(a)(3). Timely written notification of the return or destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and 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)(l) of the Tariff Act of 1930, as amended, and 19 CFR 351.213(d)(4).

Dated: May 6, 2014.

Christian Marsh,

Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

[FR Doc. 2014–11135 Filed 5–13–14; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

Renewable Energy and Energy Efficiency Advisory Committee

AGENCY: International Trade Administration, U.S. Department of Commerce.

ACTION: Notice of an open meeting.

SUMMARY: The Renewable Energy and Energy Efficiency Advisory Committee (RE&EEAC) will meet via conference call on May 15, 2014. The RE&EEAC agenda is now amended. The Committee will hear updates from four subcommittees: trade policy, finance, trade promotion, and U.S. Competiveness. The Committee will offer edits and suggestions on potential recommendations to each subcommittee in preparation for a future RE&EEAC meeting.

DATES: May 15, 2014, from 2:00 p.m. to 4:00 p.m. Eastern Daylight Time (EDT).

ADDRESSES: The meeting will be held via conference call.

FOR FURTHER INFORMATION CONTACT: Ryan Mulholland, Office of Energy and Environmental Technologies Industries (OEEI), International Trade Administration, U.S. Department of Commerce at (202) 482–4693; email: *ryan.mulholland@trade.gov.* This conference call is accessible to people with disabilities. Requests for auxiliary aids should be directed to OEEI at (202) 482–4693 at least 3 working days prior to the event.

SUPPLEMENTARY INFORMATION: *Background:* The Secretary of Commerce established the RE&EEAC pursuant to his discretionary authority and in accordance with the Federal Advisory Committee Act (5 U.S.C. App.) on June 19, 2012. The RE&EEAC provides the Secretary of Commerce with consensus advice from the private sector on the development and administration of programs and policies to enhance the international competitiveness of the U.S. RE&EE industries. The RE&EEAC held its first meeting on February 20, 2013 and several subsequent meetings throughout 2013 and 2014. The Committee's charter expires June 18, 2014.

The meeting is open to the public. Members of the public wishing to attend the conference call should have notified Mr. Ryan Mulholland to pre-register and receive call-in information at the contact information above by 5:00 p.m. EDT on Friday, May 9, as stated in the **Federal Register** notice of May 6, 2014. Requests for reasonable accommodation should have also been received by Friday, May 9. Last minute requests will be accepted, but may be impossible to fill.

Any member of the public may submit pertinent written comments concerning the RE&EEAC's affairs at any time before or after the meeting. Comments may be submitted to *ryan.mulholland@trade.gov* or to the Renewable Energy and Energy Efficiency Advisory Committee, Office of Energy and Environmental Technologies Industries (OEEI), International Trade Administration, Room 4053; 1401 Constitution Avenue NW., Washington, DC 20230. To be considered during the meeting, comments should have been received no later than 5:00 p.m. EDT on Friday, May 9, 2014, to ensure transmission to the Committee prior to the meeting. Comments received after that date will be distributed to the members, but may not be considered at the meeting.

Copies of RE&EEAC meeting minutes will be available within 30 days of the meeting.

Catherine P. Vial,

Team Leader for Environmental Industries, Office of Energy and Environmental Industries.

[FR Doc. 2014–11102 Filed 5–13–14; 8:45 am]

BILLING CODE 3510–DR–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XD290

North Pacific Fishery Management Council; Public Meetings

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

ACTION: Notice of public meetings.

SUMMARY: The North Pacific Fishery Management Council (Council) and its advisory committees will hold public meetings, June 2–10, 2014.

DATES: The Council will begin its plenary session at 8 a.m. on Wednesday June 4, continuing through Tuesday, June 10, 2014. The Scientific Statistical Committee (SSC) will begin at 8:00 a.m. on Monday, June 2 and continue through Wednesday, June 4, 2014. The Council's Advisory Panel (AP) will begin at 8 a.m. on Tuesday, June 3, and continue through Friday, June 6, 2014. All meetings are open to the public, except executive sessions.

ADDRESSES: The meetings will be held at the Mini Convention Center, 409 River Street Nome, AK.

Council Address: North Pacific Fishery Management Council, 605 W. 4th Avenue, Suite 306, Anchorage, AK 99501–2252.

FOR FURTHER INFORMATION CONTACT: David Witherell, Council staff; telephone: (907) 271–2809.

SUPPLEMENTARY INFORMATION:

Council Plenary Session: The agenda for the Council's plenary session will include the following issues. The Council may take appropriate action on any of the issues identified.

1. Executive Director's Report (including updates on Magnuson-Stevens Act (MSA) reauthorization, Council Coordination Committee (CCC) meeting, Joint Protocol Committee) NMFS Management Report (including update on Steller Sea Lion (SSL) Environmental Impact Statement (EIS), Re-specification of unused BSAI halibut Prohibited Species Catch (PSC)), ADF&G Report, NOAA Enforcement Report, U.S. CG Report, U.S. FWS Report, Protected Species Report
2. Bering Sea Aleutian Island (BSAI) Crab Acceptable Biological Catch (ABC)/Overfishing Levels (OFLs) for four stocks—approve; Plan Team report
3. Observer Program Annual Report
4. Observer for Tendering—Preliminary Review
5. Electronic Monitoring Workgroup Report
6. Bering Sea (BS) Chinook/Chum Salmon Bycatch—Review discussion paper
7. Crab Rights of First Refusal (ROFR) contract terms—Initial Review
8. Community Development Quota (CDQ) pacific cod fishery development—Initial review
9. BSAI PSC halibut stock impacts—discussion paper

10. Sector reports on BSAI halibut PSC measures
11. Norton Sound Red King Crab (RKC) License Limitations Programs (LLPs)—discussion paper
12. Bering Sea Fishery Ecosystem Plan—receive comments
13. Research Priorities
14. BS Trawl Salmon Excluder Exempted Fishing Permit (EFP)—review/consultation
15. Committees and Staff Tasking

The Advisory Panel will address most of the same agenda issues as the Council except B reports.

The SSC agenda will include the following issues:

1. BSAI Crab ABC/OFLs
2. Observer Program
3. BS Chinook/Chum Salmon Bycatch
4. CDQ Pacific cod
5. Crab ROFR
6. Research Priorities
7. BSAI PSC halibut stock impacts
8. BS Trawl salmon excluder EFP

In addition to providing ongoing scientific advice for fishery management decisions, the SSC functions as the Councils primary peer review panel for scientific information as described by the Magnuson-Stevens Act section 302(g)(1)(e), and the National Standard 2 guidelines (78 FR 43066). The peer review process is also deemed to satisfy the requirements of the Information Quality Act, including the OMB Peer Review Bulletin guidelines.

The Agenda is subject to change, and the latest version will be posted at *http://www.npfmc.org*. Background documents, reports, and analyses for review are posted on the Council Web site in advance of the meeting. The names and organizational affiliations of SSC members are also posted on the Web site.

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Gail Bendixen at (907) 271–2809 at least 7 working days prior to the meeting date.

Dated: May 8, 2014.

Tracey L. Thompson,

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

[FR Doc. 2014–11001 Filed 5–13–14; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XD234

International Whaling Commission; 65th Meeting; Nominations

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

ACTION: Notice; request for nominations.

SUMMARY: This notice is a call for nominees for the U.S. Delegation to the September 2014 International Whaling Commission (IWC) meeting. The non-federal representative(s) selected as a result of this nomination process is(are) responsible for providing input and recommendations to the U.S. IWC Commissioner representing the positions of non-governmental organizations.

DATES: The IWC is holding its 65th meeting from September 15–18, 2014, at the Convention Center of the Grand Hotel Bernardin in Portorož, Slovenia. All written nominations for the U.S. Delegation to the IWC annual meeting must be received by July 7, 2014.

ADDRESSES: All nominations for the U.S. Delegation to the IWC annual meeting should be addressed to Mr. Ryan Wulff, Acting U.S. Commissioner to the IWC, and sent to Melissa Garcia via email: *Melissa.Garcia@noaa.gov;* or via post: National Marine Fisheries Service, Office of International Affairs, 1315 East-West Highway, SSMC3 Room 10651, Silver Spring, MD 20910.

FOR FURTHER INFORMATION CONTACT: Melissa Garcia at *Melissa.Garcia@noaa.gov* or 301–427–8385.

SUPPLEMENTARY INFORMATION: The Secretary of Commerce is responsible for discharging the domestic obligations of the United States under the International Convention for the Regulation of Whaling, 1946. The U.S. IWC Commissioner has responsibility for the preparation and negotiation of U.S. positions on international issues concerning whaling and for all matters involving the IWC. The U.S. IWC Commissioner is staffed by the Department of Commerce and assisted by the Department of State, the Department of the Interior, the Marine Mammal Commission, and by other agencies. The non-federal representative(s) selected as a result of this nomination process is(are) responsible for providing input and recommendations to the U.S. IWC Commissioner representing the positions of non-governmental organizations. Generally, only one non-governmental position is selected for the U.S. Delegation.

Dated: May 8, 2014.

Jean-Pierre Plé,

Acting Director, Office of International Affairs, National Marine Fisheries Service.

[FR Doc. 2014–11138 Filed 5–13–14; 8:45 am]

BILLING CODE 3510–22–P

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

Submission for OMB Emergency Review

AGENCY: Corporation for National and Community Service.

ACTION: Notice.

SUMMARY: The Corporation for National and Community Service (CNCS), submitted the following information collection request (ICR) to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995, (PRA 95) (44 U.S.C. Chapter 35). CNCS requested that OMB review and approve this emergency request by June 11, 2014, for a period of six months.

DATES: Comments are due June 13, 2014.

ADDRESSES: Comments may be submitted, identified by the title of the information collection activity, to the Office of Information and Regulatory Affairs, Attn: Ms. Sharon Mar, OMB Desk Officer for the Corporation for National and Community Service and to the Corporation for National and Community Service, Attn: Ms. Amy Borgstrom, by any of the following two methods within 30 days from the date of publication in the **Federal Register**:

By email to: *smar@omb.eop.gov* and *aborgstrom@cns.gov*.

Via *www.regulations.gov*.

FOR FURTHER INFORMATION CONTACT: Ms. Sharon Mar, OMB Desk Officer for the Corporation for National and Community Service and *smar@omb.eop.gov*, and Ms. Amy Borgstrom of the Corporation for National and Community Service at 202–606–6930 or *aborgstrom@cns.gov*.

SUPPLEMENTARY INFORMATION: Copies of this ICR, with applicable supporting documentation, may be obtained by calling the Corporation for National and Community Service, Amy Borgstrom, at 202–606–6930 or email to *aborgstrom@cns.gov.* Individuals who use a telecommunications device for the deaf (TTY–TDD) may call 1–800–833–3722 between 8:00 a.m. and 8:00 p.m. Eastern Time, Monday through Friday.

Because CNCS requested OMB's approval of this emergency request by June 11, 2014, there will be not enough time for the public to provide comments for a full 90 days through this **Federal Register** Notice before the approval date. Instead, there will be a 30-day comment period for this request.

Type of Review: Emergency Request.

Agency: Corporation for National and Community Service.

Title: Social Innovation Fund Pay for Success Pilot Application Instructions.

OMB Number: TBD.

Agency Number: None.

Affected Public: Nonprofit organizations, funders and intermediary organizations.

Total Respondents: 20.

Frequency: One time.

Average Time per Response: 30 hours.

Estimated Total Burden Hours: 600 hours.

Total Burden Cost (capital/startup): None.

Total Burden Cost (operating/maintenance): None.

Description: The Social Innovation Fund Pay for Success Pilot grant program was created as a result of the FY 2014 Omnibus Appropriations Act. This pilot responds to the need in the social sector for new ways of funding in a time that resources are declining as demands are increasing. It offers the opportunity to support innovation in the social sector innovation while driving better results and conserving government resources.

If normal clearance procedures are followed, CNCS will lose the opportunity to conduct this pilot, as funds must be obligated by September 30, 2014. There will not be sufficient time to complete this grant competition this fiscal year if we were to follow the standard OIRA clearance procedure.

Dated: May 7, 2014.

Lois Nembhard,

Deputy Director, Social Innovation Fund.

[FR Doc. 2014–11023 Filed 5–13–14; 8:45 am]

BILLING CODE 6050–28–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Transmittal Nos. 14–09]

36(b)(1) Arms Sales Notification

AGENCY: Defense Security Cooperation Agency, Department of Defense.

ACTION: Notice.

SUMMARY: The Department of Defense is publishing the unclassified text of a section 36(b)(1) arms sales notification. This is published to fulfill the requirements of section 155 of Public Law 104–164 dated July 21, 1996.

FOR FURTHER INFORMATION CONTACT: Ms. B. English, DSCA/DBO/CFM, (703) 601–3740.

The following is a copy of a letter to the Speaker of the House of Representatives, Transmittals 14–09 with attached transmittal, policy justification, and Sensitivity of Technology.

Dated: May 9, 2014.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

DEFENSE SECURITY COOPERATION AGENCY
201 12TH STREET SOUTH, STE 203
ARLINGTON, VA 22202-5408

The Honorable John A. Boehner
Speaker of the House
U.S. House of Representatives
Washington, DC 20515

MAY 06 2014

Dear Mr. Speaker:

Pursuant to the reporting requirements of Section 36(b)(1) of the Arms Export Control Act, as amended, we are forwarding herewith Transmittal No. 14-09, concerning the Department of the Navy's proposed Letter(s) of Offer and Acceptance to the Government of Brazil for defense articles and services estimated to cost $169 million. After this letter is delivered to your office, we plan to issue a press statement to notify the public of this proposed sale.

Sincerely,

J. W. Rixey
Vice Admiral, USN
Director

Enclosures:
1. Transmittal
2. Policy Justification
3. Sensitivity of Technology

Transmittal No. 14–09

Notice of Proposed Issuance of Letter of Offer Pursuant to Section 36(b)(1) of the Arms Export Control Act, as amended

(i) *Prospective Purchaser:* Brazil

(ii) *Total Estimated Value:*

Major Defense Equipment*	$ 52 million
Other	$117 million
TOTAL	$169 million

(iii) *Description and Quantity or Quantities of Articles or Services under Consideration for Purchase:* 16 AGM–84L Harpoon Block II Missiles, 4 CATM–84L Harpoon Block II Captive Air Training Missiles, containers, spare and repair parts, support and test equipment, publications and technical documentation, personnel training and training equipment, U.S. Government and contractor representatives' technical assistance, engineering and logistics support services, and other related elements of logistics support.

(iv) *Military Department:* Navy (ASP)

(v) *Prior Related Cases, if any:* None

(vi) *Sales Commission, Fee, etc., Paid, Offered, or Agreed to be Paid:* None

(vii) *Sensitivity of Technology Contained in the Defense Articles or Defense Services Proposed to be Sold:* See Attached Annex

(viii) *Date Report Delivered to Congress:* 06 May 2014

* as defined in Section 47(6) of the Arms Export Control Act.

POLICY JUSTIFICATION

Brazil—AGM–84L Harpoon Block II Missiles

The Government of Brazil has requested a possible sale of 16 AGM–84L Harpoon Block II Missiles, 4 CATM–84L Harpoon Block II Captive Air Training Missiles, containers, spare and repair parts, support and test equipment, publications and technical documentation, personnel training and training equipment, U.S. Government and contractor representatives' technical assistance, engineering and logistics support services, and other related elements of logistics support. The estimated cost is $169 million.

The proposed sale will contribute to the foreign policy and national security of the United States by helping to improve the security of Brazil, which has been, and continues to be, an important force for regional stability and economic progress in South America.

The Brazilian Air Force (BrAF) is in the process of modernizing and upgrading its Anti-Surface Warfare capability on its P–3 aircraft. The modernization will enhance the BrAF P–3's capabilities for its Counter-Transnational Organized Crime efforts, maritime border security, and protection of off-shore assets (fisheries, energy infrastructure, etc).

The proposed sale of this equipment and support will not alter the basic military balance in the region.

The principal contractors will be The Boeing Company in St. Louis, Missouri, and Delex Systems Incorporated in Vienna, Virginia. There are no known offset agreements proposed in connection with this potential sale.

Implementation of this proposed sale will not require the assignment of any additional U.S. Government or contractor representatives to Brazil.

There will be no adverse impact on U.S. defense readiness as a result of this proposed sale.

Transmittal No. 14–09

Notice of Proposed Issuance of Letter of Offer Pursuant to Section 36(b)(1) of the Arms Export Control Act

Annex

Item No. vii

(vii) *Sensitivity of Technology:*

1. The AGM–84L Harpoon Block II missile system is classified Confidential. The HARPOON missile is a non-nuclear tactical weapon system currently in service in the U.S. Navy and in 28 other foreign nations. It provides a day, night, and adverse weather, standoff air-to-surface capability and is an effective Anti-Surface Warfare missile. The AGM–84L incorporates components, software, and technical design information that are considered sensitive. The following components being conveyed by the proposed sale that are considered sensitive and are classified Confidential include:

a. The Radar Seeker
b. The Guidance Control Unit GPS/INS System
c. Operational Flight Program Software
d. Missile operational characteristics and performance data

These elements are essential to the ability of the Harpoon missile to selectively engage hostile targets under a wide range of operations, tactical and environmental conditions.

2. If a technologically advanced adversary were to obtain knowledge of the specific hardware and software elements, the information could be used to develop countermeasures which might reduce weapon system effectiveness or be used in the development of a system with similar or advanced capabilities.

3. A determination has been made that the recipient country can provide the same degree of protection for the sensitive technology being released as the U.S. Government. This sale is necessary in furtherance of the U.S. foreign policy and national security objectives outlined in the Policy Justification.

4. All defense articles and services listed in this transmittal have been authorized for release and export to the Government of Brazil.

[FR Doc. 2014–11067 Filed 5–13–14; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

Reserve Forces Policy Board (RFPB); Notice of Federal Advisory Committee Meeting

AGENCY: Office of the Secretary of Defense, Reserve Forces Policy Board, DoD.

ACTION: Notice of Federal Advisory Committee meeting.

SUMMARY: The Department of Defense is publishing this notice to announce that the following Federal Advisory Committee meeting of the Reserve Forces Policy Board will take place.

DATES: Wednesday, June 4, 2014 from 8:40 a.m. to 4:35 p.m.

ADDRESSES: The address is the Pentagon, Room 3E863, Arlington, VA. An escort may be required as discussed in the meeting accessibility section.

FOR FURTHER INFORMATION CONTACT: Mr. Alex Sabol, Designated Federal Officer, (703) 681–0577 (Voice), (703) 681–0002 (Facsimile), Email—*Alexander.J.Sabol.Civ@Mail.Mil.* Mailing address is Reserve Forces Policy Board, 5113 Leesburg Pike, Suite 601, Falls Church, VA 22041. Web site: *http://ra.defense.gov/rfpb/.* The most up-to-date changes to the meeting can be found on the RFPB's Web site.

SUPPLEMENTARY INFORMATION: This meeting is being held under the provisions of the Federal Advisory Committee Act of 1972 (FACA) (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: The purpose of the meeting is to obtain, review and evaluate information related to strategies, policies, and practices designed to improve and enhance the capabilities, efficiency, and effectiveness of the Reserve Components.

Agenda: The RFPB will hold a meeting from 8:40 a.m. until 4:35 p.m. The portion of the meeting from 8:40 a.m. to 2:15 p.m. will be closed to the public and will consist of remarks to the RFPB from the Deputy Secretary of Defense, the Acting Under Secretary of Defense (Personnel & Readiness), the Acting Deputy Assistant Secretary of Defense for Cyber Policy, and the Deputy Chief of Staff, G–3/5/7, United States Army Forces Command, each of whom will likely address future strategies for use of the Reserve Components, highlighting issues impacting reserve organizations, the right balance of Active and Reserve Component forces, the cost to maintain a strong Reserve Component, their thoughts on the increased emphasis placed on cyber security and the logical mission fit for Reserve Component members. Additionally, the RFPB's Cyber Policy Task Group plans to provide an update to the RFPB on its current findings concerning the Services' Active and Reserve cyber force structure and force structure management and will offer recommendations for Board consideration. The open portion of the meeting from 2:25 p.m. to 4:35 p.m. will consist of the Cost Methodology Update and remarks from the chairs of the three RFPB subcommittees' chairs who will provide updates on their work. The Enhancing DoD's Role in the Homeland

Subcommittee plans to provide an update to the RFPB on the Presidential Nominating Convention funding recommendation and other Homeland issues being researched as possible RFPB matters of interest. The Supporting & Sustaining Reserve Component Personnel Subcommittee plans to provide an update to the RFPB on Survivor Benefits Program & Duty Status recommendations to the Secretary of Defense and discuss findings on the Service's Reserve Component Transition Assistance Programs and other Total Force Policies issues. The Ensuring a Ready, Capable, Available and Sustainable Operational Reserve Subcommittee plans to provide a discussion on the examination of Reserve enlisted and junior officer perspectives as revealed by survey data. Additionally, areas of emphasis from junior/senior enlisted leader discussions will be presented.

Meeting Accessibility: Pursuant to 5 U.S.C. 552b, as amended, and 41 CFR 102–3.140 through 102–3.165, and subject to the availability of space, the meeting is open to the public from 2:25 p.m. to 4:35 p.m. Seating is based on a first-come, first-served basis. All members of the public who wish to attend the public meeting must contact Mr. Alex Sabol, the Designated Federal Officer, not later than 12:00 p.m. on Thursday, May 29, 2014, as listed in the **FOR FURTHER INFORMATION CONTACT** section to make arrangements for a Pentagon escort, if necessary. Public attendees requiring escort should arrive at the Pentagon Metro Entrance with sufficient time to complete security screening no later than 1:45 p.m. on June 4. To complete the security screening, please be prepared to present two forms of identification. One must be a picture identification card. In accordance with section 10(d) of the FACA, 5 U.S.C. 552b, and 41 CFR 102–3.155, the Department of Defense has determined that the portion of this meeting scheduled to occur from 8:40 a.m. to 2:15 p.m. will be closed to the public. Specifically, the Acting Under Secretary of Defense (Personnel and Readiness), in coordination with the DoD FACA Attorney, has determined in writing that this portion of the meeting will be closed to the public because it is likely to disclose matters covered by 5 U.S.C. 552b(c)(1).

Written Statements: Pursuant to 41 CFR 102–3.105(j) and 102–3.140 and section 10(a)(3) of the FACA, interested persons may submit written statements to the RFPB at any time. Written statements should be submitted to the RFPB's Designated Federal Officer at the address or facsimile number listed in the **FOR FURTHER INFORMATION CONTACT** section. If statements pertain to a specific topic being discussed at the planned meeting, then these statements must be submitted no later than five (5) business days prior to the meeting in question. Written statements received after this date may not be provided to or considered by the RFPB until its next meeting. The Designated Federal Officer will review all timely submitted written statements and provide copies to all the committee members before the meeting that is the subject of this notice. Please note that since the RFPB operates under the provisions of the FACA, all submitted comments and public presentations will be treated as public documents and will be made available for public inspection, including, but not limited to, being posted on the RFPB's Web site.

Dated: May 9, 2014.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2014–11083 Filed 5–13–14; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF EDUCATION

Applications for New Awards; State Charter School; Facilities Incentive Grants Program

AGENCY: Office of Innovation and Improvement, Department of Education.

ACTION: Notice.

Overview Information: State Charter School Facilities Incentive Grants Program Notice inviting applications for new awards for fiscal year (FY) 2014.

Catalog of Federal Domestic Assistance (CFDA) Number: 84.282D

DATES:

Applications Available: May 14, 2014.

Date of Pre-Application Webinar: Thursday, May 22, 2014, at 2:00 p.m., Washington, DC time.

Deadline for Transmittal of Applications: June 30, 2014.

Deadline for Intergovernmental Review: August 27, 2014

Full Text of Announcement

I. Funding Opportunity Description

Purpose of Program: The State Charter School Facilities Incentive Grants Program provides grants to eligible States to help them establish or enhance, and then administer, per-pupil facilities aid programs for charter schools. States eligible for these grants are those with per-pupil facilities aid programs that assist charter schools with their school facility costs.

Priorities: This competition includes three competitive preference priorities. In accordance with 34 CFR 75.105 (b)(2)(ii), these priorities are from the regulations for this program (34 CFR 226.13 and 226.14).

Competitive Preference Priorities: For FY 2014 and any subsequent year in which we make awards from the list of unfunded applicants from this competition, these priorities are competitive preference priorities. Under 34 CFR 75.105(c)(2)(i) we award up to an additional 10 points to an application that meets competitive preference priority 1; up to an additional 10 points to an application that meets competitive preference priority 2; and an additional 20 points to an application that meets competitive preference priority 3.

These priorities are:

Competitive Preference Priority 1 (10 points). The Secretary will award up to 10 points to an application under competitive preference priority 1. The applicant must meet all of the requirements in (a) through (d) in order to receive the full 10 points. The requirements are: (a) *Periodic Review and Evaluation.*

The State provides for periodic review and evaluation by the authorized public chartering agency of each charter school at least once every five years, unless required more frequently by State law, to determine whether the charter school is meeting the terms of the school's charter and is meeting or exceeding the student academic performance requirements and goals for charter schools as set forth under State law or the school's charter.

(b) *Number of High-Quality Charter Schools.*

The State has demonstrated progress in increasing the number of high-quality charter schools that are held accountable in the terms of the schools' charters for meeting clear and measurable objectives for the educational progress of the students attending the schools, in the period prior to the period for which the State applies for a grant under this competition.

Note: The Secretary encourages the applicant to include in its application an analysis of the number of charter schools meeting and exceeding State academic targets, as well as the number of charter schools that have been closed due to academic and operational performance.

(c) *One Authorized Public Chartering Agency Other Than a Local Educational Agency (LEA), or an Appeals Process.*

The State—

(1) Provides for one authorized public chartering agency that is not a LEA,

such as a State chartering board, for each individual or entity seeking to operate a charter school pursuant to State law; or

(2) In the case of a State in which LEAs are the only authorized public chartering agencies, allows for an appeals process for the denial of an application for a charter school.

(d) *High Degree of Autonomy.*

The State ensures that each charter school has a high degree of autonomy over the charter school's budgets and expenditures.

Competitive Preference Priority 2 (10 points). The Secretary will award up to 10 points to an application under this competitive preference priority regarding the capacity of charter schools to offer public school choice in those communities with the greatest need for this choice based on—

(1) The extent to which this applicant would target services to geographic areas in which a large proportion or number of public schools have been identified for improvement, corrective action, or restructuring under Title 1 of the Elementary and Secondary Education Act of 1965, as amended (ESEA).

Note: In order for a State with an approved request for ESEA flexibility to receive points under this competitive preference priority, the State should target geographic areas in which a large proportion or number of public schools have been identified as priority or focus schools or belong to a subset of other Title I schools specifically identified as low-achieving under the State's approved ESEA flexibility request (see the June 7, 2012, ''ESEA Flexibility'' document at *www.ed.gov/esea/flexibility*). The State should also describe how its proposed project is consistent with the efforts to serve students attending priority or focus schools described in its approved request for ESEA flexibility.

(2) The extent to which the applicant would target services to geographic areas in which a large proportion of students perform poorly on State academic assessments; and

(3) The extent to which the applicant would target services to communities with large proportions of low-income students.

Competitive Preference Priority 3 (20 points). The Secretary will award an additional 20 points to an application under a competitive preference priority for applicants that have not previously received a grant under this program.

Definitions: The following definitions are from 34 CFR 77.1(c):

Ambitious means promoting continued, meaningful improvement for program participants or for other individuals or entities affected by the grant, or representing a significant advancement in the field of education research, practices, or methodologies. When used to describe a performance target, whether a performance target is ambitious depends upon the context of the relevant performance measure and the baseline for that measure.

Logic model (also referred to as theory of action) means a well-specified conceptual framework that identifies key components of the proposed process, product, strategy, or practice (i.e., the active ''ingredients'' that are hypothesized to be critical to achieving the relevant outcomes) and describes the relationships among the key components and outcomes, theoretically and operationally.

Performance measure means any quantitative indicator, statistic, or metric used to gauge program or project performance.

Performance target means a level of performance that an applicant would seek to meet during the course of a project or as a result of a project.

Relevant outcome means the student outcome(s) (or the ultimate outcome if not related to students) the proposed process, product, strategy, or practice is designed to improve; consistent with the specific goals of a program.

Strong theory means a rationale for the proposed process, product, strategy, or practice that includes a logic model.

Program Authority: 20 U.S.C. 7221d(b).

Applicable 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 debarment and suspension regulations in 2 CFR part 3485. (c) The regulations for this program in 34 CFR part 226.

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.

II. Award Information

Type of Award: Discretionary grants.

Estimated Available Funds: $11,000,000.

Contingent upon the availability of funds and the quality of applications, we may make additional awards in FY 2015 from the list of unfunded applicants from this competition.

Note: The Consolidated Appropriations Act, 2014 states that ''funds available for part B of title V of the ESEA may be used for grants that support preschool education in charter schools.'' An application submitted under this competition may propose to use CSP funds to support preschool education in a charter school, provided that the charter school meets the definition of ''charter school'' in section 5210(1) of the ESEA, including the requirement that the charter school provide a program of elementary or secondary education, or both. Under section 9101(18) of the ESEA, ''elementary school'' means a nonprofit institutional day or residential school, including a public elementary charter school, that provides elementary education, as determined under State law. In a number of States, preschool education is part of elementary education under State law. In such States, CSP funds may be used to support preschool education in charter schools (as defined in section 5210(1)) that provide elementary or secondary education beyond preschool, as well as in charter schools that provide only preschool education. In States in which preschool education is not part of elementary education under State law, CSP funds may be used to support preschool education so long as the preschool program is offered as part of a school that meets the definition of ''charter school'' in section 5210(1)—that is, the school provides elementary or secondary education, or both. Thus, in States in which preschool education is not part of elementary education under State law, CSP funds may not be used to support charter schools that provide only preschool education. In Spring 2014, the Department plans to release nonregulatory guidance that will provide additional information about how CSP funds may be used to support preschool education in charter schools. Please continue to check the CSP Web site for updates.

Estimated Range of Awards: $1,000,000 to $10,000,000.

Estimated Average Size of Awards: $5,500,000.

Estimated Number of Awards: 1–3.

Note: The Department is not bound by any estimates in this notice.

Project Period: Up to 60 months.

III. Eligibility Information

1. *Eligible Applicants:* States that have enacted a law authorizing per-pupil facilities aid for charter schools.

2.a. *Cost Sharing or Matching:* Under section 5205(b)(2)(C) of the ESEA, States, or parties that are closely collaborating with them, are required to provide matching funds. The minimum non-Federal share of the total cost of the project increases each year of the grant, from 10 percent the first year to 80 percent in the fifth year.

Applicants that are initially selected to receive grants will not receive grant funds unless they demonstrate, by September 1, 2014, that they will be able to fund the non-Federal share of the matching funds required under this program. The Department reserves the right to reject an application if an initial recipient does not demonstrate that it will have the required non-Federal funding by this date.

b. *Supplement-Not-Supplant:* This program involves supplement-not-supplant funding requirements. Under section 5205(b)(3)(C) of the ESEA (20 U.S.C. 7221d(b)(3)(C)), program funds must be used to supplement, and not supplant, State and local public funds expended to provide per-pupil facilities aid programs, operations financing programs, or other programs, for charter schools. Therefore, the Federal funds provided under this program, as well as the matching funds provided by the grantee, must be in addition to the State and local funds that would otherwise be used for this purpose in the absence of this Federal program. The Department generally considers that State and local funds would be available for this purpose at least in the amount of the funds that was available in the preceding year and that the Federal funds and matching funds under this program would supplement that amount.

3. *Other:* The charter schools that a grantee selects to benefit from this program must meet the definition of a ''charter school'' in the Charter Schools Program authorizing statute throughout the grant period. The definitions of ''charter school,'' ''per-pupil facilities aid programs,'' and ''authorized public chartering agency'' are in sections 5205(b) and 5210(1) of the ESEA.

IV. Application and Submission Information

1. *Address to Request Application Package:* Kristin Lundholm, U.S. Department of Education, 400 Maryland Avenue SW., Room 4W221, Washington, DC 20202–5970. Telephone: (202) 205–4352 or by email: *Kristin.Lundholm@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.

Individuals with disabilities can obtain a copy of the application package in an accessible format (e.g., braille, large print, audiotape, or compact disc) by contacting the program contact person listed in this section.

2.a. *Content and Form of Application Submission:* Requirements concerning the content of an application, together with the forms you must submit, are in the application package for this program.

Page Limit: The application narrative is where you, the applicant, address the selection criteria that reviewers use to evaluate your application. Applicants are encouraged to limit their application narrative to no more than 40 pages (not including the required forms and tables), using the following standards:

- A ''page'' is 8.5″ × 11″, on one side only, with 1″ margins at the top, bottom, and both sides.
- Double space (no more than three lines per vertical inch) all text in the application narrative, including titles, headings, footnotes, quotations, references, and captions, as well as all text in charts, tables, figures, and graphs.
- Use a font that is either 12 point or larger or no smaller than 10 pitch (characters per inch).
- Use one of the following fonts: Times New Roman, Courier, Courier New, or Arial.

Furthermore, applicants are strongly encouraged to include a table of contents that specifies where each required part of the application is located.

b. *Submission of Proprietary Information:* Given the types of projects that may be proposed in applications for the State Charter School Facilities Incentive Grants Program, an application may include business information that the applicant considers proprietary. The Department's regulations define ''business information'' in 34 CFR 5.11.

Because we plan to make successful applications available to the public, you may wish to request confidentiality of business information.

Consistent with Executive Order 12600, please designate in your application any information that you feel is exempt from disclosure under Exemption 4 of the Freedom of Information Act. In the appropriate Appendix section of your application, under ''Other Attachment Form,'' please list the page number or numbers on which we can find this information. For additional information please see 34 CFR 5.11(c).

3. *Submission Dates and Times:*

Applications Available: May 14, 2014.

Date of Pre-Application Webinar: The Department will hold a pre-application Webinar for prospective applicants on the following date: Thursday, May 22, 2014, at 2:00 p.m., Washington, DC time.

Individuals interested in attending the Webinar are encouraged to pre-register by emailing their name, organization, contact information, and preferred Webinar date and time with the subject heading STATE INCENTIVE PRE–APPLICATION MEETING to *Kristin.Lundholm@ed.gov.* There is no registration fee for attending the pre-application Webinar.

For further information about the pre-application Webinar, contact Kristin Lundholm, U.S. Department of Education, 400 Maryland Avenue SW., Room 4W221, Washington, DC 20202–5970. Telephone: (202) 205–4352 or by email: *Kristin.Lundholm@ed.gov.*

Deadline for Transmittal of Applications: June 30, 2014.

Applications for grants under this program must be submitted electronically using the Grants.Gov Apply site (Grants.gov). For information (including dates and times) about how to submit your application electronically, please refer to section IV. 7. *Other Submission Requirements* of this notice.

We do not consider an application that does not comply with the deadline requirements.

Individuals with disabilities who need an accommodation or auxiliary aid in connection with the application process should contact the person listed under **FOR FURTHER INFORMATION CONTACT** in section VII of this notice. If the Department provides an accommodation or auxiliary aid to an individual with a disability in connection with the application process, the individual's application remains subject to all other requirements and limitations in this notice.

Deadline for Intergovernmental Review: August 27, 2014.

4. *Intergovernmental Review:* This program is subject to Executive Order 12372 and the regulations in 34 CFR part 79. Information about Intergovernmental Review of Federal Programs under Executive Order 12372 is in the application package for this program.

5. *Funding Restrictions:* We specify unallowable costs in 34 CFR 75.533. We reference additional regulations outlining funding restrictions in the *Applicable Regulations* section of this notice.

6. *Data Universal Numbering System Number, Taxpayer Identification Number, and System for Award Management:* To do business with the Department of Education, you must—

a. Have a Data Universal Numbering System (DUNS) number and a Taxpayer Identification Number (TIN);

b. Register both your DUNS number and TIN with the System for Award Management (SAM) (formerly the Central Contractor Registry (CCR)), the Government's primary registrant database;

c. Provide your DUNS number and TIN on your application; and

d. Maintain an active SAM registration with current information while your application is under review by the Department and, if you are

awarded a grant, during the project period.

You can obtain a DUNS number from Dun and Bradstreet. A DUNS number can be created within one-to-two business days.

If you are a corporate entity, agency, institution, or organization, you can obtain a TIN from the Internal Revenue Service. If you are an individual, you can obtain a TIN from the Internal Revenue Service or the Social Security Administration. If you need a new TIN, please allow 2–5 weeks for your TIN to become active.

The SAM registration process can take approximately seven business days, but may take upwards of several weeks, depending on the completeness and accuracy of the data entered into the SAM database by an entity. Thus, if you think you might want to apply for Federal financial assistance under a program administered by the Department, please allow sufficient time to obtain and register your DUNS number and TIN. We strongly recommend that you register early.

Note: Once your SAM registration is active, you will need to allow 24 to 48 hours for the information to be available in Grants.gov and before you can submit an application through Grants.gov.

If you are currently registered with SAM, you may not need to make any changes. However, please make certain that the TIN associated with your DUNS number is correct. Also note that you will need to update your registration annually. This may take three or more business days.

Information about SAM is available at *www.SAM.gov.* To further assist you with obtaining and registering your DUNS number and TIN in SAM or updating your existing SAM account, we have prepared a SAM.gov Tip Sheet, which you can find at: *http://www2.ed.gov/fund/grant/apply/sam-faqs.html.*

In addition, if you are submitting your application via Grants.gov, you must (1) be designated by your organization as an Authorized Organization Representative (AOR); and (2) register yourself with Grants.gov as an AOR. Details on these steps are outlined at the following Grants.gov Web page: *www.grants.gov/web/grants/register.html.*

7. *Other Submission Requirements:* Applications for grants under this program must be submitted electronically unless you qualify for an exception to this requirement in accordance with the instructions in this section.

a. *Electronic Submission of Applications.*

Applications for grants under the State Charter School Facilities Incentive Grants Program, CFDA number 84.282D, must be submitted electronically using the Governmentwide Grants.gov Apply site at *www.Grants.gov.* Through this site, you will be able to download a copy of the application package, complete it offline, and then upload and submit your application. You may not email an electronic copy of a grant application to us.

We will reject your application if you submit it in paper format unless, as described elsewhere in this section, you qualify for one of the exceptions to the electronic submission requirement and submit, no later than two weeks before the application deadline date, a written statement to the Department that you qualify for one of these exceptions. Further information regarding calculation of the date that is two weeks before the application deadline date is provided later in this section under *Exception to Electronic Submission Requirement.*

You may access the electronic grant application for the State Charter School Facilities Incentive Grants Program at *www.Grants.gov.* You must search for the downloadable application package for this program by the CFDA number. Do not include the CFDA number's alpha suffix in your search (e.g., search for 84.282, not 84.282D).

Please note the following:

- When you enter the Grants.gov site, you will find information about submitting an application electronically through the site, as well as the hours of operation.
- Applications received by Grants.gov are date and time stamped. Your application must be fully uploaded and submitted and must be date and time stamped by the Grants.gov system no later than 4:30:00 p.m., Washington, DC time, on the application deadline date. Except as otherwise noted in this section, we will not accept your application if it is received—that is, date and time stamped by the Grants.gov system—after 4:30:00 p.m., Washington, DC time, on the application deadline date. We do not consider an application that does not comply with the deadline requirements. When we retrieve your application from Grants.gov, we will notify you if we are rejecting your application because it was date and time stamped by the Grants.gov system after 4:30:00 p.m., Washington, DC time, on the application deadline date.
- The amount of time it can take to upload an application will vary depending on a variety of factors, including the size of the application and the speed of your Internet connection. Therefore, we strongly recommend that you do not wait until the application deadline date to begin the submission process through Grants.gov.
- You should review and follow the Education Submission Procedures for submitting an application through Grants.gov that are included in the application package for this program to ensure that you submit your application in a timely manner to the Grants.gov system. You can also find the Education Submission Procedures pertaining to Grants.gov under News and Events on the Department's G5 system home page at *www.G5.gov.*
- You will not receive additional point value because you submit your application in electronic format, nor will we penalize you if you qualify for an exception to the electronic submission requirement, as described elsewhere in this section, and submit your application in paper format.
- You must submit all documents electronically, including all information you typically provide on the following forms: The Application for Federal Assistance (SF 424), the Department of Education Supplemental Information for SF 424, Budget Information—Non-Construction Programs (ED 524), and all necessary assurances and certifications.
- You must upload any narrative sections and all other attachments to your application as files in a PDF (Portable Document) read-only, non-modifiable format. Do not upload an interactive or fillable PDF file. If you upload a file type other than a read-only, non-modifiable PDF or submit a password-protected file, we will not review that material.
- Your electronic application must comply with any page-limit requirements described in this notice.
- After you electronically submit your application, you will receive from Grants.gov an automatic notification of receipt that contains a Grants.gov tracking number. (This notification indicates receipt by Grants.gov only, not receipt by the Department.) The Department then will retrieve your application from Grants.gov and send a second notification to you by email. This second notification indicates that the Department has received your application and has assigned your application a PR/Award number (an ED-specified identifying number unique to your application).
- We may request that you provide us original signatures on forms at a later date.

Application Deadline Date Extension in Case of Technical Issues with the Grants.gov System: If you are experiencing problems submitting your

application through Grants.gov, please contact the Grants.gov Support Desk, toll free, at 1–800–518–4726. You must obtain a Grants.gov Support Desk Case Number and must keep a record of it.

If you are prevented from electronically submitting your application on the application deadline date because of technical problems with the Grants.gov system, we will grant you an extension until 4:30:00 p.m., Washington, DC time, the following business day to enable you to transmit your application electronically or by hand delivery. You also may mail your application by following the mailing instructions described elsewhere in this notice.

If you submit an application after 4:30:00 p.m., Washington, DC time, on the application deadline date, please contact the person listed under **FOR FURTHER INFORMATION CONTACT** in section VII of this notice and provide an explanation of the technical problem you experienced with Grants.gov, along with the Grants.gov Support Desk Case Number. We will accept your application if we can confirm that a technical problem occurred with the Grants.gov system and that that problem affected your ability to submit your application by 4:30:00 p.m., Washington, DC time, on the application deadline date. The Department will contact you after a determination is made on whether your application will be accepted.

Note: The extensions to which we refer in this section apply only to the unavailability of, or technical problems with, the Grants.gov system. We will not grant you an extension if you failed to fully register to submit your application to Grants.gov before the application deadline date and time or if the technical problem you experienced is unrelated to the Grants.gov system.

Exception to Electronic Submission Requirement: You qualify for an exception to the electronic submission requirement, and may submit your application in paper format, if you are unable to submit an application through the Grants.gov system because—

- You do not have access to the Internet; or
- You do not have the capacity to upload large documents to the Grants.gov system;

and

- No later than two weeks before the application deadline date (14 calendar days or, if the fourteenth calendar day before the application deadline date falls on a Federal holiday, the next business day following the Federal holiday), you mail or fax a written statement to the Department, explaining which of the two grounds for an exception prevent you from using the Internet to submit your application.

If you mail your written statement to the Department, it must be postmarked no later than two weeks before the application deadline date. If you fax your written statement to the Department, we must receive the faxed statement no later than two weeks before the application deadline date.

Address and mail or fax your statement to: Kristin Lundholm, U.S. Department of Education, 400 Maryland Avenue SW., Room 4W221, Washington, DC 20202–5970. FAX: (202) 250–5630.

Your paper application must be submitted in accordance with the mail or hand delivery instructions described in this notice.

b. *Submission of Paper Applications by Mail.*

If you qualify for an exception to the electronic submission requirement, you may mail (through the U.S. Postal Service or a commercial carrier) your application to the Department. You must mail the original and two copies of your application, on or before the application deadline date, to the Department at the following address:

U.S. Department of Education,
Application Control Center,
Attention: (CFDA Number 84.282D)
LBJ Basement Level 1,
400 Maryland Avenue SW.,
Washington, DC 20202–4260.

You must show proof of mailing consisting of one of the following:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the Secretary of the U.S. Department of Education.

If you mail your application through the U.S. Postal Service, we do not accept either of the following as proof of mailing:

(1) A private metered postmark.

(2) A mail receipt that is not dated by the U.S. Postal Service.

If your application is postmarked after the application deadline date, we will not consider your application.

Note: The U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, you should check with your local post office.

c. *Submission of Paper Applications by Hand Delivery.*

If you qualify for an exception to the electronic submission requirement, you (or a courier service) may deliver your paper application to the Department by hand. You must deliver the original and two copies of your application by hand, on or before the application deadline date, to the Department at the following address:

U.S. Department of Education,
Application Control Center,
Attention: (CFDA Number 84.282D)
550 12th Street SW.,
Room 7039, Potomac Center Plaza,
Washington, DC 20202–4260.

The Application Control Center accepts hand deliveries daily between 8:00 a.m. and 4:30:00 p.m., Washington, DC time, except Saturdays, Sundays, and Federal holidays.

Note for Mail or Hand Delivery of Paper Applications: If you mail or hand deliver your application to the Department—

(1) You must indicate on the envelope and—if not provided by the Department—in Item 11 of the SF 424 the CFDA number, including suffix letter, if any, of the competition under which you are submitting your application; and

(2) The Application Control Center will mail to you a notification of receipt of your grant application. If you do not receive this notification within 15 business days from the application deadline date, you should call the U.S. Department of Education Application Control Center at (202) 245–6288.

V. Application Review Information

1. *Selection Criteria:* The selection criteria and factors for this program are from the program regulations in 34 CFR 226.12 and the general selection criteria in 34 CFR 75.210. The selection criteria and factors are also listed in this section. The maximum score for all of the selection criteria is 100 points. The maximum score for each criterion is indicated in parentheses. Each criterion also includes the factors that the reviewers will consider to determine how well an application meets the criterion. We encourage applicants to make explicit connections to the selection criteria and factors in their applications.

(a) *Need for facility funding* (30 points).

(1) The need for per-pupil charter school facility funding in the State.

(2) The extent to which the proposal meets the need to fund charter school facilities on a per-pupil basis.

(b) *Quality of plan* (30 points).

(1) The likelihood that the proposed grant project will result in the State either retaining a new per-pupil facilities aid program or continuing to enhance such a program without the total amount of assistance (State and Federal) declining over a five-year period.

(2) The flexibility charter schools have in their use of facility funds for the various authorized purposes.

(3) The quality of the plan for identifying charter schools and determining their eligibility to receive funds.

(4) The per-pupil facilities aid formula's ability to target resources to charter schools with the greatest need and the highest proportions of students in poverty.

(5) For projects that plan to reserve funds for evaluation, the quality of the applicant's plan to use grant funds for this purpose.

(6) For projects that plan to reserve funds for technical assistance, dissemination, or personnel, the quality of the applicant's plan to use grant funds for these purposes.

(7) The extent to which the proposed project is supported by strong theory (as defined in this notice).

Note: The applicant should review the *Performance Measures* section of this notice for information on the requirements for developing project-specific performance measures and targets consistent with the objectives of the program.

(c) *The grant project team* (10 points).

(1) The qualifications, including relevant training and experience, of the project manager and other members of the grant project team, including employees not paid with grant funds, consultants, and subcontractors.

(2) The adequacy and appropriateness of the applicant's staffing plan for the grant project.

(d) *The budget* (10 points).

(1) The extent to which the requested grant amount and the project costs are reasonable in relation to the objectives, design, and potential significance of the proposed grant project.

(2) The extent to which the costs are reasonable in relation to the number of students served and to the anticipated results and benefits.

(3) The extent to which the non-Federal share exceeds the minimum percentages (which are based on the percentages under section 5205(b)(2)(C) of the ESEA), particularly in the initial years of the program.

(e) *Quality of project evaluation* (10 points).

(1) The Secretary considers the quality of the evaluation to be conducted of the proposed project.

(2) In determining the quality of the evaluation, the Secretary considers the extent to which—

(i) The methods of evaluation are thorough, feasible, and appropriate to the goals, objectives, and outcomes of the proposed project.

(ii) The methods of evaluation will provide performance feedback and permit periodic assessment of progress toward achieving intended outcomes.

(iii) The methods of evaluation will provide valid and reliable performance data on relevant outcomes.

(f) *State experience* (10 points).

The experience of the State in addressing the facility needs of charter schools through various means, including providing per-pupil aid, access to State loan or bonding pools, and the use of Qualified Zone Academy Bonds.

2. *Review and Selection Process:* We remind potential applicants that in reviewing applications in any discretionary grant competition, the Secretary may consider, under 34 CFR 75.217(d)(3), the past performance of the applicant in carrying out a previous award, such as the applicant's use of funds, achievement of project objectives, and compliance with grant conditions. The Secretary may also consider whether the applicant failed to submit a timely performance report or submitted a report of unacceptable quality.

In addition, in making a competitive grant award, the Secretary also requires various assurances including those applicable to Federal civil rights laws that prohibit discrimination in programs or activities receiving Federal financial assistance from the Department of Education (34 CFR 100.4, 104.5, 106.4, 108.8, and 110.23).

Additional factors we consider in selecting an application for an award are in 34 CFR 226.13 and 226.14.

Note: As described in 34 CFR 226.14(c), the Secretary may elect to consider the points awarded under the competitive preference priorities only for proposals that exhibit sufficient quality to warrant funding under the selection criteria.

3. *Special Conditions:* Under 34 CFR 74.14 and 80.12, the Secretary may impose special conditions on a grant if the applicant or grantee is not financially stable; has a history of unsatisfactory performance; has a financial or other management system that does not meet the standards in 34 CFR parts 74 or 80, as applicable; has not fulfilled the conditions of a prior grant; or is otherwise not responsible.

VI. Award Administration Information

1. *Award Notices:* If your application is successful, we notify your U.S. Representative and U.S. Senators and send you a Grant Award Notification (GAN); or we may send you an email containing a link to access an electronic version of your GAN. We may notify you informally, also.

If your application is not evaluated or not selected for funding, we notify you.

2. *Administrative and National Policy Requirements:* We identify administrative and national policy requirements in the application package and reference these and other requirements in the *Applicable Regulations* section of this notice.

We reference the regulations outlining the terms and conditions of an award in the *Applicable Regulations* section of this notice and include these and other specific conditions in the GAN. The GAN also incorporates your approved application as part of your binding commitments under the grant.

3. *Reporting:* (a) If you apply for a grant under this competition, you must ensure that you have in place the necessary processes and systems to comply with the reporting requirements in 2 CFR part 170 should you receive funding under the competition. This does not apply if you have an exception under 2 CFR 170.110(b).

(b) At the end of your project period, you must submit a final performance report, including financial information, as directed by the Secretary. If you receive a multi-year award, you must submit an annual performance report that provides the most current performance and financial expenditure information as directed by the Secretary under 34 CFR 75.118. The Secretary may also require more frequent performance reports under 34 CFR 75.720(c). For specific requirements on reporting, please go to *www.ed.gov/fund/grant/apply/appforms/appforms.html.*

4. *Performance Measures:*

(a) Program Performance Measures. The performance measure for this program is the ratio of funds leveraged by States for charter school facilities to funds awarded by the Department under the State Charter School Facilities Incentive Grants Program.

(b) Project-Specific Performance Measures. Applicants must propose project-specific performance measures and performance targets consistent with the objectives of the project and program. Applications must provide the following information as directed under 34 CFR 75.110(b):

(1) Project Performance Measures. How each proposed project-specific performance measure would accurately measure the performance of the project and how the proposed project-specific performance measure would be consistent with the performance measures established for the program funding the competition.

(2) Project Performance Targets. Why each proposed performance target is

ambitious yet achievable compared to the baseline for the performance measure and when, during the project period, the applicant would meet the performance target(s).

Note: The Secretary encourages the applicant to consider measures and targets tied to the applicant's grant activities during the grant period. The measures should be sufficient to gauge the progress throughout the grant period, show results by the end of the grant period, and be included in the logic model.

For technical assistance in developing effective performance measures, applicants are encouraged to review information provided by the Department's Regional Educational Laboratories (RELs). The RELs seek to build the capacity of States and school districts to incorporate data and research into education decision-making. Each REL provides research support and technical assistance to its region but makes learning opportunities available to educators everywhere. For example, the REL Pacific has developed an electronic program that guides users through the processes of designing logic models, which is available at: *http://relpacific.mcrel.org/ELM.html.*

(3) The applicant must also describe in the application:

(i) The data collection and reporting methods the applicant would use and why those methods are likely to yield reliable, valid, and meaningful performance data, and

(ii) The applicant's capacity to collect and report reliable, valid, and meaningful performance data, as evidenced by high-quality data collection, analysis, and reporting in other projects or research.

Note: If the applicant does not have experience with collection and reporting of performance data through other projects or research, it should provide other evidence of its capacity to successfully carry out data collection and reporting for their proposed project.

5. *Continuation Awards:* In making a continuation award, the Secretary may consider, under 34 CFR 75.253, the extent to which a grantee has made ''substantial progress toward meeting the objectives in its approved application.'' This consideration includes the review of a grantee's progress in meeting the targets and projected outcomes in its approved application, and whether the grantee has expended funds in a manner that is consistent with its approved application and budget. In making a continuation grant, the Secretary also considers whether the grantee is operating in compliance with the assurances in its approved application, including those applicable to Federal civil rights laws that prohibit discrimination in programs or activities receiving Federal financial assistance from the Department (34 CFR 100.4, 104.5, 106.4, 108.8, and 110.23).

VII. Agency Contact

FOR FURTHER INFORMATION CONTACT: Kristin Lundholm, U.S. Department of Education, 400 Maryland Avenue SW., Room 4W221, Washington, DC 20202–5970. Telephone: (202) 205–4352 or by email: *Kristin.Lundholm@ed.gov.*

If you use a TDD or a TTY, call the FRS, toll free, at 1–800–877–8339.

VIII. Other Information

Accessible Format: Individuals with disabilities can obtain this document and a copy of the application package in an accessible format (e.g., braille, large print, audiotape, or compact disc) on request to the program contact person listed under **FOR FURTHER INFORMATION CONTACT** in section VII of this notice.

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 9, 2014.

Nadya Chinoy Dabby,

Assistant Deputy Secretary for Innovation and Improvement.

[FR Doc. 2014–11113 Filed 5–14–14; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

[OE Docket No. PP–399]

Application To Rescind Presidential Permit; Application for Presidential Permit; Montana Alberta Tie Ltd. and MATL LLP

AGENCY: Office of Electricity Delivery and Energy Reliability, DOE.

ACTION: Notice of application.

SUMMARY: Montana Alberta Tie Ltd. (Montana Alberta Tie) and MATL LLP (MATL) filed a joint application to voluntarily transfer the facilities authorized by Presidential Permit No. PP–305, as amended, to MATL. The application requested that the Department of Energy (DOE) rescind the Presidential permit held by Montana Alberta Tie and simultaneously issue a permit to MATL covering the same international transmission facilities.

DATES: Comments or motions to intervene must be submitted on or before June 13, 2014.

ADDRESSES: Comments or motions to intervene should be addressed as follows: Office of Electricity Delivery and Energy Reliability (OE–20), U.S. Department of Energy, 1000 Independence Avenue SW., Washington, DC 20585.

FOR FURTHER INFORMATION CONTACT: Christopher Lawrence (Program Office) at 202–586–5260, or by email to *Christopher.Lawrence@hq.doe.gov,* or Katherine Konieczny (Program Attorney) at 202–586–0503.

SUPPLEMENTARY INFORMATION: The construction, operation, maintenance, and connection of facilities at the international border of the United States for the transmission of electric energy between the United States and a foreign country is prohibited in the absence of a Presidential permit issued pursuant to Executive Order (EO) 10485, as amended by EO 12038. Existing Presidential permits are not transferable or assignable. However, in the event of a proposed voluntary transfer of facilities, in accordance with DOE regulations at 10 CFR 205.323, the existing permit holder and the transferee are required to file a joint application with DOE that includes a statement of reasons for the transfer.

On April 17, 2014, Montana Alberta Tie and MATL jointly filed an application with DOE requesting, as an alternative to amending the existing Presidential permit, rescission of Presidential Permit No. PP–305, as amended, issued to Montana Alberta Tie and a simultaneous issuance of a Presidential permit to MATL for the same international transmission facilities. The international transmission facilities authorized by Presidential Permit No. PP–305, as amended, include one 230 kilovolt (kV) transmission line running from Great Falls, Montana north to a point at the Canadian border near Cut Bank, Montana.

The rescission and reissuance is being requested for business reasons so that the transmission facilities can be jointly

owned and operated by both Montana Alberta Tie and MATL. MATL, which is a U.S. entity organized under the laws of the state of Montana, will own and operate the transmission facilities on the U.S. side the border, and Montana Alberta Tie, which is a Canadian entity, will remain the owner and operator of the portion of the facilities in Canada.

Procedural Matters: Any person may comment on this application by filing such comment at the address provided above. Any person seeking to become a party to this proceeding must file a motion to intervene at the address provided above in accordance with Rule 214 of FERC's Rules of Practice and Procedure (18 CFR 385.214). Two copies of each comment or motion to intervene should be filed with DOE on or before the date listed above.

Additional copies of such motions to intervene also should be filed directly with: Stacy Myers, Senior Legal Counsel, Green Power Transmission, Enbridge Energy Company, Inc., 1100 Louisiana St., Suite 2500, Houston, TX 77002 AND Travis Allen, Senior Regulatory Analyst, Green Power Transmission, Enbridge Energy Company, Inc., 1100 Louisiana St., Suite 2500, Houston, TX 77002.

Before a Presidential permit may be granted or amended, DOE must determine that the proposed action will not adversely impact on the reliability of the U.S. electric power supply system. In addition, DOE must consider the environmental impacts of the proposed action (i.e., granting the Presidential permit or amendment, with any conditions and limitations, or denying the permit) pursuant to the National Environmental Policy Act of 1969. DOE also must obtain the concurrences of the Secretary of State and the Secretary of Defense before taking final action on a Presidential permit application.

Copies of this application will be made available, upon request, for public inspection and copying at the address provided above. In addition, the application may be reviewed or downloaded electronically at *http://energy.gov/oe/services/electricity-policy-coordination-and-implementation/international-electricity-regulatio-2.* Upon reaching the home page, select ''Pending Applications.''

Issued in Washington, DC, on May 8, 2014.

Christopher A. Lawrence,

Electricity Policy Analyst, Office of Electricity Delivery and Energy Reliability.

[FR Doc. 2014–11107 Filed 5–13–14; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

[OE Docket No. PP–398]

Application for Presidential Permit; Great Northern Transmission Line

AGENCY: Office of Electricity Delivery and Energy Reliability, DOE.

ACTION: Notice of application.

SUMMARY: Minnesota Power, an operating division of ALLETE, Inc., has applied for a Presidential permit to construct, operate, maintain, and connect an electric transmission line across the United States border with Canada.

DATES: Comments or motions to intervene must be submitted on or before June 13, 2014.

ADDRESSES: Comments or motions to intervene should be addressed as follows: Office of Electricity Delivery and Energy Reliability (OE–20), U.S. Department of Energy, 1000 Independence Avenue SW., Washington, DC 20585.

FOR FURTHER INFORMATION CONTACT: Christopher Lawrence (Program Office) at 202–586–5260 or via electronic mail at *Christopher.Lawrence@hq.doe.gov,* Katherine Konieczny (Program Attorney) at 202–586–0503.

SUPPLEMENTARY INFORMATION: The construction, operation, maintenance, and connection of facilities at the international border of the United States for the transmission of electric energy between the United States and a foreign country is prohibited in the absence of a Presidential permit issued pursuant to Executive Order (EO) 10485, as amended by EO 12038.

On April 15, 2014, Minnesota Power filed an application with the Office of Electricity Delivery and Energy Reliability of the Department of Energy (DOE) for a Presidential permit. Minnesota Power has its principal place of business in Duluth, Minnesota. Minnesota Power is an investor-owned utility and provides retail electric service to 144,000 customers and wholesale electric service to 16 municipalities and several industrial customers.

Minnesota Power proposes to construct and operate the Great Northern Transmission Line (GNTL), a 500 kilovolt (kV) overhead alternating current (AC) electric transmission line that would originate at the Dorsey Substation northwest of Winnipeg, Manitoba, Canada, and terminate at the existing Blackberry Substation east of Grand Rapids, Minnesota. The proposed GNTL facilities would be capable of transmitting up to 750 megawatts (MW) of power.

The Minnesota portion of the proposed Great Northern Transmission Line (GNTL) would cross the U.S.-Canada border northwest of the town of Roseau, Minnesota, and would run 220 miles before terminating at the Blackberry Substation.

As proposed, GNTL is a high voltage alternating current (HVAC) electric transmission line with an expected power transfer rating of at least 750 MW. The northern terminal would be at the Dorsey Substation located 10 miles northwest of Winnipeg, Manitoba, Canada. The southern terminal would be at the existing Blackberry 230/115 kV Substation near Grand Rapids, Minnesota. The Blackberry Substation would be expanded to include the 500 kV Substation to accommodate the 500 kV GNTL, 500/230 kV transformation, existing 230 kV lines and all associated equipment.

In its application, Minnesota Power identified two routing options, the Orange Route and the Blue Route, for the GNTL. In addition, Minnesota Power also presented several segment options. Each route option would run for approximately 220 miles within the United States. Minnesota Power has entered into a 250 MW Power Purchase Agreement (PPA) as well as an additional 133 MW Renewable Optimization Agreement with Manitoba Hydro.

Since the restructuring of the electric industry began, resulting in the introduction of different types of competitive entities into the marketplace, DOE has consistently expressed its policy that cross-border trade in electric energy should be subject to the same principles of comparable open access and non-discrimination that apply to transmission in interstate commerce. DOE has stated that policy in export authorizations granted to entities requesting authority to export over international transmission facilities. Specifically, DOE expects transmitting utilities owning border facilities to provide access across the border in accordance with the principles of comparable open access and non-discrimination contained in the Federal Power Act and articulated in Federal Energy Regulatory Commission (FERC) Order No. 888 (Promoting Wholesale Competition Through Open Access Non-Discriminatory Transmission Services by Public Utilities; FERC Stats. & Regs. ¶31,036 (1996)), as amended. In furtherance of this policy, DOE invites comments on whether it would be appropriate to condition any

Presidential permit issued in this proceeding on compliance with these open access principles.

Procedural Matters: Any person may comment on this application by filing such comment at the address provided above. Any person seeking to become a party to this proceeding must file a motion to intervene at the address provided above in accordance with Rule 214 of FERC's Rules of Practice and Procedure (18 CFR 385.214). Two copies of each comment or motion to intervene should be filed with DOE on or before the date listed above.

Additional copies of such motions to intervene also should be filed directly with: David Moeller, Senior Attorney, Minnesota Power, 30 West Superior St., Duluth, MN 55802, *dmoeller@allete.com* AND Mike Donahue, Project Manager, Minnesota Power, 30 West Superior St., Duluth, MN 55802, *mdonahue@allete.com* AND Jim Atkinson, Environmental Manager, Minnesota Power, 30 West Superior St., Duluth, MN 55802, *jbatkinson@allete.com.*

Before a Presidential permit may be issued or amended, DOE must determine that the proposed action is in the public interest. In making that determination, DOE considers the environmental impacts of the proposed project pursuant to the National Environmental Policy Act of 1969, determines the project's impact on electric reliability by ascertaining whether the proposed project would adversely affect the operation of the U.S. electric power supply system under normal and contingency conditions, and any other factors that DOE may also consider relevant to the public interest. Also, DOE must obtain the concurrences of the Secretary of State and the Secretary of Defense before taking final action on a Presidential permit application.

Copies of this application will be made available, upon request, for public inspection and copying at the address provided above, by accessing the program Web site at *http://energy.gov/oe/services/electricity-policy-coordination-and-implementation/international-electricity-regulatio-2.*

Issued in Washington, DC, on May 8, 2014.

Christopher A. Lawrence,

Electricity Policy Analyst, National Electricity Delivery Division, Office of Electricity Delivery and Energy Reliability.

[FR Doc. 2014–11108 Filed 5–13–14; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RD14–5–000]

Proposed Agency Information Collection

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Notice and request for comments.

SUMMARY: The Federal Energy Regulatory Commission (Commission) invites public comment in Docket No. RD14–5–000 on a proposed collection of information that the Commission is developing for submission to the Office of Management and Budget (OMB) pursuant to the Paperwork Reduction Act of 1995. Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

DATES: Comments regarding this proposed information collection must be received on or before July 14, 2014.

ADDRESSES: Comments, identified by docket number, may be filed in the following ways:

- Electronic Filing through *http://www.ferc.gov.* Documents created electronically using word processing software should be filed in native applications or print-to-PDF format and not in a scanned format.
- Mail/Hand Delivery: Those unable to file electronically may mail or hand-deliver an original of their comments to: Federal Energy Regulatory Commission, Secretary of the Commission, 888 First Street NE., Washington, DC 20426.

FOR FURTHER INFORMATION CONTACT: Ellen Brown may be reached by email at *DataClearance@FERC.gov,* telephone at (202) 502–8663, and fax at (202) 273–0873.

SUPPLEMENTARY INFORMATION: The proposed information collection in Docket No. RD14–5–000 relates to the proposed Reliability Standards MOD–032–1 (Data for Power System Modeling and Analysis) and MOD–033–1 (Steady-State and Dynamics System Model Validation), developed by the North American Electric Reliability Corporation (NERC), and submitted to the Commission for approval. NERC's petition related to the proposed Reliability Standards MOD–032–1 and MOD–033–1 was approved on May 1, 2014, pursuant to the relevant authority delegated to the Director, Office of Electric Reliability under 18 CFR 375.303.

Reliability Standard MOD–032–1 consolidates NERC-approved Reliability Standards MOD–011–0, MOD–013–1 and MOD–014–0, as well as, Commission approved Reliability Standards MOD–010–0 and MOD–012–0, into one standard.[1] Reliability Standard MOD–032–1 requires data submission by applicable data owners to their respective transmission planners and planning coordinators to support the interconnection model building process in their interconnection. Reliability Standard MOD–033–1 is a new standard that requires each planning coordinator to implement a documented process to perform model validation within its planning area. The purpose of the Reliability Standards is to establish comprehensive modeling data requirements, reporting procedures, and validation requirements necessary to accurately model the interconnected transmission system for the near-term transmission planning horizon and the long-term transmission planning horizon.

Burden Statement: The number of respondents is based on the NERC Registry as of April 30, 2014. Public reporting burden for this proposed collection is estimated as:

[1] In Order No. 693, the Commission approved Reliability Standards MOD–010 and MOD–012. Regarding Reliability Standards MOD–011, MOD–013, MOD–014, and MOD–015, the Commission in Order No. 693 did not approve or remand the standards, pending the receipt of additional information. *Mandatory Reliability Standards for the Bulk-Power System,* Order No. 693, 72 FR 16416 (Apr. 4, 2007), at PP 1131–1222, *order on reh'g,* Order No. 693–A, 120 FERC ¶ 61,053 (2007).

MOD–032–1

[Data for power system modeling and analysis]

FERC–725A	Number of respondents [2] (1)	Number of responses per respondent (2)	Average burden hours per response (3)	Total annual burden hours (1)×(2)×(3)	Total annual cost [3]
Develop data requirements and reporting procedures.	PA, TP (200)	1	8	1,600	$96,000 one-time ($60/hr).
Data Submittal	BA, GO, LSE, PA, RP, TO, TP, TSP (1,355).	1	8	10,840	$650,400 ($60/hr).
Evidence Retention	BA, GO, LSE, PA, RP, TO, TP, TSP (1,355).	1	1	1,355	$43,360 ($32/hr).
Total					$789,760

MOD–033–1

[Steady-state and dynamics system model validation]

FERC–725A	Number of respondents [2] (1)	Number of responses per respondent (2)	Average burden hours per response (3)	Total annual burden hours (1)×(2)×(3)	Total annual cost [3]
Develop data validation procedures.	PA (75)	1	8	600	$36,000 one-time ($60/hr).
Data Submittal	RC, TOP (196)	1	8	1,568	$94,080 ($60/hr).
Evidence Retention	PA, RC, TOP (200)	1	1	200	$6,400 ($32/hr).
Total					$136,480.

Dated: May 7, 2014.

Kimberly D. Bose,

Secretary.

[FR Doc. 2014–11017 Filed 5–13–14; 8:45 am]

BILLING CODE 6717–01–P

[2] PA = Planning Authority, GO = Generator Owner, TP = Transmission Planner, BA = Balancing Authority, LSE = Load Serving Entity, RP = Resource Planner, TSP = Transmission Service Provider, RC = Reliability Coordinator, TOP = Transmission Operator.

[3] The estimates for cost per hour (rounded to the nearest dollar) are derived as follows:

- $60/hour, the average salary plus benefits per engineer (from Bureau of Labor Statistics at *http://bls.gov/oes/current/naics3_221000.htm*).
- $32/hour, the salary plus benefits per information and record clerks (from Bureau of Labor Statistics at *http://bls.gov/oes/current/naics3_221000.htm*).

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. IC14–12–000]

Commission Information Collection Activities (FERC Form 2 & 2A, & FERC–523); Consolidated Comment Request; Extension

AGENCY: Federal Energy Regulatory Commission, Department of Energy (DOE).

ACTION: Notice of information collections and request for comments.

SUMMARY: In compliance with the requirements of the Paperwork Reduction Act of 1995, 44 U.S.C. 3506(c)(2)(A), the Federal Energy Regulatory Commission (Commission or FERC) is soliciting public comment on the requirements and burden [1] of the information collections described below.

[1] 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.

DATES: Comments on the collections of information are due July 14, 2014.

ADDRESSES: You may submit comments (identified by Docket No. IC14–12–000) 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. Please reference the specific collection number and/or title in your comments.

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,* telephone

at (202) 502–8663, and fax at (202) 273–0873.

SUPPLEMENTARY INFORMATION: *Type of Request:* Three-year extension of the information collection requirements for all collections described below with no changes to the current reporting requirements. Please note that each collection is distinct from the next.

Comments: Comments are invited on: (1) Whether the collections of information are 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 estimates of the burden and cost of the collections of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility and clarity of the information collections; and (4) ways to minimize the burden of the collections of information on those who are to respond, including the use of automated collection techniques or other forms of information technology.

FERC Form 2, Annual Report of Major Natural Gas Companies, & FERC Form 2A, Annual Report of Nonmajor Natural Gas Companies

OMB Control Nos.: 1902–0028 & 1902–0030.

Abstract: Pursuant to sections 8, 10 and 14 of the National Gas Act (NGA), (15 U.S.C. 717g–717m, Pub. L. 75–688), the Commission is authorized to make investigations and collect and record data, to prescribe rules and regulations concerning accounts, records and memoranda as necessary or appropriate for purposes of administering the NGA. The Commission includes the filing requirements in 18 CFR 260.1 and 260.2.

The forms provide information concerning a company's past performance. The information is compiled using a standard chart of accounts contained in the Commission's Uniform System of Accounts (USofA).[2] The forms contain schedules which include a basic set of financial statements: Comparative Balance Sheet, Statement of Income and Retained Earnings, Statement of Cash Flows, and the Statement of Comprehensive Income and Hedging Activities. Supporting schedules containing supplementary information are filed, including revenues and the related quantities of products sold or transported; account balances for various operating and maintenance expenses; selected plant cost data; and other information.

The information collected in the forms is used by Commission staff, state regulatory agencies and others in the review of the financial condition of regulated companies. The information is also used in various rate proceedings, industry analyses and in the Commission's audit programs and as appropriate, for the computation of annual charges based on Page 520 of the forms. The Commission provides the information to the public, interveners and all interested parties to assist in the proceedings before the Commission.

Print versions of the Forms 2 and 2A are located on the Commission's Web site at *http://www.ferc.gov/docs-filing/forms.asp#2.*

Type of Respondent: Each natural gas company whose combined gas transported or stored for a fee exceed 50 million dekatherms in each of the previous three years must file the Form 2. Each natural gas company not meeting the filing threshold for the Form 2 but having total gas sales or volume transactions exceeding 200,000 dekatherms in each of the previous three calendar years must submit the Form 2A.

Estimate of Annual Burden: The Commission estimates the annual public reporting burden for the information collections as:

FERC FORM NO. 2—ANNUAL REPORT OF MAJOR NATURAL GAS COMPANIES AND FERC FORM NO. 2A: ANNUAL REPORT OF NONMAJOR NATURAL GAS COMPANIES

	Number of respondents (1)	Annual number of responses per respondent (2)	Total number of responses (1)*(2)=(3)	Average burden hours and cost per response[3] (4)	Total annual burden hours and total annual cost (3)*(4)=(5)	Cost per respondent ($) (5)÷(1)
FERC Form No. 2	92	1	92	1,629 $114,844.50	149,868 $10,565,694	$114,844.50
FERC Form No. 2A	66	1	66	253.39 $17,864	16,724 $1,179,042	17,864

FERC–523, Applications for Authorization for Issuance of Securities or the Assumption of Liabilities

OMB Control No.: 1902–0082.

Abstract: Under Federal Power Act (FPA) section 204, 16 U.S.C. 824c, no public utility or licensee shall issue any security, or assume any obligation or liability as guarantor, endorser, surety, or otherwise in respect of any security of another person, until the public utility applies for and receives Commission approval by order authorizing the issue or assumption of the liability. The Commission issues an order if it finds that such issue or assumption (a) is for lawful object, within the corporate purposes of the applicant and compatible with the public interest, which is necessary or appropriate for or consistent with the proper performance by the applicant as a public utility, and which will not impair its ability to perform that service, and (b) is reasonably necessary or appropriate for such purposes.

The Commission uses the information contained in filings to determine its acceptance and/or rejection of applications for authorization to either issue securities or to assume an obligation or liability by the public utilities and their licensees who submit these applications.

The specific application requirements and filing format are found at 18 CFR part 34; and 18 CFR 131.43 and 131.50. The information is filed electronically.

Type of Respondent: Public utilities subject to the FPA.

[2] *See* 18 CFR part 201.

[3] The estimates for cost per response are derived using the following formula: Average Burden Hours per Response

* $70.50 per Hour = Average Cost per Response. The hourly cost figure of $70.50 is the average FERC employee wage plus benefits. We assume that respondents earn at a similar rate.

Estimate of Annual Burden: The Commission estimates the annual public reporting burden for the information collection as:

FERC–523—APPLICATIONS FOR AUTHORIZATION FOR ISSUANCE OF SECURITIES OR THE ASSUMPTION OF LIABILITIES

	Number of respondents (1)	Annual number of responses per respondent (2)	Total number of responses (1)*(2)=(3)	Average burden hours and cost per response [3] (4)	Total annual burden hours and total annual cost (3)*(4)=(5)	Cost per respondent ($) (5)÷(1)
FERC–523	56	[5] 1.6	90	500 $35,250	45,000 $3,172,500	$56,652

Dated: May 7, 2014.

Kimberly D. Bose,

Secretary.

[FR Doc. 2014–11020 Filed 5–13–14; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2246–065]

Yuba County Water Agency; Notice of Application Tendered for Filing With the Commission and Establishing Procedural Schedule for Licensing and Deadline for Submission of Final Amendments

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection.

a. *Type of Application:* New Major License.

b. *Project No.:* 2246–065.

c. *Date Filed:* April 28, 2014.

d. *Applicant:* Yuba County Water Agency.

e. *Name of Project:* Yuba River Development Project.

f. *Location:* The Yuba River Development Project facilities are located on the western slope of the Sierra Nevada on the main stems of the Yuba River, the North Yuba River, the Middle Yuba River, and Oregon Creek (a tributary to the Middle Yuba River) in Yuba, Sierra, and Nevada Counties, California. Portions of the project occupy lands of the Plumas and Tahoe National Forests.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791 (a)–825(r).

h. *Applicant Contact:* Curt Aikens, General Manager, Yuba County Water Agency, 1220 F Street, Marysville, California 95901, 530–741–6278

i. *FERC Contact:* Alan Mitchnick at (202) 502–6074 or *alan.mitchnick@ferc.gov*.

j. This application is not ready for environmental analysis at this time.

k. *The Project Description:*

New Colgate Development

The New Colgate development consists of the following existing facilities: (1) The 70-foot-high, 368-foot-long Our House diversion dam with a storage capacity of 280 acre-feet, located on the Middle Yuba River 12.0 miles upstream of its confluence with the North Yuba River; (2) the 12.5-foot-high by 12.5-foot-wide, 19,410-foot-long Lohman Ridge diversion tunnel that conveys a maximum flow of 860 cubic feet per second (cfs) from the Middle Yuba River to Oregon Creek; (3) the 42.5-foot-high and 105-foot-radius Log Cabin diversion dam on Oregon Creek with a storage capacity of 90 acre-feet; (4) the 6,107-foot-long Camptonville diversion tunnel, with the capacity to convey 1,100 cfs of water to New Bullards Bar reservoir on the North Yuba River; (5) the 645-foot-high, 2,323-foot-long New Bullards Bar dam located on the North Yuba River about 2.3 miles upstream of its confluence with the Middle Yuba River, with an actual release capacity of 1,250 cfs; (6) the New Bullards Bar reservoir, a storage reservoir on the North Yuba River formed by New Bullards Bar dam, with a storage area of 4,790 acres; (7) the New Bullards Bar dam overflow-type spillway with a width of 106 feet and a crest elevation of 1,902 feet; (8) the 5.2-mile-long New Colgate Power tunnel and penstock, with a maximum flow capacity of 3,500 cfs; (9) the New Colgate powerhouse, located adjacent to the Yuba River containing two Pelton type turbines with a total generating capacity of 315 megawatts (MW); (10) the New Colgate switchyard, located adjacent to the New Colgate powerhouse; (11) recreation facilities on New Bullards Bar reservoir, including Emerald Cove Marina, Hornswoggle Group Camp, Schoolhouse Family Camp, Dark Day Campground, Dark Day Boat Ramp, Garden Point Campground, Madrone Cove Campground, and Cottage Creek Boat Ramp; and (12) appurtenant facilities and features including access roads.

The applicant proposes to construct a flood control outlet at New Bullards Bar dam and a tailwater depression system at New Colgate powerhouse.

New Bullards Bar Minimum Flow Development

The New Bullards Bar Minimum Flow Development consists of the following existing facilities: (1) The 70-foot long, 12-inch-diameter New Bullards minimum flow powerhouse penstock with a maximum flow capacity of 6 cfs; (2) the New Bullards minimum flow powerhouse, containing a single Pelton turbine with a capacity of 150 kilowatts; (3) the New Bullards minimum flow transformer, located adjacent to the New Bullards minimum flow powerhouse; and (4) appurtenant facilities and features, including access roads.

Narrows 2 Development

The Narrows 2 Development consists of the following existing facilities: (1) The Narrows 2 powerhouse penstock, a tunnel that is 20 feet in diameter and concrete lined in the upper 376 feet, and 14 feet in diameter and steel lined for the final 371.5 feet, with a maximum flow capacity of 3,400 cfs; (2) the Narrows 2 flow bypass, a valve and penstock branch off the main Narrows 2 penstock that provides the capability to bypass flows of up to 3,000 cfs around the Narrows 2 powerhouse during times of full or partial powerhouse shutdowns; (3) the Narrows 2 powerhouse, an indoor powerhouse located at the base of the U.S. Army Corps of Engineer's Englebright dam,

[4] The estimates for cost per response are derived using the following formula: Average Burden Hours per Response * $70.50 per Hour = Average Cost per Response. The hourly cost figure of $70.50 is the average FERC employee wage plus benefits. We assume that respondents earn at a similar rate.

[5] Some respondents may be required to provide more than one response.

consisting of one vertical axis Francis turbine with a generating capacity of 46.7 MW; (4) the Narrows 2 powerhouse switchyard, located adjacent to the powerhouse; and (5) appurtenant facilities and features, including access roads.

l. *Locations of the Application:* A copy of the application is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov*, (866) 208–3676 (toll free), or (202) 502–8659 (TTY). A copy is also available for inspection and reproduction at the address in item (h) above.

m. You may also register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via email of new filings and issuances related to this or other pending projects. For assistance, contact FERC Online Support.

n. *Procedural Schedule:*

The application will be processed according to the following preliminary Hydro Licensing Schedule. Revisions to the schedule may be made as appropriate.

Milestone	Target date
Notice of Acceptance/Notice of Ready for Environmental Analysis	May 2016.
Filing of recommendations, preliminary terms and conditions, and fishway prescriptions	July 2016.
Commission issues Draft Environmental Impact Statement (EIS)	January 2017.
Comments on Draft EIS	February 2017.
Modified Terms and Conditions	April 2017.
Commission Issues Final EIS	July 2017.

o. Final amendments to the application must be filed with the Commission no later than 30 days from the issuance date of the Notice of Ready for Environmental Analysis.

Dated: May 8, 2014.

Kimberly D. Bose,

Secretary.

[FR Doc. 2014–11101 Filed 5–13–14; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP14–225–000]

Minnesota Energy Resources Corporation; Notice of Application

Take notice that on April 23, 2014, Minnesota Energy Resources Corporation (MERC), 2665 145th Street West, Rosemount, Minnesota 55068, filed an application pursuant to section 7(f) of the Natural Gas Act for a service area determination. MERC also requests: (1) A finding that MERC continues to qualify as a local distribution company (LDC) for purposes of section 311 of the Natural Gas Policy Act of 1978 (NGPA); and (2) a waiver of the Commission's accounting and reporting requirements and other regulatory requirements ordinarily applicable to natural gas companies under the NGA and NGPA, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

The filing may also be viewed on the web at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, contact FERC at *FERCOnlineSupport@ferc.gov* or call toll-free, (866) 208–3676 or TTY, (202) 502–8659.

Specifically, MERC requests to own facilities located in Iowa. The request arises from an agreement between MERC and Interstate Power & Light Company (IPL). MERC proposes to take service from IPL near the Iowa/Minnesota border and receive gas on the Iowa side. MERC will then transport the gas, on its own facilities, to Minnesota. MERC will own 50 to 70 feet of pipeline in Iowa under the proposed transaction. MERC will serve no customers in Iowa. The purpose of owning facilities in Iowa is to bring gas to Minnesota to serve MERC's customers in Minnesota. MERC's application is related to IPL's application for a limited jurisdiction blanket certificate of public convenience and necessity filed in Docket No. CP14–232–000.

Any questions regarding this application should be directed to M. Gavin McCarty, Associate General Counsel, Integrys Energy Group, Inc., 130 East Randolph Street Chicago, Illinois 60601 or call (312) 240–4470, or by fax (312) 240–4219.

Pursuant to section 157.9 of the Commission's rules, 18 CFR 157.9, within 90 days of this Notice the Commission staff will either: Complete its environmental assessment (EA) and place it into the Commission's public record (eLibrary) for this proceeding; or issue a Notice of Schedule for Environmental Review. If a Notice of Schedule for Environmental Review is issued, it will indicate, among other milestones, the anticipated date for the Commission staff's issuance of the final environmental impact statement (FEIS) or EA for this proposal. The filing of the EA in the Commission's public record for this proceeding or the issuance of a Notice of Schedule for Environmental Review will serve to notify federal and state agencies of the timing for the completion of all necessary reviews, and the subsequent need to complete all federal authorizations within 90 days of the date of issuance of the Commission staff's FEIS or EA.

There are two ways to become involved in the Commission's review of this project. First, any person wishing to obtain legal status by becoming a party to the proceedings for this project should, on or before the comment date stated below file with the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, a motion to intervene in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the NGA (18 CFR 157.10). A person obtaining party status will be placed on the service list maintained by the Secretary of the Commission and will receive copies of all documents filed by the applicant and by all other parties. A party must submit 7 copies of filings made in the proceeding with the Commission and must mail a copy to the applicant and to every other party. Only parties to the proceeding can ask for court review of Commission orders in the proceeding.

However, a person does not have to intervene in order to have comments considered. The second way to participate is by filing with the Secretary of the Commission, as soon as possible, an original and two copies of comments in support of or in opposition

to this project. The Commission will consider these comments in determining the appropriate action to be taken, but the filing of a comment alone will not serve to make the filer a party to the proceeding. The Commission's rules require that persons filing comments in opposition to the project provide copies of their protests only to the party or parties directly involved in the protest.

Persons who wish to comment only on the environmental review of this project should submit an original and two copies of their comments to the Secretary of the Commission. Environmental commentors will be placed on the Commission's environmental mailing list, will receive copies of the environmental documents, and will be notified of meetings associated with the Commission's environmental review process. Environmental commentors will not be required to serve copies of filed documents on all other parties. However, the non-party commentors will not receive copies of all documents filed by other parties or issued by the Commission (except for the mailing of environmental documents issued by the Commission) and will not have the right to seek court review of the Commission's final order.

The Commission strongly encourages electronic filings of comments, protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 5 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

Comment Date: 5:00 p.m. Eastern Time on May 28, 2014.

Dated: May 7, 2014.

Kimberly D. Bose,

Secretary.

[FR Doc. 2014–11013 Filed 5–13–14; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 1273–017]

Parowan City, Utah; Notice of Application To Amend License and Accepted for Filing, Soliciting Comments, Motions To Intervene, and Protests

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* Amendment of License.

b. *Project No:* 1273–017.

c. *Date Filed:* February 18, 2014.

d. *Applicant:* Parowan City, Utah.

e. *Name of Project:* Center Creek Hydroelectric Project.

f. *Location:* The project is located in and near Parowan City in Iron County, Utah, on Parowan Creek (also referred to as Center Creek). The project occupies federal lands owned by the U.S. Department of Interior, Bureau of Land Management (BLM).

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Von Mellor, Parowan City, 5 South Main Street, P.O. Box 576, Parowan, Utah 84761, telephone: (435) 477–3331.

i. *FERC Contact:* Kurt Powers, telephone: (202) 502–8949, and email address: *kurt.powers@ferc.gov.*

j. Deadline for filing comments, motions to intervene, and protests, is 30 days from the issuance date of this notice by the Commission. The Commission strongly encourages electronic filing. Please file any motion to intervene, protest, comments, and/or recommendations 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–1273–017.

k. *Description of Request:* Parowan City proposes to replace the project's existing above ground penstock with 17,725 feet of new penstock buried below grade. The new penstock would comprise approximately 8,300 feet of 20-inch diameter high-density polyethylene pipe and 9,790 feet of 20-inch diameter welded steel pipe. The new penstock would remain entirely located within the existing project boundary. The above ground segments of the existing penstock would be removed and disposed of at an appropriate site. Parowan City also proposes to update the project's existing powerplant, including removing the project's existing 600-kilowatt (kW) Pelton turbine and replacing it with a new 420-kilowatt impulse turbine/generator unit, removing and replacing existing powerplant electrical equipment, and replacing the powerplant structure's roof.

l. *Locations of the Application:* This filing may be viewed on the Commission's Web site at *http://www.ferc.gov/docs-filing/elibrary.asp.* Enter the docket number P–1273 in the docket number field to access the document. You may also register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via email of new filings and issuances related to this or other pending projects. For assistance, call 1–866–208–3676 or email *FERCOnlineSupport@ferc.gov,* for TTY, call (202) 502–8659. A copy is also available for inspection and reproduction at the address in item (h) above and at the Commission's Public Reference Room, located at 888 First Street NE., Room 2A, Washington, DC 20426, or by calling (202) 502–8371.

m. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

n. *Comments, Protests, or Motions to Intervene:* Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

o. *Filing and Service of Responsive Documents:* Any filing must (1) bear in all capital letters the title ''COMMENTS'', ''PROTEST'', or ''MOTION TO INTERVENE'' as applicable; (2) set forth in the heading the name of the applicant and the project number of the application to which the filing responds; (3) furnish the name, address, and telephone number of the person protesting or intervening; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. All comments, motions to intervene, or protests must set forth their evidentiary basis and otherwise comply with the requirements of 18 CFR 4.34(b). All comments, motions to intervene, or protests should relate to project works which are the subject of the license amendment. Agencies may obtain

copies of the application directly from the applicant. A copy of any protest or motion to intervene must be served upon each representative of the applicant specified in the particular application. If an intervener files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency. A copy of all other filings in reference to this application must be accompanied by proof of service on all persons listed in the service list prepared by the Commission in this proceeding, in accordance with 18 CFR 4.34(b) and 385.2010.

Dated: May 8, 2014.

Kimberly D. Bose,

Secretary.

[FR Doc. 2014–11098 Filed 5–13–14; 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 exempt wholesale generator filings:

Docket Numbers: EG14–47–000.
Applicants: Panda Sherman Power, LLC.
Description: Notice of Self-Certification of Exempt Wholesale Generator Status of Panda Sherman Power, LLC.
Filed Date: 5/6/14.
Accession Number: 20140506–5028.
Comments Due: 5 p.m. ET 5/27/14.

Docket Numbers: EG14–48–000.
Applicants: Panda Temple Power, LLC.
Description: Notice of Self-Certification of Exempt Wholesale Generator Status of Panda Temple Power, LLC.
Filed Date: 5/6/14.
Accession Number: 20140506–5029.
Comments Due: 5 p.m. ET 5/27/14.

Docket Numbers: EG14–49–000.
Applicants: Panda Temple Power II, LLC.
Description: Notice of Self-Certification of Exempt Wholesale Generator Status of Panda Temple Power II, LLC.
Filed Date: 5/6/14.
Accession Number: 20140506–5030.
Comments Due: 5 p.m. ET 5/27/14.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER10–2822–006; ER11–2112–005; ER10–2828–001; ER10–2285–004; ER10–2423–004; ER10–2404–004; ER12–2649–001; ER10–1725–001; ER11–2465–005; ER10–2994–010; ER10–3001–002; ER10–3002–001; ER10–3004–002; ER12–422–003; ER10–2301–002; ER10–2273–003; ER10–3010–001; ER11–2306–001; ER12–96–003; ER11–2488–004.
Applicants: Atlantic Renewable Projects II LLC, Blue Creek Wind Farm LLC, Casselman Windpower LLC, Central Maine Power Company, Flat Rock Windpower LLC, Flat Rock Windpower II LLC, Groton Wind, LLC, Hardscrabble Wind Power LLC, Iberdrola Renewables, LLC, Lempster Wind, LLC, Locust Ridge Wind Farm, LLC, Locust Ridge Wind Farm II, LLC, New England Wind, LLC, New York State Electric & Gas Corporatio, PEI Power II, LLC, Providence Heights Wind, LLC, Rochester Gas & Electric Corporation, South Chestnut LLC, Streator-Cayuga Ridge Wind Power LLC
Description: Supplement to December 30, 2013 Updated Market Power Analysis for the Northeast Region of the Iberdrola MBR Sellers.
Filed Date: 5/7/14.
Accession Number: 20140507–5140.
Comments Due: 5 p.m. ET 5/28/14.

Docket Numbers: ER11–2059–005.
Applicants: Midcontinent Independent System Operator, Inc.
Description: 2014–05–06 LTTR Reconciliation Compliance Filing to be effective 5/7/2014.
Filed Date: 5/6/14.
Accession Number: 20140506–5055.
Comments Due: 5 p.m. ET 5/27/14.

Docket Numbers: ER14–1751–001.
Applicants: C2K Energy, LLC.
Description: Amended MBR Tariff Application to be effective 6/22/2014.
Filed Date: 5/7/14.
Accession Number: 20140507–5036.
Comments Due: 5 p.m. ET 5/28/14.

Docket Numbers: ER14–1882–000.
Applicants: Monongahela Power Company.
Description: Monongahela Power Co. Reactive Power Rate Schedules to be effective 5/6/2014.
Filed Date: 5/6/14.
Accession Number: 20140506–5150.
Comments Due: 5 p.m. ET 5/27/14.

Docket Numbers: ER14–1883–000.
Applicants: Allegheny Energy Supply Company, LLC.
Description: Allegheny Energy Supply Co., LLC Reactive Power Rate Schedules to be effective 5/6/2014.
Filed Date: 5/6/14.
Accession Number: 20140506–5155.
Comments Due: 5 p.m. ET 5/27/14.

Docket Numbers: ER14–1884–000.
Applicants: Atlantic Renewable Projects II LLC.
Description: Supplement to Iberdrola NE MBR Sellers' Dec. 30, 2013 Triennial Filing to be effective 7/7/2014.
Filed Date: 5/6/14.
Accession Number: 20140506–5156.
Comments Due: 5 p.m. ET 5/27/14.

Docket Numbers: ER14–1885–000.
Applicants: Blue Creek Wind Farm LLC.
Description: Supplement to Iberdrola NE MBR Sellers' Dec. 30, 2013 Triennial Filing to be effective 7/7/2014.
Filed Date: 5/6/14.
Accession Number: 20140506–5157.
Comments Due: 5 p.m. ET 5/27/14.

Docket Numbers: ER14–1886–000.
Applicants: FirstEnergy Solutions Corp.
Description: FirstEnergy Solutions Corp. Reactive Power Rate Schedule FERC No. 1 to be effective 5/6/2014.
Filed Date: 5/6/14.
Accession Number: 20140506–5158.
Comments Due: 5 p.m. ET 5/27/14.

Docket Numbers: ER14–1887–000.
Applicants: Casselman Windpower LLC.
Description: Supplement to Iberdrola NE MBR Sellers' Dec. 30, 2013 Triennial Filing to be effective 7/7/2014.
Filed Date: 5/6/14.
Accession Number: 20140506–5159.
Comments Due: 5 p.m. ET 5/27/14.

Docket Numbers: ER14–1888–000.
Applicants: Groton Wind, LLC.
Description: Supplement to Iberdrola NE MBR Sellers' Dec. 30, 2013 Triennial Filing to be effective 7/7/2014.
Filed Date: 5/6/14.
Accession Number: 20140506–5160.
Comments Due: 5 p.m. ET 5/27/14.

Docket Numbers: ER14–1889–000.
Applicants: Hardscrabble Wind Power LLC.
Description: Supplement to Iberdrola NE MBR Sellers' Dec. 30, 2013 Triennial Filing to be effective 7/7/2014.
Filed Date: 5/6/14.
Accession Number: 20140506–5161.
Comments Due: 5 p.m. ET 5/27/14.

Docket Numbers: ER14–1890–000.
Applicants: Iberdrola Renewables, LLC.
Description: Supplement to Iberdrola NE MBR Sellers' Dec. 30, 2013 Triennial Filing to be effective 7/7/2014.
Filed Date: 5/6/14.
Accession Number: 20140506–5162.
Comments Due: 5 p.m. ET 5/27/14.

Docket Numbers: ER14–1891–000.
Applicants: Lempster Wind, LLC.
Description: Supplement to Iberdrola NE MBR Sellers' Dec. 30, 2013 Triennial Filing to be effective 7/7/2014.
Filed Date: 5/6/14.

Accession Number: 20140506–5163.
Comments Due: 5 p.m. ET 5/27/14.

Docket Numbers: ER14–1892–000.
Applicants: Locust Ridge Wind Farm, LLC.
Description: Supplement to Iberdrola NE MBR Sellers' Dec. 30, 2013 Triennial Filing to be effective 7/7/2014.
Filed Date: 5/6/14.
Accession Number: 20140506–5164.
Comments Due: 5 p.m. ET 5/27/14.

Docket Numbers: ER14–1893–000.
Applicants: Locust Ridge II, LLC.
Description: Supplement to Iberdrola NE MBR Sellers' Dec. 30, 2013 Triennial Filing to be effective 7/7/2014.
Filed Date: 5/6/14.
Accession Number: 20140506–5165.
Comments Due: 5 p.m. ET 5/27/14.

Docket Numbers: ER14–1894–000.
Applicants: New England Wind, LLC.
Description: Supplement to Iberdrola NE MBR Sellers' Dec. 30, 2013 Triennial Filing to be effective 7/7/2014.
Filed Date: 5/6/14.
Accession Number: 20140506–5166.
Comments Due: 5 p.m. ET 5/27/14.

Docket Numbers: ER14–1895–000.
Applicants: Providence Heights Wind, LLC.
Description: Supplement to Iberdrola NE MBR Sellers' Dec. 30, 2013 Triennial Filing to be effective 7/7/2014.
Filed Date: 5/6/14.
Accession Number: 20140506–5171.
Comments Due: 5 p.m. ET 5/27/14.

Docket Numbers: ER14–1896–000.
Applicants: South Chestnut LLC.
Description: Supplement to Iberdrola NE MBR Sellers' Dec. 30, 2013 Triennial Filing to be effective 7/7/2014.
Filed Date: 5/6/14.
Accession Number: 20140506–5172.
Comments Due: 5 p.m. ET 5/27/14.

Docket Numbers: ER14–1897–000.
Applicants: Streator-Cayuga Ridge Wind Power LLC.
Description: Supplement to Iberdrola NE MBR Sellers' Dec. 30, 2013 Triennial Filing to be effective 7/7/2014.
Filed Date: 5/6/14.
Accession Number: 20140506–5180.
Comments Due: 5 p.m. ET 5/27/14.

Docket Numbers: ER14–1898–000.
Applicants: Midcontinent Independent System Operator, Inc.
Description: 2014–05–07_SA 723_724 Allete-Bison 4 & 5 to be effective 5/8/2014.
Filed Date: 5/7/14.
Accession Number: 20140507–5093.
Comments Due: 5 p.m. ET 5/28/14.

Docket Numbers: ER14–1899–000.
Applicants: Union Electric Company.
Description: Submission of Construction Agreement to be effective 4/17/2014.
Filed Date: 5/7/14.
Accession Number: 20140507–5110.
Comments Due: 5 p.m. ET 5/28/14.

Docket Numbers: ER14–1900–000.
Applicants: Southwestern Electric Power Company.
Description: SWEPCO–NTEC Bearcat Tap to Sand Hill Delivery Point Agreement to be effective 4/17/2014.
Filed Date: 5/7/14.
Accession Number: 20140507–5123.
Comments Due: 5 p.m. ET 5/28/14.

Docket Numbers: ER14–1901–000.
Applicants: Southwest Power Pool, Inc.
Description: 2880 Rattlesnake GIA; Cancellation of 2299R3 Rattlesnake GIA to be effective 4/9/2014.
Filed Date: 5/7/14.
Accession Number: 20140507–5130.
Comments Due: 5 p.m. ET 5/28/14.

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 7, 2014.

Kimberly D. Bose,

Secretary.

[FR Doc. 2014–11095 Filed 5–13–14; 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: EC14–85–000.
Applicants: J.P. Morgan Ventures Energy Corporation, J.P. Morgan Commodities Canada Corporation, BE Alabama LLC, Mercuria Energy America, Inc.
Description: Joint Application for Authorization under Section 203 and Requests for Confidential Treatment and Waivers of J.P. Morgan Ventures Energy Corporation, et al.
Filed Date: 5/5/14.
Accession Number: 20140505–5276.
Comments Due: 5 p.m. ET 5/27/14.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER11–2059–004.
Applicants: Midcontinent Independent System Operator, Inc.
Description: 2014–05–06 LTTR compliance filing to be effective 1/9/2011.
Filed Date: 5/6/14.
Accession Number: 20140506–5047.
Comments Due: 5 p.m. ET 5/27/14.

Docket Numbers: ER12–2366–001.
Applicants: Southwest Power Pool, Inc.
Description: Errata Filing—Compliance Filing Docket Nos. ER09–659–002 and EL 12–2–000 to be effective 7/31/2012.
Filed Date: 4/29/14.
Accession Number: 20140429–5221.
Comments Due: 5 p.m. ET 5/20/14.

Docket Numbers: ER13–618–003*; ER12–2570–004.*
Applicants: Westwood Generation, LLC, Panther Creek Power Operating, LLC.
Description: Notice of Non-Material Change in Status of Westwood Generation, LLC, et al.
Filed Date: 5/5/14.
Accession Number: 20140505–5274.
Comments Due: 5 p.m. ET 5/27/14.

Docket Numbers: ER14–1582–000.
Applicants: Midcontinent Independent System Operator, Inc.
Description: 2014–05–06_ATC D–T Update Batch 1 Supplement to be effective N/A.
Filed Date: 5/6/14.
Accession Number: 20140506–5038.
Comments Due: 5 p.m. ET 5/27/14.

Docket Numbers: ER14–1606–001.
Applicants: Cosima Energy, LLC.
Description: Amended MBR Tariff Filing to be effective 5/1/2014.
Filed Date: 5/6/14.
Accession Number: 20140506–5095.
Comments Due: 5 p.m. ET 5/27/14.

Docket Numbers: ER14–1690–000.
Applicants: Monterey SW LLC.
Description: Amendment to April 9, 2014 Monterey SW LLC tariff filing and Request for Shortened Comment Period.
Filed Date: 5/2/14.
Accession Number: 20140502–5252.
Comments Due: 5 p.m. ET 5/16/14.

Docket Numbers: ER14–1879–000.
Applicants: FirstEnergy Solutions Corp.
Description: FirstEnergy Solutions Corp. Reactive Power Rate Schedule FERC No. 1 to be effective 12/31/9998.

Filed Date: 5/5/14.
Accession Number: 20140505–5227.
Comments Due: 5 p.m. ET 5/27/14.

Docket Numbers: ER14–1880–000.
Applicants: Monongahela Power Company.
Description: Monongahela Power Co. Reactive Power Tariff Rate Schedule FERC No. 3 to be effective 12/31/9998.
Filed Date: 5/5/14.
Accession Number: 20140505–5259.
Comments Due: 5 p.m. ET 5/27/14.

Docket Numbers: ER14–1881–000.
Applicants: Midcontinent Independent System Operator, Inc.
Description: 2014–05–06_SA 2660 Pleasant Valley-GRE E&P Agreement (J278) to be effective 5/7/2014.
Filed Date: 5/6/14.
Accession Number: 20140506–5033.
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 6, 2014.

Kimberly D. Bose,

Secretary.

[FR Doc. 2014–11012 Filed 5–13–14; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2179–043]

Merced Irrigation District; Notice Extending Deadline To File Study Requests and Comments on Pre-Application Document and Scoping Document

On March 28, 2014 the Commission issued a notice of application accepted for filing, soliciting motions to intervene and protests, ready for environmental analysis, and soliciting comments, recommendations, preliminary terms and conditions, and preliminary fishway prescriptions for the Merced River Hydroelectric Project.

The May 23, 2014 deadline for filing comments, recommendations, preliminary terms and conditions, and preliminary fishway prescriptions is extended to July 22, 2014.

Dated: May 7, 2014.

Kimberly D. Bose,

Secretary.

[FR Doc. 2014–11018 Filed 5–13–14; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER14–1927–000]

CED White River Solar 2, 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 CED White River Solar 2, 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 28, 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 8, 2014.

Kimberly D. Bose,

Secretary.

[FR Doc. 2014–11097 Filed 5–13–14; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 13739–002]

Braddock Locks and Dam Hydroelectric Project; Notice of Teleconference

a. *Date and Time of Teleconference:* Friday, May 30, 2014, starting at 9:00 a.m. and ending at 11:00 a.m. (Eastern Daylight Time).

b. *FERC Contact:* Andy Bernick, (202) 502–8660 or *andrew.bernick@ferc.gov.*

c. *Purpose of Teleconference:* Commission staff will discuss the U.S. Army Corps of Engineers' (Corps') comments on the draft environmental assessment for the proposed Braddock Locks and Dam Hydroelectric Project (Braddock Project), which would be located on the Monongahela River in the Borough of West Mifflin and the City of Duquesne, Pennsylvania.

d. *Proposed Agenda:* The Corps proposed the following discussion topics: (1) Purpose and current operation of the existing water quality (or ''environmental'') gate; (2) maintaining compliance with the Corps' nondegradation water quality criteria; (3) flow availability for the proposed Braddock Project; (4) the need for continuous water quality and quantity monitoring; (5) cumulative impacts of stacked hydropower development within the Corps' Lower Monongahela River navigation system; and (6) the applicability of findings from FERC's

1988 ''Hydroelectric Development in the Upper Ohio River Basin'' final environmental impact statement.

e. All local, state, and federal agencies, Indian tribes, and other interested parties are invited to participate by phone. If interested in participating, please contact Andy Bernick at the above email address by May 27, 2014, for information on the telephone number and access code for the conference call.

Dated: May 8, 2014.

Kimberly D. Bose,

Secretary.

[FR Doc. 2014–11100 Filed 5–13–14; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project Nos. 12962–002; 12958–002]

Newburgh Hydro, LLC; Uniontown Hydro, LLC; Notice of Teleconference

a. *Date and Time of Meeting:* Wednesday, May 28, 2014 at 10:00 a.m. (Eastern Daylight Time).

b. *FERC Contact:* Brandi Sangunett, Phone: (202) 502–8393, Email: *brandi.sangunett@ferc.gov.*

c. *Purpose of Meeting:* To discuss the U.S. Fish and Wildlife Service's responses to Commission staff's determinations of effect for federally listed species described in the Multi-Project Environmental Assessment for Hydropower License, for the proposed Uniontown and Newburgh Hydroelectric Projects, issued on March 6, 2014.

d. *Proposed Agenda:*

1. Introduction
2. Bats
3. Mussels
4. Interior Least Tern
5. Summary

e. All local, state, and federal agencies, Indian tribes, and other interested parties are invited to participate by phone. Please call Brandi Sangunett at (202) 502–8393 by May 21, 2014, to RSVP and to receive specific instructions on how to participate.

Dated: May 7, 2014.

Kimberly D. Bose,

Secretary.

[FR Doc. 2014–11016 Filed 5–13–14; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP14–347–000]

Magnolia LNG, LLC; Notice of Onsite Environmental Review

On May 21, 2014, the Office of Energy Projects staff will be in Calcasieu Parish, Louisiana (south of Lake Charles) to gather data related to the environmental analysis of the proposed Magnolia LNG Project site. Staff will examine selected site areas that are only accessible by all-terrain vehicles.

All interested parties planning to attend must provide their own transportation. Those attending should meet at the following location:

• Wednesday, May 21, 2014 at 8:00 a.m. (CDT) meet at the intersection of Big Lake Road and Henry Pugh Road in Lake Charles, Louisiana.

Please use the FERC's free eSubscription service to keep track of all formal issuances and submittals in these dockets. This can reduce the amount of time you spend researching proceedings by automatically providing you with notification of these filings, document summaries, and direct links to the documents. To register for this service, go to *www.ferc.gov/docs-filing/esubscription.asp.*

Information about specific onsite environmental reviews is posted on the Commission's calendar at *http://www.ferc.gov/EventCalendar/EventsList.aspx.* For additional information, contact Office of External Affairs at (866) 208–FERC.

Dated: May 7, 2014.

Kimberly D. Bose,

Secretary.

[FR Doc. 2014–11014 Filed 5–13–14; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL14–46–000]

Ameren Services Company; Notice of Petition for Declaratory Order

Take notice that on May 5, 2014, Ameren Services Company (Ameren Services), on behalf of Union Electric Company d/b/a Ameren Missouri (collectively, Ameren) pursuant to section 207(a)(2) of the Federal Energy Regulatory Commission's (Commission) Rules of Practice and Procedure, 18 CFR 385.207(a)(2), filed a petition for declaratory order seeking the Commission's determination as to the appropriate rate to be charged for Midcontinent Independent System Operator, Inc.'s (MISO) provision of Network Integration Transmission Service to Ameren Missouri's load in the ''Boot Heel'' region of Missouri, as further explained in the petition.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. On or before the comment date, it is not necessary to serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 5 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov*, using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the 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.

Comment Date: 5:00 p.m. Eastern Time on June 4, 2014.

Dated: May 7, 2014.

Kimberly D. Bose,

Secretary.

[FR Doc. 2014–11019 Filed 5–13–14; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL14–47–000]

Public Utility District No. 1 of Snohomish County, Washington; Notice of Petition for Declaratory Order

Take notice that on May 6, 2014, pursuant to Rule 207(a)(2) of the Federal Energy Regulatory Commission's (Commission) Rules of Practice and Procedure, 18 CFR 385.207(a)(2), the Public Utility District No. 1 of Snohomish County, Washington (District) filed a petition for declaratory order requesting that the Commission declare that: (1) The Federal Power Act [1] preempts the regulatory authority of Island County, Washington (Island County) and the Washington State Department of Ecology (Ecology) under Washington's Shoreline Management Act (SMA) over the District's action to construct, operate, and maintain the Admiralty Inlet Pilot Tidal Project (Project) under its license; and (2) the District accordingly is not required to obtain the approval of Island County and Ecology in the form of Shoreline Conditional Use Permit under the SMA in order to construct, operate, and maintain the Project.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. On or before the comment date, it is not necessary to serve motions to intervene or protests on persons other than the Petitioner.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the 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.

Comment Date: 5:00 p.m. Eastern Time on June 5, 2014.

Dated: May 8, 2014.

Kimberly D. Bose,

Secretary.

[FR Doc. 2014–11096 Filed 5–13–14; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CD14–19–000]

City of Corvallis, Oregon; Notice of Preliminary Determination of a Qualifying Conduit Hydropower Facility and Soliciting Comments and Motions To Intervene

On April 24, 2014, City of Corvallis, Oregon filed a notice of intent to construct a qualifying conduit hydropower facility, pursuant to section 30 of the Federal Power Act (FPA), as amended by section 4 of the Hydropower Regulatory Efficiency Act of 2013 (HREA). The proposed City of Corvallis Rock Creek Water Treatment Plant Hydropower Project would have an installed capacity of 28 kilowatts (kW) and would utilize an existing 16-inch diameter water supply pipeline. The project would be located near the City of Corvallis in Benton County, Oregon.

Applicant Contact: Brian Tingwood, City of Corvallis, Oregon, P.O. Box 1083, Corvallis, OR 97339, Phone No. (541) 766–6916.

FERC Contact: Robert Bell, Phone No. (202) 502–6062, email: *robert.bell@ferc.gov.*

Qualifying Conduit Hydropower Facility Description: The proposed project would consist of: (1) A proposed 12-inch-diameter bifurcation pipe, (2) a proposed 4-foot-long, 12-inch-diameter intake pipe; (3) a proposed powerhouse containing one generating unit with an installed capacity of 28 kW; (4) a proposed 10-foot-long, 12-inch-diameter discharge pipe back into the main pipeline; and (5) appurtenant facilities. The proposed project would have an estimated annual generating capacity of 219.113 megawatt-hours.

A qualifying conduit hydropower facility is one that is determined or deemed to meet all of the criteria shown in the table below.

TABLE 1—CRITERIA FOR QUALIFYING CONDUIT HYDROPOWER FACILITY

Statutory provision	Description	Satisfies (Y/N)
FPA 30(a)(3)(A), as amended by HREA ..	The conduit the facility uses is a tunnel, canal, pipeline, aqueduct, flume, ditch, or similar manmade water conveyance that is operated for the distribution of water for agricultural, municipal, or industrial consumption and not primarily for the generation of electricity.	Y
FPA 30(a)(3)(C)(i), as amended by HREA	The facility is constructed, operated, or maintained for the generation of electric power and uses for such generation only the hydroelectric potential of a non-federally owned conduit.	Y
FPA 30(a)(3)(C)(ii), as amended by HREA.	The facility has an installed capacity that does not exceed 5 megawatts	Y
FPA 30(a)(3)(C)(iii), as amended by HREA.	On or before August 9, 2013, the facility is not licensed, or exempted from the licensing requirements of Part I of the FPA.	Y

[1] 16 U.S.C. 791–823d (2012).

Preliminary Determination: Based upon the above criteria, Commission staff preliminarily determines that the proposal satisfies the requirements for a qualifying conduit hydropower facility, which is not required to be licensed or exempted from licensing.

Comments and Motions to Intervene: Deadline for filing comments contesting whether the facility meets the qualifying criteria is 45 days from the issuance date of this notice.

Deadline for filing motions to intervene is 30 days from the issuance date of this notice.

Anyone may submit comments or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210 and 385.214. Any motions to intervene must be received on or before the specified deadline date for the particular proceeding.

Filing and Service of Responsive Documents: All filings must (1) bear in all capital letters the ''COMMENTS CONTESTING QUALIFICATION FOR A CONDUIT HYDROPOWER FACILITY'' or ''MOTION TO INTERVENE,'' as applicable; (2) state in the heading the name of the applicant and the project number of the application to which the filing responds; (3) state the name, address, and telephone number of the person filing; and (4) otherwise comply with the requirements of sections 385.2001 through 385.2005 of the Commission's regulations.[1] All comments contesting Commission staff's preliminary determination that the facility meets the qualifying criteria must set forth their evidentiary basis.

The Commission strongly encourages electronic filing. Please file motions to intervene and comments 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. A copy of all other filings in reference to this application must be accompanied by proof of service on all persons listed in the service list prepared by the Commission in this proceeding, in accordance with 18 CFR 4.34(b) and 385.2010.

Locations of Notice of Intent: Copies of the notice of intent can be obtained directly from the applicant or such copies can be viewed and reproduced at the Commission in its Public Reference Room, Room 2A, 888 First Street NE., Washington, DC 20426. The filing may also be viewed on the web at *http://www.ferc.gov/docs-filing/elibrary.asp* using the ''eLibrary'' link. Enter the docket number (e.g., CD14–19–000) in the docket number field to access the document. For assistance, call toll-free 1–866–208–3676 or email *FERCOnlineSupport@ferc.gov.* For TTY, call (202) 502–8659.

Dated: May 8, 2014.

Kimberly D. Bose,

Secretary.

[FR Doc. 2014–11094 Filed 5–13–14; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RM98–1–000]

Records Governing Off-the-Record Communications; Public Notice

This constitutes notice, in accordance with 18 CFR 385.2201(b), of the receipt of prohibited and exempt off-the-record communications.

Order No. 607 (64 FR 51222, September 22, 1999) requires Commission decisional employees, who make or receive a prohibited or exempt off-the-record communication relevant to the merits of a contested proceeding, to deliver to the Secretary of the Commission, a copy of the communication, if written, or a summary of the substance of any oral communication.

Prohibited communications are included in a public, non-decisional file associated with, but not a part of, the decisional record of the proceeding. Unless the Commission determines that the prohibited communication and any responses thereto should become a part of the decisional record, the prohibited off-the-record communication will not be considered by the Commission in reaching its decision. Parties to a proceeding may seek the opportunity to respond to any facts or contentions made in a prohibited off-the-record communication, and may request that the Commission place the prohibited communication and responses thereto in the decisional record. The Commission will grant such a request only when it determines that fairness so requires. Any person identified below as having made a prohibited off-the-record communication shall serve the document on all parties listed on the official service list for the applicable proceeding in accordance with Rule 2010, 18 CFR 385.2010.

Exempt off-the-record communications are included in the decisional record of the proceeding, unless the communication was with a cooperating agency as described by 40 CFR 1501.6, made under 18 CFR 385.2201(e)(1)(v).

The following is a list of off-the-record communications recently received by the Secretary of the Commission. The communications listed are grouped by docket numbers in ascending order. These filings are available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the eLibrary link. Enter the docket number, excluding the last three digits, in the docket number field to access the document. For assistance, please contact FERC, Online Support at *FERCOnlineSupport@ferc.gov* or toll free at (866) 208–3676, or for TTY, contact (202) 502–8659.

Docket No.	Filed date	Presenter or requester
Prohibited:		
1. ER13–1380–000	4–30–14	Luci Jessi Young.[1]
2. CP13–113–000	5–6–14	Mark Ambroziak.
Exempt:		
1. CP13–483–000, CP13–492–000	4–21–14	FERC Staff.[2]
2. P–405–106, P–2355–018	4–22–14	FERC Staff.[3]
3. P–2210–000	4–23–14	Virginia Delegate Charles D. Poindexter.
4. CP14–119–000, CP14–120–000, CP14–122–000, PF12–8–000	4–23–14	Railroad Commission of Texas.[4]

[1] 18 CFR 385.2001–2005 (2013).

Docket No.	Filed date	Presenter or requester
5. CP13–499–000, CP13–502–000	4–23–14	Hon. Chis Gibson.
6. CP14–120–000, CP14–119–000, CP14–122–000, PF12–8–000	4–23–14	State of Texas Rep. Jim Keffer.
7. P–405–106	4–23–14	FERC Staff.[5]
8. CP14–96–000	4–23–14	State of Maine Representatives and Senators.[6]
9. CP14–96–000	4–23–14	Members of Congress.[7]
10. P–2232–000	4–23–14	Members of Congress.[8]
11. ER13–1380–000, ER14–500–000	4–24–14	Hon. Terry Gipson.
12. CP14–101, PF13–17–000	4–24–14	Members of Congress.[9]
13. CP14–119–000, CP14–120–000, CP14–122–000, PF12–8–000	4–24–14	Members of Congress.[10]
14. ER13–1380–000, ER14–500–000	4–24–14	Hon. Chris Gibson.
15. CP13–113–000	4–25–14	Hon. May L. Landrieu.
16. CP14–125–000	4–29–14	Members of Congress.[11]
17. ER13–1380–000, ER14–500–000	4–30–14	Hon. Sean Patrick Maloney.[12]
18. ER13–1380–000	4–30–14	City of Kingston, NY.[13]
19. CP13–483–000, CP13–492–000	5–1–14	FERC Staff.[14]
20. ER14–1050–000	5–5–14	Members of Congress.[15]

[1] One of eighteen (18) comments submitted on April 30, 2014 involving creation of a new capacity zone within New York Independent Systems Operator's footprint.
[2] Notes from April 17, 2014 bi-weekly telephone conference with federal cooperating agencies.
[3] Telephone memo dated March 25, 2014.
[4] Individual letters from Commissioner Christi Craddick and Chairman Barry T. Smitherman.
[5] Telephone memo (calls dated April 9, 2014, April 11, 2014, April 15, 2014, and April 21, 2014).
[6] Individual letters from Jeff McCabe, Barry J. Hobbins, Seth Berry, Anne Haskell, Troy Jackson, Michael D. Thibodeau.
[7] Hons. Angus S. King, Jr., Kelly Ayotte, Chris Murphy, Susan Collins, Richard Blumenthal, Jeanne Shaheen, Jack Reed, Sheldon Whitehouse.
[8] Hons. Lindsey Gragam, Tim Scott, James E. Clyburn, Joe Wilson, Jeff Duncan, Trey Gowdy, Mick Mulvaney, Tom Rice.
[9] Hon. Rand Paul and Ed Whitfield.
[10] Individual letters from Senator Mary L. Landrieu and Representative Pete Olson.
[11] Hons. David Vitter and Bill Cassidy.
[12] Records of April 30 telephone call and meeting with Acting Chairman LaFleur.
[13] One of seventeen (17) comments submitted on April 30, 2014 and May 1, 2014 involving creation of a new capacity zone within New York Independent (continued . . .) Systems Operator's footprint. Including, individual comments from New York State Assembly Members Didi Barrett and Kieran Michale Lalor, New York State Senator Terry Gipson, and the New York State Public Service Commission.
[14] Notes from April 30, 2014 bi-weekly telephone conference with federal cooperating agencies.
[15] Hons. Jeanne Shaheen, Patrick Leahy, Edward J. Markey, Kelly Ayotte, Richard Blumenthal, Christopher Murphy, Sheldon Whitehouse, Jack Reed, Elizabeth Warren.

Dated: May 8, 2014.

Kimberly D. Bose,

Secretary.

[FR Doc. 2014–11099 Filed 5–13–14; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2467–020]

Pacific Gas and Electric Company; Notice Extending Deadline To File Study Requests and Comments on Pre-Application Document and Scoping Document

On March 24, 2014 the Commission issued a notice of application accepted for filing, soliciting motions to intervene and protests, ready for environmental analysis, and soliciting comments, recommendations, preliminary terms and conditions, and preliminary fishway prescriptions for the Merced Falls Hydroelectric Project.

The May 23, 2014 deadline for filing comments, recommendations, preliminary terms and conditions, and preliminary fishway prescriptions is extended to July 22, 2014.

Dated: May 7, 2014.

Kimberly D. Bose,

Secretary.

[FR Doc. 2014–11015 Filed 5–13–14; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPPT–2003–0004; FRL–9909–73]

Access to Confidential Business Information by Electronic Consulting Services Federal Inc. and Its Identified Subcontractors

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has authorized its contractor, Electronic Consulting Services Federal Inc. (ECS) of Fairfax, VA and its subcontractors, to access information which has been submitted to EPA under all sections of the Toxic Substances Control Act (TSCA). Some of the information may have been claimed or determined to be Confidential Business Information (CBI).

DATES: Access to the confidential data occurred on or about March 31, 2014.

FOR FURTHER INFORMATION CONTACT:

For technical information contact: Scott Sherlock, Environmental Assistance Division (7408M), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001; telephone number: (202) 564–8257; email address: *sherlock.scott@epa.gov.*

For general information contact: The TSCA-Hotline, ABVI-Goodwill, 422 South Clinton Ave., Rochester, NY 14620; telephone number: (202) 554–1404; email address: *TSCA-Hotline@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

This action is directed to the public in general. This action may, however, be of interest to all who manufacture, process, or distribute industrial chemicals. Since other entities may also be interested, the Agency has not attempted to describe all the specific entities that may be affected by this action.

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

The docket for this action, identified by docket identification (ID) number EPA–HQ–OPPT–2003–0004, is available

at *http://www.regulations.gov* or at the Office of Pollution Prevention and Toxics Docket (OPPT Docket), Environmental Protection Agency Docket Center (EPA/DC), West William Jefferson Clinton Bldg., Rm. 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 OPPT Docket is (202) 566–0280. Please review the visitor instructions and additional information about the docket available at *http://www.epa.gov/dockets.*

II. What action is the Agency taking?

Under EPA contract number GS–35F–0601K, order number EP–G12H–00442, contractor ECS of 2750 Prosperity Avenue, Suite 600, Fairfax, VA; Agensys Corporation of 23700 Pebble Run Place, Suite 100, Ashburn, VA; Apex Systems of 5430 Wade Park Boulevard, Suite 302, Raleigh, NC; and Tek Systems, Inc. of 7437 Race Road, Hanover, MD are assisting EPA by performing upgrades of EZ Tech managed computers at Headquarters, Research Triangle Park, NC and Cincinnati, OH EPA Program Offices.

In accordance with 40 CFR 2.306(j), EPA has determined that under EPA contract number GS–35F–0601K, order number EP–G12H–00442, ECS and its subcontractors required access to CBI submitted to EPA under all section(s) of TSCA to perform successfully the duties specified under the contract. ECS and its subcontractors' personnel were given access to information submitted to EPA under all section(s) of TSCA. Some of the information may have been claimed or determined to be CBI.

EPA is issuing this notice to inform all submitters of information under all sections of TSCA that EPA has provided ECS and its subcontractors access to these CBI materials on a need-to-know basis only. All access to TSCA CBI under this contract is taking place at EPA Headquarters, Research Triangle Park, NC and Cincinnati, OH in accordance with EPA's *TSCA CBI Protection Manual.*

Access to TSCA data, including CBI, will continue until September 20, 2016. If the contract is extended, this access will also continue for the duration of the extended contract without further notice.

ECS and its subcontractors' personnel have signed nondisclosure agreements and were briefed on appropriate security procedures before they were permitted access to TSCA CBI.

List of Subjects

Environmental protection, Confidential business information.

Dated: April 24, 2014.

Sonchi Tran,

Acting Director, Information Management Division, Office of Pollution Prevention and Toxics.

[FR Doc. 2014–10959 Filed 5–13–14; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OW–2004–0019; FRL–9910–86–OW]

External Peer Review Draft Aquatic Life Ambient Water Quality Criterion for Selenium—Freshwater 2014

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of availability.

SUMMARY: The Environmental Protection Agency's (EPA) recommended water quality criteria provide technical information for states and authorized tribes to adopt water quality standards under the Clean Water Act to protect human health. EPA is announcing the release of the External Peer Review Draft Aquatic Life Ambient Water Quality Criterion for Selenium—Freshwater 2014 (EPA–822–P–14–001) for public comment. Following closure of the public comment period, an EPA contractor will organize and conduct an independent expert external letter peer review of the draft criterion document. Public comments will be made available to the peer reviewers for consideration during their review. This external peer review draft criterion document does not represent and should not be construed to represent any final EPA policy, viewpoint, or determination.

DATES: The public comment period begins on May 14, 2014 and ends on June 13, 2014. Scientific views should be submitted to the public EPA docket by June 13, 2014. Scientific views postmarked after this date may not receive the same consideration.

ADDRESSES: Submit your scientific views, identified by Docket ID No. EPA–HQ–OW–2004–0019, by one of the following methods:

- *www.regulations.gov:* Follow the on-line instructions for submitting comments.
- Email: *ow-docket@epa.gov.* Attention Docket No. EPA–HQ–OW–2004–0019.
- Mail: EPA Water Docket, Environmental Protection Agency, Mailcode: 2822–IT, 1200 Pennsylvania Ave. NW., Washington, DC 20460. Attention Docket No. EPA–HQ–OW–2004–0019. Please include a total of two copies (including references).
- Hand Delivery: EPA Water Docket, EPA Docket Center, William Jefferson Clinton West Building, Room 3334, 1301 Constitution Avenue NW., Washington, DC 20004, Docket No. EPA–HQ–OW–2004–0019. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: 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. For additional information about 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 Section III of the **SUPPLEMENTARY INFORMATION** section of this document.

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 EPA–HQ–OW–2004–0019 Docket, EPA/DC, William Jefferson Clinton Building 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 EPA Water Docket is (202) 566–2426.

FOR FURTHER INFORMATION CONTACT:

Kathryn Gallagher at U.S. EPA, Office of Water, Health and Ecological Criteria Division (4304T), 1200 Pennsylvania Avenue NW., Washington, DC 20460; telephone: (202) 564–1398; or email: *gallagher.kathryn@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. 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. 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.

II. What is selenium and why is EPA concerned about it?

Selenium is a naturally occurring chemical element that is nutritionally essential in small amounts, but toxic at higher concentrations. Selenium can be released to the environment by a number of anthropogenic sources, such as coal mining, coal-fired power plants (fly ash), irrigated agriculture, and phosphate mining. Selenium is a bioaccumulative pollutant. Fish and other aquatic organisms are exposed and accumulate selenium primarily through their diet, and not directly through water. Selenium toxicity in fish occurs primarily through maternal transfer to the eggs and subsequent reproductive effects. Consequently, EPA is working on an update to its national recommended chronic aquatic life criterion for selenium in freshwater to reflect the latest scientific information, which indicates that selenium toxicity to aquatic life is primarily driven by organisms consuming selenium-contaminated food rather than by being directly exposed to selenium dissolved in water.

III. Information on the External Peer Review Draft Aquatic Life Ambient Water Quality Criterion for Selenium—Freshwater 2014

EPA has prepared an external peer review draft aquatic life criterion document for selenium based on the latest scientific information and current EPA policies and methods, including EPA's *Guidelines for Deriving Numerical National Water Quality Criteria for the Protection of Aquatic Organisms and Their Uses* (1985) (EPA/R–85–100) and *Guidelines for Ecological Risk Assessment* (1998) (EPA/630/R–95/002F). Toxicity data and other information on the effects of selenium were obtained from reliable sources and subjected to both internal, and in some cases external, peer review. Public comments previously collected in response to EPA's 2004 notice of availability (published on December 17, 2004 at 69 FR 75541) and new toxicity data for selenium developed in response to those comments (EPA–822–F–08–005) were also considered in the development of the external peer review draft criterion document.

The external peer review draft criterion has four elements, consisting of two fish tissue-based and two water column-based elements. The external peer review draft criterion document contains a recommendation that states and authorized tribes adopt into their water quality standards a selenium criterion that includes all four elements. The draft criterion document goes on to recommend that (because fish tissue-based concentration is a more direct measure of selenium toxicity to aquatic life than water column concentrations) fish tissue elements be given precedence over the water column elements when both types of data are available.

The available data indicate that freshwater aquatic life would be protected from the toxic effects of selenium by applying the following four-element criterion:

1. The concentration of selenium in the eggs or ovaries of fish does not exceed 15.2 mg/kg, dry weight; [1]

2. The concentration of selenium (a) in whole-body of fish does not exceed 8.1 mg/kg dry weight, or (b) in muscle tissue of fish (skinless, boneless fillet) does not exceed 11.8 mg/kg dry weight; [2]

3. The 30-day average concentration of selenium in water does not exceed 4.8 µg/L in lotic (flowing) waters and 1.3 µg/L in lentic (standing) waters more than once in three years on average; [3]

4. The intermittent concentration of selenium in either a lentic or lotic water, as appropriate, does not exceed

$$WQC_{int} = \frac{WQC_{30-day} - C_{bkgrnd}(1-f_{int})}{f_{int}}$$

more than once in three years on average.[3 4]

Media Type	Fish Tissue		Water Column[3]	
Criterion Element	**Egg/Ovary[1]**	**Fish Whole-Body or Muscle[2]**	**Monthly Average Exposure**	**Intermittent Exposure[4]**
Magnitude	15.2 mg/kg	8.1 mg/kg whole body or 11.8 mg/kg muscle (skinless, boneless filet)	1.3 µg/L in lentic aquatic systems 4.8 µg/L in lotic aquatic systems	$WQC_{int} = \frac{WQC_{30-day} - C_{bkgrnd}(1 - f_{int})}{f_{int}}$
Duration	Instantaneous measurement[5]	Instantaneous measurement[5]	30 days	Number of days/month with an elevated concentration
Frequency	Never to be exceeded	Never to be exceeded	Not more than once in three years on average	Not more than once in three years on average

[1] Overrides any whole-body, muscle, or water column elements when fish egg/ovary concentrations are measured.
[2] Overrides any water column element when both fish tissue and water concentrations are measured.
[3] Water column values are based on dissolved total selenium in water.
[4] Where $WQC_{30\text{-}day}$ is the water column monthly element, for either a lentic or lotic system, as appropriate. C_{bkgrnd} is the average background selenium concentration, and f_{int} is the fraction of any 30-day period during which elevated selenium concentrations occur, with f_{int} assigned a value ≥0.033 (corresponding to 1 day).
[5] Instantaneous measurement. Fish tissue data provide point measurements that reflect integrative accumulation of selenium over time and space in the fish at a given site. Selenium concentrations in fish tissue are expected to change only gradually over time in response to environmental fluctuations.

The draft criterion document does not include a draft acute criterion (based on water-only exposure) because selenium is bioaccumulative and toxicity primarily occurs through dietary exposure. If there are rare instances where selenium sources could cause acute effects while attaining the chronic criterion concentrations, a pollution control authority could establish a site-specific acute criterion to protect from those effects.

Following closure of the public comment period, a contractor will organize and lead an external expert peer review conducted by letter. The peer reviewers will have access to public comments received in the official public docket for this activity under docket ID number EPA–HQ–OW–2004–0019. Following peer review, EPA will consider the peer reviewer and public comments, revise the document as necessary, and publish a **Federal Register** notice announcing the availability of the draft proposed selenium criterion and soliciting scientific views for 30 days from the public. EPA will then revise the document again and issue a final updated selenium criterion document.

IV. What is the relationship between the external peer review draft water quality criterion 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 established or to supplement numerical criteria (40 CFR 131.11(b)).

EPA believes that it is important for states and authorized tribes to consider any new or updated section 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. The recommendations in the external peer review draft selenium criterion document may change based on scientific views shared in response to this notice and those of the external peer reviewers. Upon finalization, the updated selenium criterion would supersede EPA's previous 304(a) freshwater criteria for selenium.

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: May 6, 2014.

Nancy K. Stoner,

Acting Assistant Administrator, Office of Water.

[FR Doc. 2014–11080 Filed 5–13–14; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–9910–90–OA]

Notification of a Public Teleconference of the Chartered Science Advisory Board

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The EPA Science Advisory Board (SAB) Staff Office announces a public teleconference of the Chartered Science Advisory Board Panel to discuss planned actions identified in the agency's regulatory agenda and the adequacy of their supporting science.

DATES: The public teleconference will be held on Wednesday, June 11, 2014 from 11:00 a.m. to 1:00 p.m. (Eastern Time).

Location: The public teleconference will be conducted by telephone only.

FOR FURTHER INFORMATION CONTACT: Any member of the public wishing to obtain information concerning the public meeting may contact Dr. Angela Nugent, Designated Federal Officer (DFO), EPA Science Advisory Board Staff Office (1400R), U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue NW., Washington, DC 20460; by telephone/voice mail at (202) 564–2218 or at *nugent.angela@epa.gov.* General information about the SAB as well as any updates concerning the meeting announced in this notice may be found on the EPA Web site at *http://www.epa.gov/sab.*

SUPPLEMENTARY INFORMATION: The SAB was established pursuant to the Environmental Research, Development, and Demonstration Authorization Act (ERDDAA), codified at 42 U.S.C. 4365, to provide independent scientific and technical advice to the Administrator on the technical basis for Agency positions and regulations. The SAB is a Federal Advisory Committee chartered under the Federal Advisory Committee Act (FACA), 5 U.S.C., App. 2. The SAB will comply with the provisions of FACA and all appropriate SAB Staff Office procedural policies. Pursuant to FACA and EPA policy, notice is hereby given that the SAB will hold a public meeting to discuss and deliberate on the topics below.

The EPA has recently underscored the need to routinely inform the SAB about proposed and planned agency actions that have a scientific or technical basis. Accordingly, the agency provided notice to the SAB that the Fall 2013 Unified (Regulatory) Agenda and Regulatory Plan had been published on November 26, 2013. This semi-annual regulatory agenda is available at *http://www.reginfo.gov/public/.* At the June 11, 2014 teleconference, the Chartered SAB will discuss whether it should provide advice and comment on the adequacy of the scientific and technical basis for EPA actions included in the Unified (Regulatory) Agenda.

Availability of Meeting Materials: Agendas and materials in support of this meeting will be placed on the EPA Web site at *http://www.epa.gov/sab* in advance of the meeting.

Procedures for Providing Public Input: Public comment for consideration by EPA's federal advisory committees and panels has a different purpose from public comment provided to EPA program offices. Therefore, the process for submitting comments to a federal advisory committee is different from the process used to submit comments to an EPA program office.

Federal advisory committees and panels, including scientific advisory committees, provide independent advice to EPA. Members of the public can submit comments for a federal advisory committee to consider as it develops advice for EPA. Input from the public to the SAB will have the most impact if it provides specific scientific or technical information or analysis for SAB panels to consider or if it relates to the clarity or accuracy of the technical information. Members of the public wishing to provide comment should contact the Designated Federal Officer directly. *Oral Statements:* In general, individuals or groups requesting an oral presentation at a teleconference will be limited to three minutes. Each person making an oral statement should consider providing written comments as well as their oral statement so that the points presented orally can be expanded upon in writing. Interested parties should contact Dr. Angela Nugent, DFO, in writing (preferably via email) at the contact information noted above by June 4, 2014 for the teleconference, to be placed on the list of public speakers. *Written Statements:* Written statements should be supplied to the DFO via email at the contact information noted above by June 4, 2014 for the teleconference so that the information may be made available to the Panel members for their consideration. Written statements should be supplied in one of the following electronic formats: Adobe Acrobat PDF, MS Word, MS PowerPoint, or Rich Text files in IBM–PC/Windows 98/2000/XP format. It is the SAB Staff Office general policy to post written comments on the Web page for the advisory meeting or teleconference. Submitters are requested to provide an unsigned version of each document because the SAB Staff Office does not publish documents with signatures on its Web sites. Members of the public should be aware that their personal contact information, if included in any written comments, may be posted to the SAB Web site. Copyrighted material will not be posted without explicit permission of the copyright holder.

Accessibility: For information on access or services for individuals with disabilities, please contact Dr. Angela Nugent at (202) 564–2218 or nugent.angela@epa.gov. To request accommodation of a disability, please contact Dr. Nugent preferably at least ten days prior to the teleconference to give EPA as much time as possible to process your request.

Dated: May 7, 2014.

Christopher Zarba,

Director, EPA Science Advisory Staff Office.

[FR Doc. 2014–11091 Filed 5–13–14; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–9910–89–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 the Environmental Integrity Project and Benjamin Feldman in the United States District Court for the District of Columbia: *Environmental Integrity Project* v. *McCarthy,* Civil Action No. 1:13-cv-01783 (KBJ) (D.D.C.). On November 14, 2013, Plaintiff filed a complaint alleging that Gina McCarthy, in her official capacity as Administrator of the United States Environmental Protection Agency (''EPA''), failed to perform a non-discretionary duty to grant or deny within 60 days a petition submitted by Environmental Integrity Project and Benjamin Feldman on February 5, 2013 requesting that EPA object to a CAA Title V permit issued by the Maryland Department of the Environment to Mettiki Coal, LLC to operate a coal preparation/processing plant located in Oakland, Maryland. The proposed consent decree would establish a deadline for EPA to take such action.

DATES: Written comments on the proposed consent decree must be received by *June 13, 2014.*

ADDRESSES: Submit your comments, identified by Docket ID number EPA–HQ–OGC–2014–0383, 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: Karen Bennett Bianco, Air and Radiation Law Office (2344A), Office of General Counsel, U.S. Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460; telephone: (202) 564–3298; fax number: (202) 564–5603; email address: *bennett.karen@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Additional Information About the Proposed Consent Decree

The proposed consent decree would resolve a lawsuit filed by the Environmental Integrity Project and Benjamin Feldman seeking to compel the Administrator to take actions under CAA section 505(b)(2). Under the terms of the proposed consent decree, EPA would agree to sign its response granting or denying the petition filed by the Environmental Integrity Project and Benjamin Feldman regarding Mettiki Coal LLC's coal preparation/processing plant located in Oakland, Maryland, pursuant to section 505(b)(2) of the CAA, on or before September 26, 2014.

Under the terms of the proposed consent decree, EPA would expeditiously deliver notice of EPA's response to the Office of the Federal Register for review and publication following signature of such response. In addition, the proposed consent decree outlines the procedure for the Plaintiffs to request 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 on 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–2014–0383) 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 6, 2014.

Lorie J. Schmidt,

Associate General Counsel.

[FR Doc. 2014–11076 Filed 5–13–14; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

Information Collection Being Submitted for Review and Approval to the Office of Management and Budget

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 Communication Commission (FCC or Commission) invites the general public and other Federal agencies to take this opportunity to comment on the following information collections. Comments are requested concerning: whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees.

The FCC may not conduct or sponsor a collection of information unless it displays a currently valid OMB control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid OMB control number.

DATES: Written comments should be submitted on or before June 13, 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 contacts below as soon as possible.

ADDRESSES: Direct all PRA comments to Nicholas A. Fraser, OMB, via email *Nicholas_A._Fraser@omb.eop.gov*; and to Cathy Williams, FCC, via email *PRA@fcc.gov PRA@fcc.* and to *Cathy.Williams@fcc.gov.* Include in the comments the OMB control number as shown in the ''Supplementary Information'' section below.

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collection, contact Cathy Williams at (202) 418–2918. To view a copy of this information collection request (ICR) submitted to OMB: (1) Go to the Web page *http://www.reginfo.gov/public/do/PRAMain*, (2) look for the section of the Web page called ''Currently Under Review,'' (3) click on the downward-pointing arrow in the ''Select Agency'' box below the ''Currently Under Review'' heading, (4) select ''Federal Communications Commission'' from the list of agencies presented in the ''Select Agency'' box, (5) click the ''Submit'' button to the right of the ''Select Agency'' box, (6) when the list of FCC ICRs currently under review appears, look for the OMB control number of this ICR and then click on the ICR Reference Number. A copy of the FCC submission to OMB will be displayed.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–0652.

Title: Section 76.309, Customer Service Obligations; Section 76.1602, Customer Service-General Information, Section 76.1603, Customer Service-Rate and Service Changes and Section 76.1619, Information and Subscriber Bills.

Form Number: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit entities; State, Local or Tribal Government.

Number of Respondents and Responses: 8,260 respondents; 1,117,540 responses.

Estimated Time per Response: 0.0167 to 1 hour.

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

Obligation to Respond: Required to obtain or retain benefits. The statutory authority for this collection of information is contained in Sections 4(i) and 632 of the Communications Act of 1934, as amended.

Total Annual Burden: 50,090 hours.

Total Annual Cost: None.

Privacy Act Impact Assessment: No impact(s).

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

Needs and Uses: The Commission released on October 14, 2010, a Third Report and Order and Order on Reconsideration, FCC 10–181, CS Docket 97–80 and PP Docket 00–67, modifying the Commission's rules to implement Section 629 of the Communications Act (Section 304 of the Telecommunications Act of 1996). Section 629 of the Communications Act directs the Commission to adopt rules to assure the commercial availability of ''navigation devices,'' such as cable set-top boxes. One rule modification in the Third Report and Order and Order on Reconsideration is intended to prohibit price discrimination against retail devices. This modification requires cable operators to disclose annually the fees for rental of navigation devices and single and additional CableCARDs as well as the fees reasonably allocable to the rental of single and additional CableCARDs and the rental of operator-supplied navigation devices if those

devices are included in the price of a bundled offer.

Federal Communications Commission.

Marlene H. Dortch,

Secretary, Office of the Secretary, Office of Managing Director.

[FR Doc. 2014–10987 Filed 5–13–14; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

Federal Advisory Committee Act; Communications Security, Reliability, and Interoperability Council

AGENCY: Federal Communications Commission.

ACTION: Notice.

SUMMARY: In accordance with the Federal Advisory Committee Act, this notice advises interested persons that the Federal Communications Commission's (FCC or Commission) Communications Security, Reliability, and Interoperability Council (CSRIC) IV will hold its fourth meeting. At the meeting, each of the Working Groups will present an update on topics including emergency warning systems, 9–1–1 location accuracy, distributed denial-of-service (DDoS), and cybersecurity best practices.

DATES: June 18, 2014.

ADDRESSES: Federal Communications Commission, Room TW–C305 (Commission Meeting Room), 445 12th Street SW., Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Jeffery Goldthorp, Designated Federal Officer, (202) 418–1096 (voice) or *jeffery.goldthorp@fcc.gov* (email); or Lauren Kravetz, Deputy Designated Federal Officer, (202) 418–7944 (voice) or *lauren.kravetz@fcc.gov* (email).

SUPPLEMENTARY INFORMATION: The meeting will be held on June 18, 2014, from 1:00 p.m. to 5:00 p.m. in the Commission Meeting Room of the Federal Communications Commission, Room TW–C305, 445 12th Street SW., Washington, DC 20554.

The CSRIC is a Federal Advisory Committee that will provide recommendations to the FCC regarding best practices and actions the FCC can take to ensure the security, reliability, and interoperability of communications systems. On March 19, 2013, the FCC, pursuant to the Federal Advisory Committee Act, renewed the charter for the CSRIC for a period of two years through March 18, 2015. Each of the ten Working Groups of this most recently-chartered CSRIC is described in more detail at *http://www.fcc.gov/encyclopedia/communications-security-reliability-and-interoperability-council-iv.*

The meeting on June 18, 2014, will be the fourth meeting of the CSRIC under the current charter. The FCC will attempt to accommodate as many attendees as possible; however, admittance will be limited to seating availability. The Commission will provide audio and/or video coverage of the meeting over the Internet from the FCC's Web page at *http://www.fcc.gov/live.* The public may submit written comments before the meeting to Jeffery Goldthorp, CSRIC Designated Federal Officer, by email to *jeffery.goldthorp@fcc.gov* or U.S. Postal Service Mail to Jeffery Goldthorp, Associate Bureau Chief, Public Safety and Homeland Security Bureau, Federal Communications Commission, 445 12th Street SW., Room 7–A325, Washington, DC 20554.

Open captioning will be provided for this event. Other reasonable accommodations for people with disabilities are available upon request. Requests for such accommodations should be submitted via email to *fcc504@fcc.gov* or by calling the Consumer & Governmental Affairs Bureau at (202) 418–0530 (voice), (202) 418–0432 (tty). Such requests should include a detailed description of the accommodation needed. In addition, please include a way the FCC can contact you if it needs more information. Please allow at least five days' advance notice; last-minute requests will be accepted, but may be impossible to fill.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. 2014–11084 Filed 5–13–14; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL MARITIME COMMISSION

Notice of Agreements Filed

The Commission hereby gives notice of the filing of the following agreements under the Shipping Act of 1984. Interested parties may submit comments on the agreements to the Secretary, Federal Maritime Commission, Washington, DC 20573, within twelve days of the date this notice appears in the **Federal Register**. Copies of the agreements are available through the Commission's Web site (*www.fmc.gov*) or by contacting the Office of Agreements at (202)-523–5793 or *tradeanalysis@fmc.gov.*

Agreement No.: 012154–002.

Title: APL/Hamburg Süd Space Charter Agreement.

Parties: APL Co. Pte, Ltd. and American President Lines, Ltd. (acting as one party); and Hamburg Süd KG.

Filing Party: Wayne R. Rohde, Esq.; Cozen O'Connor; 1627 I Street NW., Suite 1100; Washington, DC 20006.

Synopsis: The amendment revises the number of slots to be provided by APL to Hamburg Sud, reflects the transition of APL's service string from the New World Alliance to the G6, and otherwise updates the agreement.

Agreement No.: 012184–002.

Title: Crowley/Maersk Line Panama-U.S. Space Charter Agreement.

Parties: Crowley Latin America Services, LLC and A.P. Moller-Maersk A/S.

Filing Party: Wayne R. Rohde, Esq.; Cozen O'Connor; 1627 I Street NW., Suite 1100; Washington, DC 20006.

Synopsis: The amendment adds the southbound trade to the geographic scope of the agreement (which had formerly covered the northbound trade only), and provides for the chartering of space in the southbound trade.

Agreement No.: 012204–002.

Title: ELJSA-Hanjin Shipping Slot Exchange Agreement.

Parties: Evergreen Line Joint Service Agreement and Hanjin Shipping Co. Ltd.

Filing Party: Paul M. Keane, Esq.; Cichanowicz, Callan, Keane, Vengrow and Textor, LLP; 61 Broadway, Suite 3000; New York, NY 10006.

Synopsis: The amendment would increase the amount of space being allocated between the parties, revise language in the agreement, and make other formatting changes to the agreement.

Agreement No.: 012274.

Title: OVSA/PIL Space Charter Agreement.

Parties: Hamburg Sud; Hapag-Lloyd AG; CMA CGM S.A.; and Pacific International Lines (Pte) Ltd.

Filing Party: Wayne R. Rohde, Esq.; Cozen O'Connor; 1627 I Street NW., Suite 1100; Washington, DC 20006.

Synopsis: The agreement authorizes Hamburg Sud, Hapag-Lloyd, and CMA to charter space to PIL in the trade from the U.S. West Coast, on the one hand, to Australia and New Zealand, on the other hand.

Agreement No.: 012275.

Title: ELJSA/K-Line Slot Exchange Agreement.

Parties: Evergreen Line Joint Service Agreement and Kawasaki Kisen Kaisha, Ltd.

Filing Party: Paul M. Keane, Esq.; Cichanowicz, Callan, Keane, Vengrow

and Textor, LLP; 61 Broadway, Suite 3000; New York, NY 10006.

Synopsis: The agreement authorizes the parties to exchange space on their respective services in the trade between China, Hong Kong, Taiwan, and Singapore, on the on hand, and the U.S. East Coast, on the other hand.

Agreement No.: 012276.

Title: Hapag-Lloyd/Zim Mediterranean Slot Exchange Agreement.

Parties: Hapag-Lloyd AG and Zim Integrated Shipping Services, Ltd.

Filing Party: Wayne Rohde, Esq.; Cozen O'Connor; 1627 I Street NW., Suite 1100; Washington, DC 20006.

Synopsis: The agreement would authorize the parties to exchange space on their respective services between the U.S. and the Mediterranean.

Agreement No.: 012277.

Title: COSCON/WHL Slot Charter Agreement.

Parties: COSCO Container Lines Company, Limited and Wan Hai Lines (Singapore) Pte. Ltd.

Filing Party: Eric. C. Jeffrey, Esq. and Lindsey M. Nelson; Nixon Peabody LLP; 401 9th Street NW., Suite 900; Washington, DC 20004.

Synopsis: The agreement authorizes the parties to charter slots to each other in the trade between the U.S. West Coast, on the one hand, and China, Hong Kong, and Japan, on the other hand.

Agreement No.: 012278.

Title: ELJSA/YMUK Line Slot Exchange Agreement.

Parties: Evergreen Line Joint Service Agreement and Yang Ming (U.K.) Ltd.

Filing Party: Paul M. Keane, Esq.; Cichanowicz, Callan, Keane, Vengrow and Textor, LLP; 61 Broadway, Suite 3000; New York, NY 10006.

Synopsis: The agreement authorizes the parties to exchange space on their respective services in the trade between China, Hong Kong, Taiwan, and Singapore, on the on hand, and the U.S. East Coast, on the other hand.

Agreement No.: 201203–004.

Title: Port of Oakland/Oakland Marine Terminal Operator Agreement.

Parties: Ports America Outer Harbor Terminal, LLC; Port of Oakland; Seaside Transportation Service LLC; SSA Terminals (Oakland), LLC; SSA Terminals, LLC; and Trapac, Inc.

Filing Party: David F. Smith, Esq.; Cozen O'Connor; 1627 I Street NW., Suite 1100; Washington, DC 20006.

Synopsis: The amendment deletes Eagle Marine Services, Ltd. and Total Terminals International, LLC as parties to the agreement.

Dated: May 9, 2014.

By Order of the Federal Maritime Commission.

Rachel E. Dickon,

Assistant Secretary.

[FR Doc. 2014–11061 Filed 5–13–14; 8:45 am]

BILLING CODE 6730–01–P

FEDERAL MARITIME COMMISSION

Ocean Transportation Intermediary License Applicants

The Commission gives notice that the following applicants have filed an application for an Ocean Transportation Intermediary (OTI) license as a Non-Vessel-Operating Common Carrier (NVO) and/or Ocean Freight Forwarder (OFF) pursuant to section 19 of the Shipping Act of 1984 (46 U.S.C. 40101). Notice is also given of the filing of applications to amend an existing OTI license or the Qualifying Individual (QI) for a licensee.

Interested persons may contact the Office of Ocean Transportation Intermediaries, Federal Maritime Commission, Washington, DC 20573, by telephone at (202) 523–5843 or by email at *OTI@fmc.gov.*

ABF Global Supply Chain, Inc. (NVO), 3801 Old Greenwood Road, Fort Smith, AR 72903. Officers: Carlos Martinez-Tomatis, Division Vice President (QI); Judy R. McReynolds, President. Application Type: New NVO License.

Action Cargo Transport Inc. (NVO), Carretera 848 KM 3.2, Carolina, PR 00983. Officer: Jose E. Del Cueto, President (QI). Application Type: New NVO License.

AIT Ocean Systems, Inc. (NVO), 701 W. Rohlwing Road, Itasca, IL 60143. Officers: Hessel B. Verhage, Vice President (QI); Daniel F. Lisowski, President. Application Type: Name Change to D&S Oceans, Inc.

AIT Ocean Systems Inc. (NVO), 701 W. Rohlwing Road, Itasca, IL 60143. Officers: Hessel B. Verhage, Vice President (QI); Vaughn Moore, President. Application Type: New NVO License.

Alva Freight International, Inc. (NVO & OFF), 7878 NW 46th Street, Doral, FL 33166. Officers: Melissa Agudelo, Vice President (QI); Antonio Rodrigues, President, Application Type: New NVO & OFF License.

Amerifreight (N.A.), Inc. dba Freight Team dba iGlobal US (NVO & OFF), 15930 Valley Blvd., City of Industry, CA 91744. Officer: James Lin, President (QI). Application Type: QI Change.

Areva Inc. (OFF), 7207 IBM Drive, Charlotte, NC 28262. Officers: Michael P. Valenzano, Director, Transportation (QI); Luc Oursel, Chairman. Application Type: New OFF License.

Avenue 8 Group Inc dba Avenue International (NVO & OFF), 573 Monterey Pass Road, Suite A, Monterey Park, CA 91754. Officers: Ryan Luu, President (QI); Linda Thong, Secretary. Application Type: QI Change.

Axxess International, Inc. (NVO & OFF), 2 North Main Street, Fourth Floor, St. Albans, VT 05478. Officers: Charles F. McFeeters, Jr., Vice President (QI); Richard Gervais, President. Application Type: New NVO & OFF License.

BVH Cargo International, LLC (OFF), 3634 Lakearies Lane, Katy, TX 77449. Officers: Suzanne Rousselle, Member (QI); Anthony Turner, Member. Application Type: New OFF License.

Central Auto Trading LLC (OFF), 400 Chapel Road, 1–J, South Windsor, CT 06074. Officers: Melissa Pezzuti, Executive Manager (QI); William Ezedine, Chief Executive Manager. Application Type: New OFF License.

Crown Worldwide Moving & Storage LLC dba Crown Worldwide Moving & Storage Company (NVO & OFF), 14826 Wicks Blvd., San Leandro, CA 94577. Officers: Salvatore P. Ferrante, President (QI); Robert S. Bowen, CEO, Application Type: New NVO & OFF License.

Cybamar USA, LLC (OFF), 12130 Dixie Street, Suite A, Redford, MI 48239. Officers: Samar Hazime, Manager (QI); Hassan Salhab, Manager. Application Type: Name Change to World Logistics, LLC dba World Logistics.

CYCL Solutions Inc. (NVO & OFF), 1438 East 7th Street, Brooklyn, NY 11230. Officers: Alan A. Cohen, President (QI); Rosie Cohen, Vice President. Application Type: New NVO & OFF License.

Del Corona & Scardigli USA Inc. (OFF), 15 W. 36th Street, 11th Floor, New York, NY 10018. Officers: Stefano D'Angelo, CEO (QI); Luigi Delcorona, President. Application Type: New OFF License.

Diamond Logistics Services, Inc. (NVO & OFF), 4761 NW 72nd Avenue, Miami, FL 33166. Officer: Alma J. Rojas, President (QI). Application Type: New NVO & OFF License.

Dimerco Express (U.S.A.) Corp. (NVO & OFF), 955 Dillon Drive, Wood Dale, IL 60191. Officers: Roy D. Chen, President (QI); Cathy Chou, Secretary. Application Type: QI Change.

E-Cargoway Logistics USA, Inc. (NVO & OFF), 1515 Kona Drive, Compton, CA 90220. Officers: Myeong H. Kim,

President (QI); Won Rok Choi, CFO. Application Type: QI Change.

Express Logistics Services, LLC (NVO & OFF), 4600 NW 74th Avenue, Miami, FL 33166. Officers: Alejandra I. Cavalieri, Manager (QI); Carlos Novoa, Managing Member. Application Type: New NVO & OFF License.

Forever Trading LLC (NVO & OFF), 16270 SW 91st Terrace, Miami, FL 33196. Officer: Gladys O. Barrios, Managing Member (QI). Application Type: New NVO & OFF License.

Foytt International LLC dba Foytt dba Foytt International (NVO & OFF), 2637 El Presidio Street, Carson, CA 90810. Officers: Stephen J. Otis, Manager (QI); Peter Tate, President. Application Type: New NVO & OFF License.

Gateway Logistics Inc. (NVO & OFF), 1489 W. Palmeto Park Road, Suite 332, Boca Raton, FL 33486. Officers: Paul Gousgounis, President (QI); Donald Keiber, Secretary. Application Type: New NVO & OFF License.

Global Freight Forwarders Inc. (NVO & OFF), 15 Oak Street, Needham, MA 02492. Officers: John M. Rooney, Vice President (QI); Todd R. Peters, President. Application Type: Transfer to Genco Transportation Management LLC.

GTS Cargo, Inc. (NVO & OFF), 1760 NW 94th Avenue, Miami, FL 33172. Officers: Olga Valdes, Chief Office Secretary (QI); Erick Severi Cicala, President. Application Type: QI Change.

Harvest Logistics, LLC (NVO & OFF), 2441 Porter Street, Los Angeles, CA 90021. Officers: Aurora Banuelos, Member/Manager (QI); Karla Costilla, Member/Manager. Application Type: Add OFF Service.

IContainers (USA) Inc. (NVO & OFF), 1444 Biscayne Blvd., Suite 208–35, Miami, FL 33132. Officers: Paola Maingon, Vice President (QI); Carlos Hernandez, President. Application Type: New NVO & OFF License.

Investment Logistic Solution Corp (NVO & OFF), 6701 NW 7th Street, Miami, FL 33126. Officers: Enid J. Gonzalez, President (QI); Carlos L. Michel, Vice President, Application Type: QI Change.

Jade International, Inc. (OFF), Folcroft W. Business Park, 102 Georgetown Building, Folcroft, PA 19032. Officers: Brian W. Lockrey, Vice President Export (QI); James C. Diegel, President. Application Type: QI Change.

Kaisen Logistics Inc (OFF), 6600 Queens Midtown Expressway, Suite 303, Maspeth, NY 11378. Officers: YunQin Chen, President (QI); Hang Pan, Vice, President. Application Type: New OFF License.

Kingz International Logistics Inc (OFF), 415 S. Yale Drive, Garland, TX 75042. Officer: Temitope Olojede, CEO (QI). Application Type: New OFF License.

K-Link Logistics Inc. (NVO), 9471 Cortada Street, Suite #G, El Monte, CA 91733. Officer: Linh Vien, CEO (QI). Application Type: New NVO License.

Ly Global Inc. dba E-Line USA (NVO), 145–69 226th Street, Springfield Gardens, NY 11413. Officers: Hyun J. Kim, Secretary (QI); Eun J. Yang, President. Application Type: New NVO License.

MLX Services, LLC. (NVO & OFF), 2555 NW 102nd Avenue, Suite 205, Doral, FL 33172. Officers: Juan C. Esquivel, Managing Member (QI); Nancy M. Esquivel, Managing Member. Application Type: New NVO & OFF License.

North Star Container, LLC dba NS World Logistics (NVO & OFF), 7400 Metro Blvd. #300, Edina, MN 55439. Officers: Guohe Mao, President (QI); Daniel Newell, Partner. Application Type: Additional QI.

Pacific Global Logistics, Inc. (NVO & OFF), 1500 Pumphrey Avenue, Suite 105–106, Auburn, AL 36832. Officers: Hyung Tae Kim, COO (QI); Kee Tai Choi, CEO. Application Type: Add Trade Name Pactra USA.

Pinnacle Global Logistics (USA) Inc. (NVO & OFF), 19300 Hamilton Avenue, Suite 292, Gardena, CA 90248. Officers: Sunny S. Lee, Secretary (QI); Zheng Chen, CEO. Application Type: New NVO & OFF License.

Prime Logistics, Inc. (NVO), 9102 Westpark Drive, Houston, TX 77063. Officers: Susan Wong, Treasurer (QI); Richard Tsai, President. Application Type: New NVO License.

PSP Logistics, Inc. (NVO), 1370 East Higgins Road, Elk Grove Village, IL 60007. Officers: Young Kyu Park, President (QI); Jay Song, Secretary. Application Type: New NVO License.

RL Logix LLC (NVO & OFF), 2387 Indigo Harbour Lane, League City, TX 77573. Officer: Reina Louden, Member (QI). Application Type: New NVO & OFF License.

RS Shipping, Inc. (NVO), 525 S. San Gabriel Boulevard, San Gabriel, CA 91776. Officer: Xue (a.k.a. Shanna) J. Zhou, President QI. Application Type: New NVO License.

SG Sagawa USA, Inc. (NVO & OFF), 16927 S. Main Street, Unit A, Carson, CA 90248. Officers: Taketo Nakamatsu, Corporate Secretary (QI); Tomonari Niimoto, President. Application Type: New NVO & OFF License.

S-Logibis USA Inc. (NVO & OFF), 451 E. Carson Plaza Drive, Suite 206, Carson, CA 90746. Officers: Yun Chul Hwang, Treasurer (QI); Jae Sung Choi, President. Application Type: New NVO & OFF License.

SR International Logistics, Inc. dba High Country Maritime (NVO & OFF), 2525 16th Street, Suite 208, Denver, CO 80211. Officer: David O. Ross, President (QI). Application Type: QI Change.

Sunjin Shipping (U.S.A.), Inc. (NVO & OFF), 145–30 156th Street, Jamaica, NY 11434. Officers: Key Y. Chung, President (QI); Keepil Chung, Secretary. Application Type: Add NVO Service.

Trust Freight, Inc. (OFF), 9383 NW 13th Street, Miami, FL 33172. Officers: Patricia A. Elliott, Secretary (QI); Esmat M. Saab, President. Application Type: New OFF License.

UFS Logistics, Inc. (NVO & OFF), 201 N. Corona Avenue, Suite 101, Ontario, CA 91761. Officers: Mitchell Chang, Vice President (QI); Lloyd Liang, CEO, Application Type: New NVO & OFF License.

Valley Worldwide Logistics Solutions, LLC (NVO & OFF), 3911 37th Avenue SW, Fargo, ND 58104. Officers: Prince F. Asemota, Vice President (QI); Merle H. Jegtvig, Chief Manager. Application Type: New NVO & OFF License.

Viking International Inc. (NVO), 115 Meacham Avenue, Elmont, NY 11003. Officers: John J. Hanczor, Sr., Secretary (QI); John J. Hanczor, President. Application Type: New NVO License.

World Cargo Service, Inc. (NVO), 6905 NW 73 Court, Miami, FL 33166. Officers: Felipe Zambrano, Vice President (QI); Constanza Astudillo, President. Application Type: QI Change.

Dated: May 9, 2014.

Rachel E. Dickon,

Assistant Secretary.

[FR Doc. 2014–11062 Filed 5–13–14; 8:45 am]

BILLING CODE 6730–01–P

FEDERAL MARITIME COMMISSION

Ocean Transportation Intermediary License Reissuance

The Commission gives notice that the following Ocean Transportation Intermediary license has been reissued pursuant to section 19 of the Shipping Act of 1984 (46 U.S.C. 40101).

License No.: 016568F.

Name: 5K Logistics, Inc. dba Haul of Fame Lines.

Address: 1090 York Road, Warminster, PA 18974.
Date Reissued: March 13, 2014.

Sandra L. Kusumoto,
Director, Bureau of Certification and Licensing.

[FR Doc. 2014–11059 Filed 5–13–14; 8:45 am]

BILLING CODE 6730–01–P

FEDERAL MARITIME COMMISSION

Ocean Transportation Intermediary License Revocations and Terminations

The Commission gives notice that the following Ocean Transportation Intermediary licenses have been revoked or terminated for the reason indicated pursuant to section 19 of the Shipping Act of 1984 (46 U.S.C. 40101) effective on the date shown.

License No.: 1867F.
Name: Bratt International, Inc.
Address: 23 South Street, Baltimore, MD 21202.
Date Revoked: March 23, 2014.
Reason: Failed to maintain a valid bond.

License No.: 004213NF.
Name: IAN International, Inc.
Address: 7466 New Ridge Road, Suite 3, Hanover, MD 21076.
Date Revoked: March 28, 2014.
Reason: Failed to maintain valid bonds.

License No.: 012308F.
Name: Versatile International Corporation dba King Yang Shipping.
Address: 11100 Valley Blvd., Suite 110, El Monte, CA 91731.
Date Revoked: April 6, 2014.
Reason: Failed to maintain a valid bond.

License No.: 13580N.
Name: Z & W International, Inc.
Address: 8 Gunther Place, Bellmore, NY 11710.
Date Revoked: March 29, 2014.
Reason: Failed to maintain a valid bond.

License No.: 014700N.
Name: Allied Transport System (USA) Inc. dba Allied Transport System, Inc. dba Centurion Logistics Management.
Address: 15319 East Don Julian Road, City of Industry, CA 91745.
Date Revoked: April 11, 2014.
Reason: Failed to maintain a valid bond.

License No.: 017458NF.
Name: Central Global Express, Inc.
Address: 12225 Stephens Road, Warren, MI 48089.
Date Revoked: December 27, 2013.
Reason: Voluntary surrender of license.

License No.: 018891NF.
Name: Logistics Pan-America Corp.
Address: 177–25 Rockaway, Suite 216, Jamaica, NY 11434.
Date Revoked: March 30, 2014.
Reason: Failed to maintain a valid bonds.

License No.: 019882F.
Name: Euro Shippers, Inc.
Address: 7667 West 95th Street, Suite 308, Hickory Hills, IL 60457.
Date Revoked: March 27, 2014.
Reason: Failed to maintain a valid bond.

License No.: 020691NF.
Name: Diversified Global Logistics, Inc.
Address: 5375 Mineral Wells, Memphis, TN 38141.
Date Revoked: April 10, 2014.
Reason: Failed to maintain valid bonds.

License No.: 020847N.
Name: Associated Container Lines USA, LLC.
Address: 8440 Esters Blvd., Suite 130, Irving, TX 75063.
Date Revoked: March 31, 2014.
Reason: Voluntary surrender of license.

License No.: 021800F.
Name: Tradewinds Logistics, Inc.
Address: 2221 Edge Lake Drive, Suite 185, Charlotte, NC 28217.
Date Revoked: March 21, 2014.
Reason: Failed to maintain a valid bond.

License No.: 022106F.
Name: Brave Cargo, Inc.
Address: 8133 NW 68th Street, Miami, FL 33166.
Date Revoked: March 18, 2014.
Reason: Failed to maintain a valid bond.

License No.: 024269NF.
Name: Marcos Enterprises, Inc. dba Comprayenvia.net.
Address: 13326 Budworth Circle, Orlando, FL 32832.
Date Revoked: March 25, 2014.
Reason: Failed to maintain valid bonds.

License No.: 024314F.
Name: Lawrence Family Enterprises, Inc. dba A&A Transportation.
Address: 965 Piedmont Road, Suite 220, Marietta, GA 30066.
Date Revoked: April 4, 2014.
Reason: Failed to maintain a valid bond.

Sandra L. Kusumoto.
Director, Bureau of Certification and Licensing.

[FR Doc. 2014–11060 Filed 5–13–14; 8:45 am]

BILLING CODE 6730–01–P

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The applications will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than June 9, 2014.

A. Federal Reserve Bank of Richmond (Adam M. Drimer, Assistant Vice President) 701 East Byrd Street, Richmond, Virginia 23261–4528:

1. *Midstate Bancorp, Inc.,* Baltimore, Maryland; to become a bank holding company by acquiring 100 percent of the voting securities of Midstate Community Bank, Baltimore, Maryland.

B. Federal Reserve Bank of Kansas City (Dennis Denney, Assistant Vice President) 1 Memorial Drive, Kansas City, Missouri 64198–0001:

1. *Farmers State Bancshares II, Inc.,* Spencer, Nebraska; to become a bank holding company by acquiring 100 percent of the voting shares of Spencer State Bank, Spencer, Nebraska.

C. Federal Reserve Bank of Dallas (E. Ann Worthy, Vice President) 2200 North Pearl Street, Dallas, Texas 75201–2272:

1. *ViewPoint Financial Group, Inc.,* Plano, Texas; to merge with Legacy Texas Group, Inc., and thereby indirectly acquire Legacy Texas Bank, both of Plano, Texas.

D. Federal Reserve Bank of San Francisco (Gerald C. Tsai, Director, Applications and Enforcement) 101 Market Street, San Francisco, California 94105–1579:

1. *PB Financial Holdings, Inc.,* to become a bank holding company by acquiring 100 percent of Pinnacle Bank, both of Scottsdale, Arizona.

Board of Governors of the Federal Reserve System, May 9, 2014.

Michael J. Lewandowski,

Assistant Secretary of the Board.

[FR Doc. 2014–11066 Filed 5–13–14; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisitions of Shares of a Bank or Bank Holding Company

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire shares of a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. The notices also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than May 29, 2014.

A. Federal Reserve Bank of Minneapolis (Jacqueline K. Brunmeier, Assistant Vice President) 90 Hennepin Avenue, Minneapolis, Minnesota 55480–0291:

1. *Ericka Lynn Kotab and David William Kotab,* both of Wagner, South Dakota, to acquire shares of Commercial Holding Company, Wagner, South Dakota, and join the Frei Family Shareholder group which owns 25 shares of Commercial Holding Company, Wagner, South Dakota, and thereby indirectly controls Commercial State Bank of Wagner, Wagner, South Dakota.

Board of Governors of the Federal Reserve System, May 9, 2014.

Michael J. Lewandowski,

Assistant Secretary of the Board.

[FR Doc. 2014–11065 Filed 5–13–14; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL TRADE COMMISSION

[File No. 132 3078]

Snapchat, Inc.; Analysis of Proposed Consent Order to Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed consent agreement.

SUMMARY: The consent agreement in this matter settles alleged violations of federal law prohibiting unfair or deceptive acts or practices. The attached Analysis of Proposed Consent Order to Aid Public Comment describes both the allegations in the draft complaint and the terms of the consent order—embodied in the consent agreement—that would settle these allegations.

DATES: Comments must be received on or before June 9, 2014.

ADDRESSES: Interested parties may file a comment at *https://ftcpublic.commentworks.com/ftc/snapchatconsent* online or on paper, by following the instructions in the Request for Comment part of the **SUPPLEMENTARY INFORMATION** section below. Write ''Snapchat, Inc.—Consent Agreement; File No. 132 3078'' on your comment and file your comment online at *https://ftcpublic.commentworks.com/ftc/snapchatconsent* by following the instructions on the web-based form. If you prefer to file your comment on paper, mail your comment to the following address: Federal Trade Commission, Office of the Secretary, 600 Pennsylvania Avenue NW., Suite CC–5610, (Annex D), Washington, DC 20580, or deliver your comment to the following address: Federal Trade Commission, Office of the Secretary, Constitution Center, 400 7th Street SW., 5th Floor, Suite 5610, (Annex D), Washington, DC 20024.

FOR FURTHER INFORMATION CONTACT: Allison M. Lefrak, Bureau of Consumer Protection, (202–326–2804), 600 Pennsylvania Avenue NW., Washington, DC 20580.

SUPPLEMENTARY INFORMATION: Pursuant to Section 6(f) of the Federal Trade Commission Act, 15 U.S.C. 46(f), and FTC Rule 2.34, 16 CFR 2.34, notice is hereby given that the above-captioned consent agreement containing consent order to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of thirty (30) days. The following Analysis to Aid Public Comment describes the terms of the consent agreement, and the allegations in the complaint. An electronic copy of the full text of the consent agreement package can be obtained from the FTC Home Page (for May 8, 2014), on the World Wide Web, at *http://www.ftc.gov/os/actions.shtm.*

You can file a comment online or on paper. For the Commission to consider your comment, we must receive it on or before June 9, 2014. Write ''Snapchat, Inc.—Consent Agreement; File No. 132 3078'' on your comment. Your comment—including your name and your state—will be placed on the public record of this proceeding, including, to the extent practicable, on the public Commission Web site, at *http://www.ftc.gov/os/publiccomments.shtm.* As a matter of discretion, the Commission tries to remove individuals' home contact information from comments before placing them on the Commission Web site.

Because your comment will be made public, you are solely responsible for making sure that your comment does not include any sensitive personal information, like anyone's Social Security number, date of birth, driver's license number or other state identification number or foreign country equivalent, passport number, financial account number, or credit or debit card number. You are also solely responsible for making sure that your comment does not include any sensitive health information, like medical records or other individually identifiable health information. In addition, do not include any ''[t]rade secret or any commercial or financial information which . . . is privileged or confidential,'' as discussed in Section 6(f) of the FTC Act, 15 U.S.C. 46(f), and FTC Rule 4.10(a)(2), 16 CFR 4.10(a)(2). In particular, do not include competitively sensitive information such as costs, sales statistics, inventories, formulas, patterns, devices, manufacturing processes, or customer names.

If you want the Commission to give your comment confidential treatment, you must file it in paper form, with a request for confidential treatment, and you have to follow the procedure explained in FTC Rule 4.9(c), 16 CFR 4.9(c).[1] Your comment will be kept confidential only if the FTC General Counsel, in his or her sole discretion, grants your request in accordance with the law and the public interest.

Postal mail addressed to the Commission is subject to delay due to heightened security screening. As a result, we encourage you to submit your comments online. To make sure that the

[1] In particular, the written request for confidential treatment that accompanies the comment must include the factual and legal basis for the request, and must identify the specific portions of the comment to be withheld from the public record. *See* FTC Rule 4.9(c), 16 CFR 4.9(c).

Commission considers your online comment, you must file it at *https://ftcpublic.commentworks.com/ftc/snapchatconsent* by following the instructions on the web-based form. If this Notice appears at *http://www.regulations.gov/#!home*, you also may file a comment through that Web site.

If you file your comment on paper, write ''Snapchat, Inc.—Consent Agreement; File No. 132 3078'' on your comment and on the envelope, and mail your comment to the following address: Federal Trade Commission, Office of the Secretary, 600 Pennsylvania Avenue NW, Suite CC–5610, (Annex D), Washington, DC 20580, or deliver your comment to the following address: Federal Trade Commission, Office of the Secretary, Constitution Center, 400 7th Street SW., 5th Floor, Suite 5610, (Annex D), Washington, DC 20024. If possible, submit your paper comment to the Commission by courier or overnight service.

Visit the Commission Web site at *http://www.ftc.gov* to read this Notice and the news release describing it. The FTC Act and other laws that the Commission administers permit the collection of public comments to consider and use in this proceeding as appropriate. The Commission will consider all timely and responsive public comments that it receives on or before June 9, 2014. You can find more information, including routine uses permitted by the Privacy Act, in the Commission's privacy policy, at *http://www.ftc.gov/ftc/privacy.htm.*

Analysis of Proposed Consent Order To Aid Public Comment

The Federal Trade Commission has accepted, subject to final approval, a consent order applicable to Snapchat, Inc. (''Snapchat'').

The proposed consent order has been placed on the public record for thirty (30) days for receipt of comments by interested persons. Comments received during this period will become part of the public record. After thirty (30) days, the Commission will again review the agreement and the comments received, and will decide whether it should withdraw from the agreement and take appropriate action or make final the agreement's proposed order.

Snapchat provides a mobile application that allows consumers to send and receive photo and video messages known as ''snaps.'' Both the iTunes App Store and the Google Play store list Snapchat among the top 15 free applications. As of September 2013, users transmitted more than 350 million snaps daily. Before sending a snap, the application requires the sender to designate a period of time that the recipient will be allowed to view the snap, up to ten seconds. Snapchat markets the application as an ''ephemeral'' messaging application, and claimed that once the timer expires, the snap ''disappears forever.'' Snapchat represented, for a certain period, on its product description page on the iTunes App Store and Google Play and on the ''FAQ'' page on its Web site that snaps disappear when the timer expires. Snapchat further claimed that if a recipient took a screenshot of a snap, the sender would be notified. Snapchat also provides its users with a feature to find friends on the service, and prompts users during registration to enter their mobile telephone number in order to find friends.

Count 1 of the Commission's complaint alleges that Snapchat misrepresented that when sending a message though its application, the message would disappear forever after the user-set time period expires. Count 2 of the complaint alleges that Snapchat misrepresented that the sender will be notified if the recipient takes a screenshot of a snap. The complaint alleges that several methods exist by which a recipient can use tools outside of the application to save snaps, allowing the recipient to view them indefinitely. Additionally, the complaint alleges that widely publicized methods existed by which recipients could easily circumvent Snapchat's screenshot detection mechanism and capture a screenshot of a snap without the sender being notified.

Count 3 of the complaint alleges that Snapchat misrepresented in its privacy policy that it does not access location-specific information from consumers' mobile devices. Contrary to this representation, the complaint alleges that for a certain period, the Snapchat application on Android transmitted Wi-Fi based and cell-based location information from user's mobile devices to an analytics tracking provider.

Count 4 of the complaint alleges that Snapchat misrepresented, for a certain period, in its user interface that a user's mobile phone number was the only personal information that Snapchat collected in order to find the user's friends. Count 5 of the complaint alleges that Snapchat misrepresented in its privacy policy that it collected only the user's email, phone number, and Facebook ID for the purpose of finding friends. However, the complaint alleges that when the user chose to find friends, Snapchat collected not only the user's phone number, but also, without informing the user, the names and phones numbers of all the contacts in the user's mobile device address book.

Finally, Count 6 of the complaint alleges that Snapchat misrepresented that it employed reasonable security measures in the design of its find friends feature. Specifically, the complaint alleges that for a certain period of time, Snapchat failed to verify that the phone number that an iOS user entered into the application did, in fact, belong to the mobile device being used by that individual. Due to this failure, an individual could create an account using a phone number that belonged to another consumer, enabling the individual to send and receive snaps associated with another consumer's phone number. Additionally, for a certain period, Snapchat allegedly failed to implement effective restrictions on the number of find friends requests that any one account could make. Further, Snapchat allegedly failed to implement any restrictions on serial and automated account creation. As a result of these security failures, in December 2013, attackers were able to use multiple accounts to send millions of find friends requests and compile a database of 4.6 million Snapchat usernames and the associated phone numbers.

The proposed order contains provisions designed to prevent Snapchat from engaging in the future in practices similar to those alleged in the complaint. Part I of the proposed order prohibits Snapchat from misrepresenting the extent to which Snapchat or its products or services protect the privacy, security, or confidentiality of covered information, including: (1) The extent to which a message is deleted after being viewed by the recipient; (2) the extent to which Snapchat or its products or services are capable of detecting or notifying the sender when a recipient has captured a screenshot of, or otherwise saved, a message; (3) the categories of covered information collected; or (4) the steps taken to protect against misuse or unauthorized disclosure of covered information.

Part II of the proposed order requires Snapchat to establish and maintain a comprehensive privacy program that is reasonably designed to: (1) Address privacy risks related to the development and management of new and existing products and services for consumers, and (2) protect the privacy and confidentiality of covered information, whether collected by Snapchat or input into, stored on, captured with, or accessed through a computer using Snapchat's products or services. The privacy program must contain privacy

controls and procedures appropriate to Snapchat's size and complexity, the nature and scope of Snapchat's activities, and the sensitivity of the covered information. Specifically, the proposed order requires Snapchat to:

- Designate an employee or employees to coordinate and be accountable for the privacy program;
- identify material internal and external risks that could result in Snapchat's unauthorized collection, use, or disclosure of covered information, and asses the sufficiency of any safeguards in place to control these risks;
- design and implement reasonable privacy controls and procedures to address the risks identified through the privacy risk assessment, and regularly test or monitor the effectiveness of the privacy controls, and procedures;
- develop and use reasonable steps to select and retain service providers capable of maintaining security practices consistent with the order, and require service providers by contract to implement and maintain appropriate safeguards; and
- evaluate and adjust its privacy program in light of the results of testing and monitoring, any material changes to operations or business arrangement, or any other circumstances that Snapchat knows or has reason to know may have a material impact on its privacy program.

Part III of the proposed order requires Snapchat to obtain within the first one hundred eighty (180) days after service of the order, and on a biennial basis thereafter for a period of twenty (20) years, an assessment and report from a qualified, objective, independent third-party professional, certifying, among other things, that: (1) It has in place a privacy program that provides protections that meet or exceed the protections required by Part II of the proposed order; and (2) its privacy program is operating with sufficient effectiveness to provide reasonable assurance to protect the privacy of covered information.

Parts IV through VIII of the proposed order are reporting and compliance provisions. Part IV requires Snapchat to retain documents relating to its compliance with the order. The order requires that all of the documents be retained for a five-year period. Part V requires dissemination of the order now and in the future to all current and future principals, officers, directors, and managers, and to persons with responsibilities relating to the subject matter of the order. Part VI ensures notification to the FTC of changes in corporate status. Part VII mandates that Snapchat submit a compliance report to the FTC within 60 days, and periodically thereafter as requested. Part VIII is a provision ''sunsetting'' the order after twenty (20) years, with certain exceptions.

The purpose of this analysis is to facilitate public comment on the proposed order. It is not intended to constitute an official interpretation of the proposed complaint or order or to modify the order's terms in any way.

By direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 2014–11111 Filed 5–13–14; 8:45 am]

BILLING CODE 6750–01–P

GENERAL SERVICES ADMINISTRATION

[Notice-CECANF–2014–02; Docket No. 2014–0005; Sequence No. 2]

Commission To Eliminate Child Abuse and Neglect Fatalities; Announcement of Meeting

AGENCY: Commission to Eliminate Child Abuse and Neglect Fatalities, General Services Administration.

ACTION: Meeting notice.

SUMMARY: The Commission to Eliminate Child Abuse and Neglect Fatalities (CECANF), a Federal Advisory Committee established by the Protect Our Kids Act of 2012, Public Law 112–275, will hold a meeting open to the public on Monday, June 2, 2014 and Tuesday, June 3, 2014.

DATES: The meeting will be held on Monday, June 2, 2014, from 8:30 a.m. to 5:30 p.m. Central Time, and Tuesday, June 3, 2014, from 8:30 a.m. to 1:00 p.m. Central Time.

ADDRESSES: CECANF will convene its meeting at University of Texas at San Antonio, Downtown Campus, 501 W. César E. Chávez Blvd., San Antonio, TX 78207, Southwest Room, Durango Building 1.124. This site is accessible to individuals with disabilities. The meeting will also be made available via audio link. Access information for people that are hearing impaired will be provided upon request. Please make note of it in your participation registration. To register for the audio link, please go to *https://www.surveymonkey.com/s/5WLJYWH* and follow the prompts.

Submit comments identified by ''Notice-CECANF–2014–02'', by any of the following methods:

- Regulations.gov: *http://www.regulations.gov.* Submit comments via the Federal eRulemaking portal by searching for ''Notice-CECANF–2014–02''. Select the link ''Comment Now'' that corresponds with ''Notice-CECANF–2014–02''. Follow the instructions provided at screen. Please include your name, company name (if any), and ''Notice-CECANF–2014–02'' on your attached document.
- *Mail:* Commission to Eliminate Child Abuse and Neglect Fatalities, c/o General Services Administration, Agency Liaison Division, 1800 F St NW., Room 7003D, Washington DC 20006.

Instructions: Please submit comments only and cite ''Notice-CECANF–2014–02'', in all correspondence related to this notice. All comments received will be posted without change to *http://www.regulations.gov,* including any personal and/or business confidential information provided.

FOR FURTHER INFORMATION CONTACT: Contact Ms. Patricia Brincefield, Designated Federal Officer, at 202–818–9596, 1800 F St NW., Room 7003D, Washington, DC 20006.

SUPPLEMENTARY INFORMATION:

Background: The CECANF was established to develop a national strategy and recommendations for reducing fatalities resulting from child abuse and neglect.

Agenda: The purpose of this meeting is for Commission members to gather detailed information and insight related to Federal policy, research, and practice associated with child abuse and neglect fatalities, with a practice focus on Texas.

Attendance at the Meeting: Individuals interested in attending the meeting in person must register in advance because of limited space. Please contact Ms. White at *Karencecanf@gmail.com* to register to attend this meeting. To attend this meeting, please submit your full name, organization, email address, and phone number to Ms. White by 5:00 p.m., Eastern Standard Time, on Friday, May 23, 2014. Detailed meeting minutes will be posted within 90 days of the meeting. The meeting will be also available via teleconference, interested members of the public may listen to the CECANF discussion using 1–866–928–2008, and enter pass code 569839. Members of the public will not have the opportunity to ask questions or otherwise participate in the teleconference.

However, members of the public wishing to comment should follow the steps detailed under the heading addresses in this publication.

Dated: May 8, 2014.

Karen White,

Executive Assistant.

[FR Doc. 2014–11142 Filed 5–13–14; 8:45 am]

BILLING CODE 6820–34–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Healthcare Research and Quality

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Agency for Healthcare Research and Quality, HHS.

ACTION: Notice.

SUMMARY: This notice announces the intention of the Agency for Healthcare Research and Quality (AHRQ) to request that the Office of Management and Budget (OMB) approve the proposed information collection project: ''*TeamSTEPPS 2.0 Online Master Trainer Course.''* In accordance with the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)), AHRQ invites the public to comment on this proposed information collection.

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

ADDRESSES: Written comments should be submitted to: Doris Lefkowitz, Reports Clearance Officer, AHRQ, by email at *doris.lefkowitz@ahrq.hhs.gov*.

Copies of the proposed collection plans, data collection instruments, and specific details on the estimated burden can be obtained from the AHRQ Reports Clearance Officer.

FOR FURTHER INFORMATION CONTACT: Doris Lefkowitz, AHRQ Reports Clearance Officer, (301) 427–1477, or by email at *doris.lefkowitz@ahrq.hhs.gov*.

SUPPLEMENTARY INFORMATION:

Proposed Project

TeamSTEPPS 2.0 Online Master Trainer Course

As part of its effort to fulfill its mission goals, AHRQ, in collaboration with the U.S. Department of Defense's TRICARE Management Activity, developed TeamSTEPPS® (aka, Team Strategies and Tools for Enhancing Performance and Patient Safety) to provide an evidence-based suite of tools and strategies for training teamwork-based patient safety to health care professionals. TeamSTEPPS includes multiple tool-kits, which are all tied to or are variants of the core curriculum. TeamSTEPPS resources have been developed for primary care, rapid response systems, long-term care, and patients with limited English proficiency.

The main objective of the TeamSTEPPS program is to improve patient safety by training health care staff in various teamwork, communication, and patient safety concepts, tools, and techniques and ultimately helping to build national capacity for supporting teamwork-based patient safety efforts in health care organizations. Since 2007, AHRQ's National Implementation Program has produced (and continues to produce) Master Trainers who have stimulated the use and adoption of TeamSTEPPS in health care delivery systems. These individuals were trained during two-day in-person classes using the TeamSTEPPS core curriculum at regional training centers across the U.S. AHRQ has also provided technical assistance and consultation on implementing TeamSTEPPS and has developed various channels of learning (e.g., user networks, various educational venues) for continued support and the improvement of teamwork in health care. Since the inception of the National Implementation Program, AHRQ has trained more than 5,000 participants to serve as TeamSTEPPS Master Trainers.

Despite the success of the National Implementation program and the availability of training through this initiative, AHRQ has been unable to match the demand for TeamSTEPPS Master Training. Wait lists for training often exceed 500 individuals at any given time.

To address this prevailing need, AHRQ has launched an effort to develop and provide TeamSTEPPS training online. This program, known as TeamSTEPPS 2.0 Online Master Trainer course, will mirror the TeamSTEPPS 2.0 core curriculum and provide equivalent training to the in-person classes offered through the National Implementation Program.

As part of this initiative, AHRQ seeks to conduct an evaluation of the TeamSTEPPS 2.0 Online Master Trainer program. This evaluation seeks to understand the effectiveness of TeamSTEPPS 2.0 Online Master Training and what revisions might be required to improve the training program.

This research has the following goals:

(1) Conduct a formative assessment of the TeamSTEPPS 2.0 Online Master Trainer program to determine what improvements should be made to the training and how it is delivered, and

(2) Identify how trained participants use and implement the TeamSTEPPS tools and resources.

This study is being conducted by AHRQ through its contractor, Reingold, Inc., pursuant to AHRQ's statutory authority to conduct and support research on health care and on systems for the delivery of such care, including activities with respect to the quality, effectiveness, efficiency, appropriateness, and value of health care services and with respect to quality measurement and improvement, 42 U.S.C. 299a(a)(1) and (2).

Method of Collection

To achieve this project's goals, AHRQ will train participants using the TeamSTEPPS 2.0 Online Master Trainer program and then survey these participants six months post-training. Each activity is briefly described below.

1. *TeamSTEPPS 2.0 Online Master Trainer Course.* This training program, which includes 13 accredited hours of training, is based on the TeamSTEPPS 2.0 instructional materials and will be delivered online to 3,000 participants. The training will cover the core TeamSTEPPS tools and strategies, coaching, organizational change, and implementation science.

2. *TeamSTEPPS 2.0 Online Post-Training Survey.* This online instrument will be administered to all participants who completed TeamSTEPPS 2.0 Online Master Training. The survey will be administered six months after participants complete the training.

This is a new data collection for the purpose of conducting an evaluation of TeamSTEPPS 2.0 Online Master Trainer program. The evaluation will be primarily formative in nature as AHRQ seeks information to improve the delivery of the training.

To conduct the evaluation, the TeamSTEPPS 2.0 Online Post-Training Survey will be administered to all individuals who completed the TeamSTEPPS 2.0 Online Master Trainer program six months after training. The purpose of the survey is to assess the degree to which participants felt prepared by the training and what they did to implement TeamSTEPPS. Specifically, participants will be asked about their reasons for participating in the program; the degree to which they feel the training prepared them to train others in and use TeamSTEPPS; what tools they have implemented in their organizations; and resulting changes they have observed in the delivery of care.

Estimated Annual Respondent Burden

Exhibit 1 shows the estimated annualized burden hours for the respondent's time to participate in the study. The *TeamSTEPPS 2.0 Online Post-Training Survey* will be completed by approximately 3,000 individuals. We estimate that each respondent will answer 10 items (i.e., number of responses per respondent) and responding to these 10 questions will require 20 minutes. The total annualized burden is estimated to be 10,000 hours.

Exhibit 2 shows the estimated annualized cost burden based on the respondents' time to participate in the study. The total cost burden is estimated to be $35,930.

EXHIBIT 1—ESTIMATED ANNUALIZED BURDEN HOURS

Form name	Number of respondents	Number of responses per respondent	Hours per response	Total burden hours
Training participant questionnaire	3,000	1	20/60	1,000
Total	3,000	N/A	N/A	1,000

EXHIBIT 2—ESTIMATED ANNUALIZED COST BURDEN

Form name	Number of respondents	Total burden hours	Average hourly wage rate*	Total cost burden
Training participant questionnaire	3,000	1,000	$35.93	$35,930
Total	3,000	1,000	N/A	35,930

* Based on the mean of the average wages for all health professionals (29–0000) for the training participant questionnaire and for executives, administrators, and managers for the organizational leader questionnaire presented in the National Compensation Survey: Occupational Wages in the United States, May 2012, U.S. Department of Labor, Bureau of Labor Statistics. *www.bls.gov/oes/current/oes_nat.htm#37-0000.*

Request for Comments

In accordance with the Paperwork Reduction Act, comments on AHRQ's information collection are requested with regard to any of the following: (a) Whether the proposed collection of information is necessary for the proper performance of AHRQ health care research and health care information dissemination functions, including whether the information will have practical utility; (b) the accuracy of AHRQ's estimate of burden (including hours and costs) of the proposed collection(s) of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information upon the respondents, including the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and included in the Agency's subsequent request for OMB approval of the proposed information collection. All comments will become a matter of public record.

Dated: May 6, 2014.

Richard Kronick,

AHRQ Director.

[FR Doc. 2014–10947 Filed 5–13–14; 8:45 am]

BILLING CODE 4160–90–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[60Day–14–14YI]

Proposed Data Collections Submitted for Public Comment and Recommendations

The Centers for Disease Control and Prevention (CDC), as part of its continuing effort to reduce public burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995. To request more information on the below proposed project or to obtain a copy of the information collection plan and instruments, call 404–639–7570 or send comments to LeRoy Richardson, 1600 Clifton Road, MS–D74, Atlanta, GA 30333 or send an email to *omb@cdc.gov*.

Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget (OMB) approval. Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; to develop, acquire, install and utilize technology and systems for the purpose of collecting, validating and verifying information, processing and maintaining information, and disclosing and providing information; to train personnel and to be able to respond to a collection of information, to search data sources, to complete and review the collection of information; and to transmit or otherwise disclose the information. Written comments should be received within 60 days of this notice.

Proposed Project

Assessing School-centered HIV/STD Prevention Efforts in a Local Education Agency—New—Division of Adolescent and School Health (DASH), National

Center for HIV/AIDS, Viral Hepatitis, STD, and TB Prevention, Centers for Disease Control and Prevention (CDC).

HIV infections remain high among young men who have sex with men. The estimated number of new HIV infections increased between 2008 and 2010 both overall and among MSM ages 13 to 24. Furthermore, sexual risk behaviors associated with HIV, other sexually transmitted disease (STD), and pregnancy often emerge in adolescence. For example, 2011 Youth Risk Behavior Surveillance System (YRBSS) data revealed 47.4% of U.S. high school students reported having had sex, and among those who had sex in the previous three months, 39.8% reported having not used a condom during last sexual intercourse. In addition, 2001–2009 YRBSS data revealed high school students identifying as gay, lesbian, and bisexual and those reporting sexual contact with both males and females were more likely to engage in sexual risk-taking behaviors than heterosexual students.

Given the disproportionate risk for HIV among YMSM ages 13–24, it is important to find ways to reach the younger youth (i.e., ages 13–19) in this range to decrease sexual risk behaviors and increase health-promoting behaviors such as routine HIV testing. Schools provide one opportunity for this. United States Census Bureau data suggests that because schools enroll more than 22 million teens (ages 14–19) and often have existing health and social services infrastructure, schools and their staff members are well-positioned to connect youth to a wide range of needed services, including housing assistance, support groups, and sexual health services such as HIV testing. As a result, CDC's DASH has focused a number of HIV and STD prevention efforts on strategies that can be implemented in or centered around schools.

The CDC requests a 3-year OMB approval to conduct a new information collection entitled, ''Assessing School-Centered HIV/STD Prevention Efforts in a Local Education Agency''. The information collection uses a self-administered paper-pencil questionnaire, the Youth Health and School Climate Questionnaire, to conduct in-depth assessment of HIV and STD prevention efforts that are taking place in one local education agency (LEA) funded by CDC's Division of Adolescent and School Health (DASH) under strategy 4 (School-Centered HIV/STD Prevention for Young Men Who Have Sex with Men) of PS13–1308: *Promoting Adolescent Health through School-Based HIV/STD Prevention and School-Based Surveillance.* This data collection will provide data and reports for the funded LEA, and will allow the LEA to identify areas of the program that are working well and other areas that will need additional improvement. In addition, the findings will allow CDC to determine the potential impact of currently recommended strategies and make changes to those recommendations if necessary. The questionnaire will include questions on the following topics: demographic information; HIV and STD risk behaviors; use of HIV and STD health services; experiences at school, including school connectedness, harassment and bullying, homophobia, support of LGBTQ students; sexual orientation; receipt of referral for HIV and STD prevention health services; and health education.

This data collection system involves administration of a paper-and-pencil questionnaire to seven high schools that are participating in the HIV/STD prevention project of a local education agency that is funded with support from CDC's PS13–1308. The Youth Health and School Climate Questionnaire will be administered to approximately 16,500 students across the seven schools in the years 2014 and 2016. These data collection points coincide with the initiation of project activities and the mid-way points of the PS13–1308 cooperative agreement. We anticipate that each year of data collection will yield data from up to 16,500 high school students in grades 9 through 12 at the selected school.

Although some students may take the questionnaire in multiple years, this is not a longitudinal design and students' responses will not be tracked across the years. No personally identifiable information will be collected.

All students' parents will receive parental consent forms that provide them with an opportunity to opt their children out of the study. In addition, each student will be given an assent form that explains he or she may choose not to take the questionnaire or may skip any questions in the questionnaire with no penalty. Participation is completely voluntary.

The estimated burden per response ranges from 35–45 minutes. This variation in burden is due to the slight variability in skip patterns that may occur with certain responses and variations in the reading speed of students. The burden estimates presented here are based on the assumption of a 40-minute response time per response. Students in the 12th grade in fall 2014 will complete the questionnaire only once. It is estimated that students in the 9th, 10th, and 11th grade will complete the questionnaire in fall of 2014 and again in the spring of 2016 when they will be 10th, 11th, and 12th grade students. In addition, students who are in the 9th grade in spring of 2016 will also complete the questionnaire. Annualizing this collection over three years results in an estimated annualized burden of 11,000 hours for respondents. There are no costs to respondents other than their time.

TABLE A.12–1—ESTIMATED ANNUALIZED BURDEN TO RESPONDENTS

Respondents	Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hours)	Total burden (in hours)
Students in the grades 9–12	Youth Health and School Climate Questionnaire.	16,500	1	40/60	11,000
Total					11,000

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. 2014–11039 Filed 5–13–14; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[60Day–14–14YK]

Proposed Data Collections Submitted for Public Comment and Recommendations

The Centers for Disease Control and Prevention (CDC), as part of its continuing effort to reduce public burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995. To request more information on the below proposed project or to obtain a copy of the information collection plan and instruments, call 404–639–7570 or send comments to LeRoy Richardson, 1600 Clifton Road, MS–D74, Atlanta, GA 30333 or send an email to *omb@cdc.gov.*

Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget (OMB) approval. Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected;(d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; to develop, acquire, install and utilize technology and systems for the purpose of collecting, validating and verifying information, processing and maintaining information, and disclosing and providing information; to train personnel and to be able to respond to a collection of information, to search data sources, to complete and review the collection of information; and to transmit or otherwise disclose the information. Written comments should be received within 60 days of this notice.

Proposed Project

Information Collection on Cause-Specific Absenteeism in Schools—New—National Center for Emerging and Zoonotic Infectious Diseases (NCEZID), Division of Global Migration and Quarantine (DGMQ), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

The Centers for Disease Control and Prevention (CDC), National Center for Emerging and Zoonotic Infectious Diseases (NCEZID), Division of Global Migration and Quarantine (DGMQ), requests approval of a new information collection to better understand the triggers, timing and duration of the use of school related measures for preventing and controlling the spread of influenza during the next pandemic.

The information collection for which approval is sought is in accordance with DGMQ/CDC's mission to reduce morbidity and mortality in mobile populations, and to prevent the introduction, transmission, or spread of communicable diseases within the United States. Insights gained from this information collection will assist in the planning and implementation of CDC Pre-Pandemic Guidance on the use of school related measures, including school closures, to slow transmission during an influenza pandemic.

School closures were considered an important measure during the earliest stage of the 2009 H1N1 pandemic, because a pandemic vaccine was not available until October (6 months later), and sufficient stocks to immunize all school-age children were not available until December. However, retrospective review of the U.S. government response to the pandemic identified a limited evidence-base regarding the effectiveness, acceptability, and feasibility of various school related measures during mild or moderately severe pandemics. Guidance updates will require an evidence-based rationale for determining the appropriate triggers, timing, and duration of school related measures, including school closures, during a pandemic.

CDC staff proposes that the information collection for this package will target adult and child populations in a school district in Wisconsin. CDC will collect reports of individual student symptoms, vaccination status, recent travel, recent exposure to people with influenza symptoms and duration of illness; this will be accomplished through telephone and in-person interviews.

Findings obtained from this information collection will be used to inform the update CDC's Pre-pandemic Guidance on the implementation of school related measures to prevent the spread of influenza, especially school closures. This Guidance is used as an important planning and reference tool for both State and local health departments in the United States.

There is no cost to respondents other than their time.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondent	Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hours)	Total burden hours
Parents of children/adolescents attending schools (Wisconsin).	Screening Form	1,500	4	5/60	500
Parents of children/adolescents attending schools (Wisconsin).	Acute Respiratory Infection and Influenza Surveillance Form.	1,500	4	30/60	3,000
Total					3,500

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. 2014–11040 Filed 5–13–14; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[60Day–14–0900]

Proposed Data Collections Submitted for Public Comment and Recommendations

The Centers for Disease Control and Prevention (CDC), as part of its continuing effort to reduce public burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995. To request more information on the below proposed project or to obtain a copy of the information collection plan and instruments, call 404–639–7570 or send comments to LeRoy Richardson, 1600 Clifton Road, MS–D74, Atlanta, GA 30333 or send an email to *omb@cdc.gov*.

Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget (OMB) approval. Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; to develop, acquire, install and utilize technology and systems for the purpose of collecting, validating and verifying information, processing and maintaining information, and disclosing and providing information; to train personnel and to be able to respond to a collection of information, to search data sources, to complete and review the collection of information; and to transmit or otherwise disclose the information. Written comments should be received within 60 days of this notice.

Proposed Project

Contact Investigation Outcome Reporting Forms—Revision—(0920–0900, expiration date: September 30, 2014)—National Center for Emerging and Zoonotic Infectious Diseases (NCEZID), Division of Global Migration and Quarantine (DGMQ), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

The Centers for Disease Control and Prevention (CDC), Division of Global Migration and Quarantine (DGMQ) requests a revision of the currently approved Information Collection Request: ''Contact Investigation Outcome Reporting Forms,'' expiring September 30, 2014. CDC has conducted a thorough review of the data collection tools approved in this information collection request. To streamline the data collected, ease the completion of each data collection tool, and to target information collected to be more specific to the individual illness of public health concern, several changes to the data collection tools have been proposed. The result is a 12% reduction in burden, or a reduction of 32 total burden hours. A summary of changes is as follows:

- Data pertaining to contact investigations for measles, mumps and rubella will no longer be collected using one form for either the air or maritime environments.
- Data collection for measles contact investigations will be collected either by using the Measles Contact Investigation Reporting Form—Air, or the Measles Contact Investigation Reporting Form—Maritime.
- CDC will no longer collect information pertaining to cases of mumps occurring during air travel. Contact investigations for cases of mumps occurring onboard maritime conveyances will still be evaluated, using the General Contact Investigation Outcome Form—Maritime.
- Data collection for rubella contact investigations will be collected either by using the Rubella Contact Investigation Reporting Form—Air, or the Rubella Contact Investigation Reporting Form—Maritime. Data collection fields pertaining to pregnant women have been added to assist in recommending the appropriate prophylaxis of those exposed.
- Data pertaining to contact investigations occurring in the air and land-border crossing environments will no longer be collected using the same form. Factors affecting the disease transmission in these environments is very different, thus, CDC has created separate data collection tools and fields. Data collection for contact investigations of illnesses of public health concern occurring in a land-border crossing environment will be collected by using the General Contact Investigation Reporting Form—Land. Data collection for illnesses of public health concern occurring in an air environment will be collected using tools specific to each disease.
- In response to a request from maritime operators (cruise ship physicians/cargo ship managers), CDC has added the option for contact investigation outcome reporting to be completed in either a MS Word or MS Excel format. The excel format allows reporting for multiple patients simultaneously without completing separate documents for each ill traveler. The information collected on each of the data collection tools is the same. Data collection for contact investigations for diseases of public health concern occurring in a maritime environment will be collected using tools specific to each of the diseases listed above.

This data collection supports the need for CDC staff to evaluate cases of communicable diseases of public health concern during travel and conduct investigative contact tracing for those that may have been exposed. The proposed data collection tools facilitate the collection of data pertaining to these contact investigations.

CDC is requesting a total of 248 burden hours in this revision. There are no costs to respondents other than their time.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondent	Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hours)	Total burden hours
State/local health department staff ...	General Contact Investigation Outcome Reporting Form (Air).	12	1	5/60	1
Cruise Ship Physicians/Cargo Ship Managers.	General Contact Investigation Outcome Reporting Form (Maritime—word version).	100	1	5/60	8
Cruise Ship Physicians/Cargo Ship Managers.	General Contact Investigation Outcome Reporting Form (Maritime—Excel version).	100	1	5/60	8
State/local health department staff ...	General Contact Investigation Outcome Reporting Form (Land).	12	1	5/60	1
State/local health department staff ...	TB Contact Investigation Outcome Reporting Form (Air).	1,244	1	5/60	104
Cruise Ship Physicians/Cargo Ship Managers.	TB Contact Investigation Outcome Reporting Form (Maritime—word version).	150	1	5/60	13
Cruise Ship Physicians/Cargo Ship Managers.	TB Contact Investigation Outcome Reporting Form (Maritime—Excel version).	150	1	5/60	13
State/local health department staff ...	Measles Contact Investigation Outcome Reporting Form (Air).	964	1	5/60	80
Cruise Ship Physicians/Cargo Ship Managers.	Measles Contact Investigation Outcome Reporting Form (Maritime—word version).	63	1	5/60	5
Cruise Ship Physicians/Cargo Ship Managers.	Measles Contact Investigation Outcome Reporting Form (Maritime—excel version).	63	1	5/60	5
State/local health department staff ...	Rubella Contact Investigation Outcome Reporting Form (Air).	95	1	5/60	8
Cruise Ship Physicians/Cargo Ship Managers.	Rubella Contact Investigation Outcome Reporting Form (Maritime—word version).	12	1	5/60	1
Cruise Ship Physicians/Cargo Ship Managers.	Rubella Contact Investigation Outcome Reporting Form (Maritime—excel version).	12	1	5/60	1
Total	.....	.....	.....	.....	248

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. 2014–11041 Filed 5–13–14; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Submission for OMB Review; Comment Request

Title: ADP & Services Conditions for FFP for ACF.

OMB No.: 0970–0417.

Description: State child support agencies are required to establish and operate a federally approved statewide automated data processing and information retrieval system to assist in child support enforcement. States are required to submit an initial advance automated data processing planning document (APD) containing information to assist the Secretary of the Department of Health and Human Services in determining if the state computerized support enforcement system meets federal requirements and providing federal approval. States are also required to submit annually an updated APD for oversight purposes. Based on assessment of the information provided in the initial or updated APDs, states that do not meet federal requirement approval will need to complete an independent verification and validation.

Advance Planning Document (APD) process, established in the rules at 45 CFR Part 95, Subpart F, is the procedure by which States request and obtain approval for Federal financial The participation in their cost of acquiring Automatic Data Processing (ADP) equipment and services. State agencies that submit APD requests provide the Department of Health and Human Services (HHS) with the following information necessary to determine the States' needs to acquire the requested ADP equipment and/or services:

(1) A statement of need;

(2) A requirements analysis and feasibility study;

(3) A procurement plan;

(4) A proposed activity schedule; and,

(5) A proposed budget.

The proposed information collection, is authorized by (1) 42 U.S.C. 654A, which provides a state agency to have a single statewide automated data processing and information retrieval system and sets forth the requirements of that system; (2) 42 U.S.C. 654(16), which provides the state must submit an initial, and annually updated, advance automated data processing planning document for project approval; (3) 45 CFR 307.15, which provides the requirements for approval of advance planning documents; (4) 42 U.S.C 652(d), which provides the Secretary with the authority to approve an APD and to assess the computerized support enforcement system status; 45 CFR 95.626, which determines when an

Independent Verification and Validation must be completed.

HHS' determination of a State Agency's need to acquire requested ADP equipment or services is authorized at sections 602(a(5)), 652(a)(1), 1396(a)(4) and 1302 of United States Code.

Respondents: States.

ANNUAL BURDEN ESTIMATES

Instrument	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
RFP and Contract	4	1.5	4	24
Emergency Funding Request	5	.1	2	1
Biennial Reports	54	1	1.50	81
Advance Planning Document	34	1.2	120	4,896
Operational Advance Planning Document	20	1	30	600
Independent Verification and Validation (ongoing)	3	4	10	120
Independent Verification and Validation (semiannually)	1	2	16	32
Independent Verification and Validation (quarterly)	1	4	30	120
System Certification	1	1	240	240

Estimated Total Annual Burden Hours: 6,414.

Additional Information:

Copies of the proposed collection may be obtained by writing to the Administration for Children and Families, Office of Planning, Research and Evaluation, 370 L'Enfant Promenade SW., Washington, DC 20447, Attn: ACF Reports Clearance Officer. All requests should be identified by the title of the information collection. Email address: *infocollection@acf.hhs.gov.*

OMB Comment:

OMB is required to make a decision concerning the collection of information between 30 and 60 days after publication of this document in the **Federal Register**. Therefore, a comment is best assured of having its full effect if OMB receives it within 30 days of publication. Written comments and recommendations for the proposed information collection should be sent directly to the following: Office of Management and Budget, Paperwork Reduction Project, Fax: 202–395–7285, Email: *OIRA_SUBMISSION@OMB.EOP.GOV.* Attn: Desk Officer for the Administration for Children and Families.

Robert Sargis,

Reports Clearance Officer.

[FR Doc. 2014–10986 Filed 5–13–14; 8:45 am]

BILLING CODE 4184–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Submission for OMB Review; Comment Request

Title: Head Start Family and Child Experiences Survey (FACES).

OMB No.: 0970–0151.

Description: The Office of Planning, Research and Evaluation (OPRE), Administration for Children and Families (ACF), U.S. Department of Health and Human Services (HHS), is proposing to collect data for a new round of the Head Start Family and Child Experiences Survey (FACES). Featuring a new ''Core Plus'' study design, FACES will provide data on a set of key indicators, including information for performance measures. The design allows for more rapid and frequent data reporting (Core studies) and serves as a vehicle for studying more complex issues and topics in greater detail and with increased efficiency (Plus studies).

The FACES Core study will assess the school readiness skills of Head Start children, survey their parents, and ask their Head Start teachers to rate children's social and emotional skills. In addition, FACES will include observations in Head Start classrooms, and program director, center director, and teacher surveys. FACES Plus studies include additional survey content of policy or programmatic interest, and may include additional programs or respondents beyond those participating in the Core FACES study.

Previous notices provided the opportunity for public comment on the proposed Head Start program recruitment and center selection process (FR V.78, pg. 75569 12/12/2013; FR V.79, pg. 8461 02/12/2014) and the data collection (FR V. 79, pg. 11445 02/28/2014). This 30-day notice describes the first set of planned data collection activities for the FACES Core study. Classroom and child sampling information collection, direct child assessments, parent surveys, and teacher child reports for the Core study are included in this clearance package.

Methods for Core data collection start with site visits to 120 centers in 60 Head Start programs to sample classrooms and children for participation in the study. Field enrollment specialists (FES) will request a list of all Head Start-funded classrooms from Head Start staff and will ask for the teacher's first and last names, the session type (morning, afternoon, full day, or home visitor), and the number of Head Start children enrolled. Then for each selected classroom the FES will request the names and dates of birth of each child enrolled. Approximately two weeks later, assessors will go to the 60 Head Start programs to directly assess the school readiness skills of 2,400 children sampled to participate in FACES. Parents of sampled children will complete surveys on the Web or by telephone about their children, activities they engage in, and family background. Head Start teachers will rate each sampled child's social and emotional skills (approximately 10 children per classroom) using the Web or paper-and-pencil forms.

The purpose of the Core data collection is to support the 2007 reauthorization of the Head Start program (Pub. L. 110–134), which calls for periodic assessments of Head Start's quality and effectiveness. As additional information collection activities are fully developed, in a manner consistent with the description provided in the 60-day notice (79 FR 11445) and prior to use, we will submit these materials for a 30-day public comment period under the Paperwork Reduction Act.

Respondents: Head Start children, parents of Head Start children, Head Start teachers and Head Start staff.

ANNUAL BURDEN ESTIMATES

Instrument	Total number of respondents	Annual number of respondents	Number of responses per respondent	Average burden hour per response	Estimated annual burden hours
Classroom sampling form from Head Start staff	120	40	1	0.17	7
Child roster form from Head Start staff	120	40	1	0.33	13
Head Start core parent consent form	2,400	800	1	0.17	136
Head Start core child assessment	2,400	800	2	0.75	1,200
Head Start core parent survey	2,400	800	2	0.33	528
Head Start fall parent supplemental survey	2,400	800	1	0.08	64
Head Start core teacher child report	240	80	20	0.17	272
Total					2,220

Additional Information: Copies of the proposed collection may be obtained by writing to the Administration for Children and Families, Office of Planning, Research and Evaluation, 370 L'Enfant Promenade SW., Washington, DC 20447, Attn: OPRE Reports Clearance Officer. All requests should be identified by the title of the information collection. Email address: *OPREinfocollection@acf.hhs.gov*.

OMB Comment: OMB is required to make a decision concerning the collection of information between 30 and 60 days after publication of this document in the **Federal Register**. Therefore, a comment is best assured of having its full effect if OMB receives it within 30 days of publication. Written comments and recommendations for the proposed information collection should be sent directly to the following: Office of Management and Budget, Paperwork Reduction Project, Fax: *OIRA_SUBMISSION@OMB.EOP.GOV,* Attn: Desk Officer for the Administration for Children and Families.

Karl Koerper,

OPRE Reports Clearance, Officer.

[FR Doc. 2014–11054 Filed 5–13–14; 8:45 am]

BILLING CODE 4184–22–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Proposed Information Collection Activity; Comment Request

Title: Head Start Impact Study Participants Beyond 8th Grade.

OMB No.: 0970–0229.

Description: The Administration for Children and Families (ACF) within the Department of Health and Human Services (HHS) will collect follow-up information from children and families in the Head Start Impact Study. In anticipation of conducting a future follow-up for the study, ACF will collect information necessary to identify respondent's current location and follow-up with respondents in the future.

The Head Start Impact Study is a longitudinal study involving 4,667 first-time enrolled three- and four-year-old preschool children across 84 nationally representative grantee/delegate agencies (in communities where there were more eligible children and families than can be served by the program). Participants were randomly assigned to either a Head Start group (that could enroll in Head Start services) or a control group (that could not enroll in Head Start services but could enroll in other available services selected by their parents). Data collection for the study began in fall of 2002 and continued through late spring 2008 to include the participants' 3rd grade year. Location and contact information for participants has been collected every spring beginning in 2009 and continued through spring 2014.

ACF will continue to collect a small amount of information for the sample through the spring of the participant's 12th grade year. To maintain adequate sample size, telephone interviews (with in-person follow-up as necessary) will be conducted in order to update the children's status and their location and contact information. This information will be collected from parents or guardians in the spring of 2015 and 2016. Updates will take about 20 minutes to complete.

Respondents: The original sample of 4,667 treatment and control group members in the Head Start Impact Study, less 432 families that have given a ''hard'' refusal to participate in the study (e.g., adamantly refused to participate or threatened interviewers if they were contacted again). The number of respondents for this requested data collection is 4,235.

ANNUAL BURDEN ESTIMATES

Instrument	Total number of respondents	Annual number of responses per respondent	Average burden hours per response	Annual burden hours
Parent Tracking Interview	4235	1	1/3	1412

Estimated Total Annual Burden Hours: 1412.

In compliance with the requirements of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Administration for Children and Families is soliciting public comment on the specific aspects of the information collection described above. Copies of the proposed collection of information can be obtained and comments may be forwarded by writing to the Administration for Children and Families, Office of Planning, Research and Evaluation, 370 L'Enfant Promenade SW., Washington, DC 20447, Attn: OPRE Reports Clearance Officer. Email address: *OPREinfocollection@acf.hhs.gov.* All requests should be identified by the title of the information collection.

The Department specifically requests comments on (a) whether the proposed collection of information is necessary

for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted within 60 days of this publication.

Karl Koerper,

Reports Clearance, Officer.

[FR Doc. 2014–11055 Filed 5–13–14; 8:45 am]

BILLING CODE 4184–22–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2014–D–0234]

Draft Guidance for Industry on Clinical Pharmacology Data To Support a Demonstration of Biosimilarity to a Reference Product; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of a draft guidance for industry entitled ''Clinical Pharmacology Data to Support a Demonstration of Biosimilarity to a Reference Product.'' This guidance is intended to assist sponsors in developing a clinical pharmacology program to support a decision that a proposed therapeutic biological product is *biosimilar* to, that is not clinically meaningfully different from, its reference product. Specifically, the guidance discusses some of the overarching concepts related to clinical pharmacology studies for biosimilar products, approaches for developing the appropriate clinical pharmacology database, and the utility of modeling and simulation for designing clinical trials. This draft guidance is one in a series of guidances that FDA is developing to implement the Biologics Price Competition and Innovation Act of 2009 (BPCI Act).

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 12, 2014.

ADDRESSES: Submit written requests for single copies of the draft guidance to the Division of Drug Information, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 51, rm. 2201, Silver Spring, MD 20993–0002, or Office of Communication, Outreach, and Development (HFM–40), Center for Biologics Evaluation and Research, Food and Drug Administration, 1401 Rockville Pike, Rockville, MD 20852–1448. Send one self-addressed adhesive label to assist that office in processing your requests. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the draft guidance document.

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.

FOR FURTHER INFORMATION CONTACT: Sandra Benton, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 51, rm. 6340, Silver Spring, MD 20993–0002, 301–796–2500, email: *sandra.benton@fda.hhs.gov;* or Stephen Ripley, Center for Biologics Evaluation and Research (HFM–17), Food and Drug Administration, 1401 Rockville Pike, suite 200N, Rockville, MD 20852–1448, 301–827–6210.

SUPPLEMENTARY INFORMATION:

I. Background

FDA is announcing the availability of a draft guidance for industry entitled ''Clinical Pharmacology Data to Support a Demonstration of Biosimilarity to a Reference Product.'' Clinical pharmacology studies are part of a stepwise approach to develop the data and information needed to support a demonstration of biosimilarity. Adequate and well-conducted clinical pharmacology studies can address the residual uncertainty in biosimilarity assessment from clinical perspectives and inform the design of subsequent studies to assess clinically meaningful differences between the biosimilar and the reference products. The draft guidance discusses some critical considerations related to clinical pharmacology testing for biosimilar products, approaches for developing the appropriate clinical pharmacology database, and the utility of modeling and simulation for designing clinical trials. In its description of how to design and use clinical pharmacology studies to add to the totality of evidence that a proposed biological product is biosimilar to its reference product, the draft guidance is meant to assist sponsors in designing such studies in support of applications submitted under section 351(k) of the Public Health Service Act (42 U.S.C. 262(k)). Scientific principles described in the draft guidance may also be informative for the development of certain biological products under section 505(b)(2) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355).

This draft guidance is one in a series that FDA is developing to implement the BPCI Act and 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 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.

II. The Paperwork Reduction Act of 1995

The draft guidance refers to previously approved collections of information that are subject to review by the Office of Management and Budget under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). The collection of information submitted under section 351(k) applications for biosimilars is approved under OMB control number 0910–0719. The collection of information submitted under 21 CFR part 312 is approved under OMB control number 0910–0014.

III. Comments

Interested persons may submit either electronic comments regarding the draft guidance 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.*

IV. Electronic Access

Persons with access to the Internet may obtain the draft guidance at either *http://www.fda.gov/Drugs/GuidanceComplianceRegulatoryInformation/Guidances/default.htm, http://www.fda.*

gov/BiologicsBloodVaccines/GuidanceComplianceRegulatoryInformation/default.htm, or *http://www.regulations.gov.*

Dated: May 8, 2014.

Leslie Kux,

Assistant Commissioner for Policy.

[FR Doc. 2014–11053 Filed 5–13–14; 8:45 am]

BILLING CODE 4160–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2012–P–1107]

Oxiplex®/SP Gel; FzioMed, Incorporated's Petition for Review of the Food and Drug Administration's Denial of Premarket Approval; 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 topic to be discussed is the Center for Device and Radiological Health's (CDRH's) denial of a premarket approval application (PMA) for Oxiplex®/SP Gel (OXIPLEX) submitted by FzioMed, Inc.—the sponsor for OXIPLEX. The meeting will be open to the public.

Name of Committee: Medical Devices Dispute Resolution Panel of the Medical Devices Advisory Committee.

General Function of the Committee: To provide advice and recommendations to the Agency on scientific disputes between CDRH and sponsors, applicants, and manufacturers.

Date and Time: The meeting will be held on June 10, 2014, from 8 a.m. to 6 p.m.

Location: The meeting will be held at the Hilton Washington DC/North, salons A, B, C, and D of the Ballroom, 620 Perry Pkwy., Gaithersburg, MD. The hotel's telephone number is 1–301–977–8900.

Contact Person: Pamela D. Scott, Center for Devices and Radiological Health, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 66, Rm. 3611, Silver Spring, MD 20993, 301–796–5433, FAX: 301–847–8510, email: *pamelad.scott@fda.hhs.gov,* or FDA Advisory Committee Information Line, 1–800–741–8138 (301–443–0572 in the Washington, DC area), and follow the prompts to the desired center or product area. Please call the Information Line for up-to-date information on this meeting. A notice in the **Federal Register** about last minute modifications that affect 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 and call the appropriate advisory committee hot line/phone line to learn about possible modifications before coming to the meeting.

Procedure: Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Written submissions from persons other than FzioMed and CDRH may be made to the docket on or before June 3, 2014. Submit electronic comments 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. It is only necessary to send one set of comments. Identify all written and electronic comments and submissions with the docket number found in brackets in the heading of this document. All written and electronic comments and submissions will be considered to be publicly disclosable.

Oral presentations from persons other than FzioMed and CDRH will be scheduled between approximately 12:45 and 1:15 p.m. on June 10, 2014. If you wish to make an oral presentation during the meeting, you should register on or before May 27, 2014. Send registration information (including name, title, firm name, address, telephone, email, and FAX number), and requests to make oral presentations to Pamela D. Scott (see *Contact Person*). You should provide the docket number appearing in the heading of this notice. You also should submit a brief summary of the presentation, including the discussion topic(s) that will be addressed and the approximate time requested for your presentation. The amount of time to be allotted to each presenter may be limited to provide opportunities to as many persons wishing to present as possible. 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 that session. We encourage individuals and organizations with common interests to consolidate or coordinate their presentations to allow adequate time for each request for presentation. Pamela D. Scott will notify interested persons regarding their request to speak by June 2, 2014. On the day of the meeting scheduled open public speakers should identify themselves at the registration desk.

After the scheduled speakers have spoken, the Chair of the advisory committee may ask them to remain if the advisory committee wishes to question them further. The Chair may recognize unscheduled speakers should time allow.

Persons attending FDA's advisory committee meetings are advised that the Agency is not responsible for providing access to electrical outlets.

SUPPLEMENTARY INFORMATION:

I. Background

FDA is announcing that, in accordance with section 515(g)(2) of the Federal Food, Drug, and Cosmetic Act (FD&C Act) (21 U.S.C. 360e(g)(2)), a public advisory committee will review CDRH's denial of a PMA for OXIPLEX submitted by FzioMed—the sponsor for OXIPLEX.

On August 21, 2007, FzioMed submitted a PMA (PMA P070023) for OXIPLEX. OXIPLEX is an absorbable, clear, viscoelastic gel designed to be applied in the lower back during lumbar spine surgery. The device's proposed indication is for use as a surgical adjuvant in adult patients with primary leg pain and severe baseline back pain undergoing first surgical intervention (i.e., open or endoscopic posterior lumbar laminectomy, laminotomy, or discectomy) for diagnosed unilateral herniation of lumbar intervertebral disc material associated with radiculopathy. The proposed intended use is for one-time use, up to 3 milliliters, after hemostasis during wound closure, as an adjunct to primary surgical intervention to improve patient outcomes by reducing leg pain, back pain and neurologic symptoms.

On October 9, 2012, CDRH issued a decision upholding a not approvable letter in response to the PMA P070023 for OXIPLEX. CDRH determined that PMA P070023 is not approvable based on its conclusion that the data and information offered in support of the PMA do not provide a reasonable assurance that the device is safe and effective under the conditions of use prescribed, recommended, or suggested in the proposed labeling, as required by section 515(d)(2) of the FD&C Act.

On November 5, 2012, FzioMed requested administrative review of CDRH's decision to uphold its not approvable letter. Submitted in the form of a petition for reconsideration under 21 CFR 10.33 (see § 814.44 (21 CFR 814.44(f)(2))), FzioMed's petition for review (petition) stated that, in accordance with § 814.44(f), FzioMed

considered the decision to uphold the not approvable letter to be a denial of approval of PMA P070023 under § 814.45. Pursuant to section 515(d)(4) of the FD&C Act, FzioMed requested review of this denial under section 515(g)(2) of the FD&C Act (petition is available in Docket No. FDA–2012–P–1107).

Accordingly, as required by § 814.45(e)(3), CDRH issued an order denying approval of the PMA for OXIPLEX on October 21, 2013. Pursuant to section 515(g)(2) of the FD&C Act, on October 25, 2013, FDA granted FzioMed's petition for review of the order denying PMA P070023. In accordance with section 515(g)(2) of the FD&C Act, the Office of the Commissioner is referring PMA P070023 and the basis for the order denying its approval to the Medical Devices Dispute Resolution Panel (the panel), an advisory committee of experts established, in part, to receive referrals of petitions for advisory committee review under section 515(g)(2)(B) of the FD&C Act. The panel for this review will consist of nine persons, qualified by training and experience to evaluate the clinical and scientific basis of CDRH's order denying approval of the PMA. After independent study of the data and information furnished to it by the Office of the Commissioner, and other data and information before it, the panel will, during the meeting, discuss, evaluate, make recommendations, and vote on the issues in dispute based on the statement of issues described below. A transcript of the meeting will serve as a report and recommendation with respect to CDRH's order denying approval. (See section 515(g)(2)(A) of the FD&C Act.) Together with the underlying data and information before the panel, the transcript of the meeting will be submitted to FDA's Chief Scientist, who is an official authorized to perform all delegable functions of the Commissioner and is the Commissioner's designee for this matter.

The Office of the Commissioner will make the transcript of the meeting public in accordance with section 515(g)(2)(C) of the FD&C Act. The Office of the Commissioner will also provide a copy of the transcript to FzioMed and CDRH and will offer FzioMed and CDRH the opportunity to submit comments on the panel's recommendations before a final order is rendered. In accordance with section 515(g)(2)(C) of the FD&C Act, the Chief Scientist will issue an order either affirming or reversing the order denying PMA P070023 and, if appropriate, approving or denying approval of the PMA.

II. Meeting Issues and Process

A. Issues

The scientific questions for the panel relate to whether the information provided by FzioMed is sufficient to provide a reasonable assurance of safety and effectiveness for OXIPLEX's proposed indications. Key to a determination regarding effectiveness is whether the product will provide clinically significant results to a significant portion of the target population. (See 21 CFR 860.7(e).)

Over the course of CDRH's review of OXIPLEX, FzioMed submitted data from four peer-reviewed, published clinical studies in an effort to demonstrate safety and effectiveness. The clinical studies included a pilot study and a pivotal study, both of which were conducted in the United States, and two studies conducted outside of the United States in China and Italy (the OUS studies). The pivotal study was a randomized, controlled, double-blinded multicenter study designed to evaluate the efficacy of OXIPLEX in the reduction of postoperative pain and symptoms and to evaluate the safety of applying OXIPLEX during lumbar disc surgery by comparing a group of patients undergoing lumbar surgery alone and a group undergoing the same surgery with the use of OXIPLEX. FzioMed maintains that, although the pivotal study did not show a statistically significant reduction in leg pain for OXIPLEX in the study patient population as a whole, the study did demonstrate OXIPLEX to be effective for the subgroup of patients with leg pain and severe baseline back pain (SBBP):

> For those subjects with both leg pain and severe baseline back pain, which comprised 55% of the total study population, . . . improvement in leg pain from baseline to the 6-month visit was statistically significantly greater for Oxiplex subjects compared to control subjects (P=0.0123), with an 18% greater improvement in leg pain in the Oxiplex group compared to controls. (Petition at 7–8.)

In addition, FzioMed submitted data from the two OUS studies that, according to FzioMed, provide confirmatory evidence of the safety and efficacy of OXIPLEX in the severe back pain subgroup.

In denying PMA P070023, CDRH concluded that the effect observed in the SBBP subgroup in the pivotal study was not adequate to support approval because it stemmed from what CDRH characterized as FzioMed's ''exploratory subgroup analysis.'' CDRH further determined that the OUS studies do not confirm the results of improvement shown in postoperative leg pain in the SBBP subgroup from the pivotal study because: (1) Differences in subject population and study endpoints among the three studies preclude pooling the data; (2) the Chinese clinical study was not initially designed to assess the treatment effect in the SBBP subgroup, and review of the quartile of patients with the most severe baseline back pain in the study did not demonstrate a treatment effect for OXIPLEX at either the 30- or 60-day endpoint; and (3) the Italian clinical study was not truly randomized, resulting in important baseline differences between the control and treatment groups that preclude meaningful comparison between the two groups, and few study subjects had baseline back pain of the severity considered in the SBBP subgroup of the pivotal study.

FzioMed contests the scientific bases for CDRH's determination that the evidence from the pivotal study and the two OUS studies does not provide a reasonable assurance of the device's safety and effectiveness for the device's proposed indications. First, FzioMed contends that the agency should place greater weight on the treatment results for the SBBP subgroup in the pivotal study. While acknowledging that ''severe'' was not prospectively defined in identifying the SBBP subgroup, the company notes that the statistical analysis plan did prospectively identify baseline back pain as a covariate for analysis. FzioMed maintains that analysis of this subgroup was justified and executed in a manner consistent with the approved statistical analysis plan. Second, FzioMed maintains that differences in study population among the clinical studies submitted to FDA actually strengthen support for the effectiveness of OXIPLEX:

> The fact that consistent results were observed using the LSOQ [Lumbar Spine Outcomes Questionnaire] and the Visual Analogue Scale (VAS), and that these results were demonstrated at short (60 days), intermediate (6 months) and long-term (3 years) follow-up intervals supports the robustness of the data and confirms that the results observed in the U.S. pivotal study did not occur by chance. (Petition at 13.)

Third, FzioMed argues that CDRH improperly rejected the submitted OUS studies as confirmatory evidence of safety and effectiveness, based on, among other things, inappropriate subgroup analyses and improper restrictions on study design.

CDRH and FzioMed have agreed that, in order to demonstrate clinically significant results for a significant portion of the target population from the adjunctive use of OXIPLEX for the proposed SBBP indications, the

submitted information must demonstrate, based on patients' self-assessment under validated pain scales, at least a 10 percent difference in the mean leg pain reduction from baseline pain to 6-month postoperative residual pain in favor of Oxiplex, when the mean difference between the treatment and control groups is divided by the mean reduction in leg pain in the control group. This assumes at least a 50 percent reduction in baseline to 6-month residual pain in the control group.

Questions for the panel to consider relative to safety and effectiveness are:

1. With respect to the pivotal study:

a. Is it scientifically and statistically valid to rely on analysis of the SBBP subgroup of the pivotal study to support, in part, a determination of reasonable assurance of effectiveness for the proposed SBBP indications?

b. Did CDRH give the effect observed in the SBBP subgroup of the pivotal study sufficient weight in evaluating OXIPLEX's effectiveness for the proposed SBBP indications?

2. With respect to the Chinese clinical study (Confirmatory Study #1):

a. Is it scientifically and statistically valid to rely on analysis of the SBBP subgroup as confirmatory evidence of effectiveness for the proposed SBBP indications?

b. In evaluating whether OXIPLEX provides clinically significant results for the proposed SBBP indications, is it scientifically and statistically valid to look at the treatment effect for OXIPLEX observed for the quartile of patients (N=17) with the most severe baseline back pain (VAS score ≥6.2) at the 30- and 60-day endpoints?

3. With respect to the Italian case series (Confirmatory Study #2): Does the study design enable a scientifically and statistically valid comparison between the treatment and control groups for the proposed SBBP indications?

4. Do the differences in study design for the pivotal study and the OUS studies prevent considering all three studies in the aggregate to evaluate whether OXIPLEX provides statistically and clinically significant results for the proposed SBBP indications?

5. When reviewed in total, do the data and other information submitted for OXIPLEX provide a reasonable assurance of effectiveness for the proposed SBBP indications (i.e., do the data and information demonstrate, based on patients' self-assessment under validated pain scales, at least a 10 percent difference in the mean leg pain reduction from baseline pain to 6-month post-operative residual leg pain in favor of OXIPLEX, when the mean difference between the treatment and control groups is divided by the mean reduction in pain in the control group, assuming at least a 50 percent reduction in baseline to 6-month residual pain in the control group)?

6. When reviewed in total, do the data and other information submitted for OXIPLEX provide a reasonable assurance of safety for the proposed SBBP indications? For there to be ''reasonable assurance of safety,'' valid scientific evidence must enable a determination that the probable benefits to health from use of OXIPLEX for the proposed SBBP indications outweigh any probable risks.

B. Process

Although no statute or regulation requires that separation of functions be applied to this review proceeding under section 515(g)(2) of the FD&C Act, FDA is adopting the following measures to ensure impartiality and promote efficiency. First, the Office of the Commissioner has formed two teams. The first, the Substantive Team, handles all decisions on any issues or matters that either relate directly to the merits of the review proceeding or are the subject of a dispute between CDRH and FzioMed, which are both parties to this proceeding. The second team, the Administrative Team, handles all undisputed procedural matters related to the administration of the panel meeting. The Administrative Team ensures that it keeps the parties apprised of all significant procedural decisions. Moreover, the Administrative Team refers the parties to the Substantive Team if either or both of the parties have concerns about the manner in which the Administrative Team has resolved a procedural issue.

To promote efficiency and facilitate the flow of information between the Office of the Commissioner and the parties, the agency is not requiring that all communications between the parties and the Office of the Commissioner be made part of the public record. However, until the Office of the Commissioner issues an order either affirming or reversing the order denying approval of PMA P070023, the Office of the Commissioner will not engage, and has not engaged, in any communication concerning the merits of the review proceeding with anyone participating as a party to the hearing or any person outside the agency unless the communication is made part of the public record. Communications between the parties and the Administrative Team that are not part of the public record will be limited to discussion of procedural issues and questions.

For the purposes of this proceeding, members of CDRH are considered to represent CDRH unless specifically designated to advise the Office of the Commissioner as a member of the Substantive Team or Administrative Team. All other members of FDA are available to advise and participate with the Office of the Commissioner on matters related to this proceeding.

At the meeting, each party will be provided 1 hour and 45 minutes during the first portion of the meeting to present relevant information or views orally. The parties may use the allotted time as desired, consistent with an orderly meeting, and may be accompanied by additional persons, who may present relevant information or views. The parties will subsequently be allowed 15 minutes for rebuttal. During the panel's open discussion, the panel members may pose questions to, or seek requests for clarification from, FzioMed and/or CDRH. Thereafter, each party will be allocated 15 minutes for summation, after which panel deliberation and voting will occur.

FDA welcomes the public's attendance at this advisory committee meeting and will make every effort to accommodate persons with physical disabilities or special needs. If you need special accommodations due to a disability, please contact AnnMarie Williams, Center for Devices and Radiological Health, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 66, rm. 3611, Silver Spring, MD 20993, 301–796–5966, FAX: 301–847–8505, email: *Annmarie.Williams@fda.hhs.gov* 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.

Because this is a public meeting before an advisory committee, it is subject to our regulations concerning the policy and procedures for electronic media coverage of public agency administrative proceedings (21 CFR 10.200 through 10.206). These procedures are primarily intended to expedite media access to our public proceedings. Representatives of the electronic media may be permitted, subject to certain limitations, to videotape, film, or otherwise record our public administrative proceedings, including the testimony of witnesses in the proceedings. Accordingly, the parties and nonparty participants, and all other interested persons, are directed to § 10.200 through 10.206, for a more

complete explanation of those regulations' effect on this meeting.

Documents filed in this matter are available for public review under Docket No. FDA–2012–P–1107 in the Division of Dockets Management (see *Procedure*) between 9 a.m. and 4 p.m., Monday through Friday. Persons with access to the Internet may obtain documents at *http://www.regulations.gov.* FDA intends to make background material, including briefing materials for the panel provided by CDRH and FzioMed, available to the public no later than 2 business days before the meeting. If FDA is unable to provide the background material 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 available in the Division of Dockets Management (see *Procedure*) and at *http://www.regulations.gov* after the meeting.

Notice of this meeting is given under the Federal Advisory Committee Act (5 U.S.C. app. 2).

III. Transcripts

Please be advised that as soon as a transcript is available, it will be accessible at *http://www.regulations.gov.* It may be viewed at the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD.

Dated: May 9, 2014.

Leslie Kux,

Assistant Commissioner for Policy.

[FR Doc. 2014–11048 Filed 5–13–14; 8:45 am]

BILLING CODE 4160–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Environmental Health Sciences; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Environmental Health Sciences Special Emphasis Panel, Studies of Fumonisin Exposures.

Date: June 5, 2014.

Time: 1:00 p.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications

Place: National Institute of Environmental Health Sciences, National Institutes of Health, Keystone Building, Room 3076, 530 Davis Drive, Research Triangle Park, NC 27709 (Telephone Conference Call).

Contact Person: Sally Eckert-Tilotta, Scientific Review Officer, Nat. Institute of Environmental Health Sciences, Office of Program Operations, Scientific Review Branch, P.O. Box 12233, Research Triangle Park, NC 27709, (919) 541–1446, *eckertt1@niehs.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.115, Biometry and Risk Estimation—Health Risks from Environmental Exposures; 93.142, NIEHS Hazardous Waste Worker Health and Safety Training; 93.143, NIEHS Superfund Hazardous Substances—Basic Research and Education; 93.894, Resources and Manpower Development in the Environmental Health Sciences; 93.113, Biological Response to Environmental Health Hazards; 93.114, Applied Toxicological Research and Testing, National Institutes of Health, HHS).

Dated: May 8, 2014.

Carolyn Baum,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2014–10993 Filed 5–13–14; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Heart, Lung, and Blood Institute; 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 Heart, Lung, and Blood Institute Special Emphasis Panel Microfluidic Assay Platforms.

Date: June 10, 2014.

Time: 7:30 a.m. to 2:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Hilton Garden Inn, 7301 Waverly Street, Bethesda, MD 20814.

Contact Person: Michael P Reilly, Ph.D., Scientific Review Officer, Office of Scientific Review/DERA, National Heart, Lung, and Blood Institute, 6701 Rockledge Drive, Room 7200, Bethesda, MD 20892, 301–496–9659, *reillymp@nhlbi.nih.gov.*

Name of Committee: National Heart, Lung, and Blood Institute Special Emphasis Panel, Short-Term Training to Promote Diversity in Health Research.

Date: June 10, 2014.

Time: 1:00 p.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Room 7189, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Stephanie L Constant, Ph.D., Scientific Review Officer, Office of Scientific Review/DERA, National Heart, Lung, and Blood Institute, 6701 Rockledge Drive, Room 7189, Bethesda, MD 20892, 301–443–8784, *constantsl@nhlbi.nih.gov.*

Name of Committee: National Heart, Lung, and Blood Institute Special Emphasis Panel Microfluidic Blood Assays.

Date: June 10, 2014.

Time: 2:00 p.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Hilton Garden Inn, 7301 Waverly Street, Bethesda, MD 20814.

Contact Person: Michael P Reilly, Ph.D., Scientific Review Officer, Office of Scientific Review/DERA, National Heart, Lung, and Blood Institute, 6701 Rockledge Drive, Room 7200, Bethesda, MD 20892, 301–496–9659, *reillymp@nhlbi.nih.gov.*

Name of Committee: National Heart, Lung, and Blood Institute Special Emphasis Panel Blood and Vascular Systems Response to Sepsis (R01).

Date: June 11–12, 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: Kristin Goltry, Ph.D., Scientific Review Officer, Office of Scientific Review/DERA, National Heart, Lung, and Blood Institute, 6701 Rockledge Drive, Room 7198, Bethesda, MD 20892, 301–435–0293, *goltrykl@mail.nih.gov.*

Name of Committee: National Heart, Lung, and Blood Institute Special Emphasis Panel Mentored Transition to Independence.

Date: June 12–13, 2014.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: The William F. Bolger Center, 9600 Newbridge Drive, Potomac, MD 20854.

Contact Person: Giuseppe Pintucci, Ph.D., Scientific Review Officer, Office of Scientific Review/DERA, National Heart, Lung, and Blood Institute, 6701 Rockledge Drive, Room 7192, Bethesda, MD 20892, 301–435–0285, *Pintuccig@nhlbi.nih.gov.*

Name of Committee: National Heart, Lung, and Blood Institute Special Emphasis Panel; Support Opportunity for Low-Cost Pragmatic Clinical Trials.

Date: June 16–17, 2014.

Time: 8:00 a.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Hilton Garden Inn—Bethesda, 7301 Waverly Street, Bethesda, MD 20892.

Contact Person: Chang Sook Kim, Ph.D., Scientific Review Officer, Office of Scientific Review/DERA National Heart, Lung, and Blood Institute, 6701 Rockledge Drive, Room 7188, Bethesda, MD 20892–7924, 301–435–0279, *carolko@mail.nih.gov*.

Name of Committee: National Heart, Lung, and Blood Institute Special Emphasis Panel Pulmonary Vascular Disease Phenomics.

Date: June 17, 2014.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Bethesda Marriott Suites, 6711 Democracy Boulevard, Bethesda, MD 20817.

Contact Person: Giuseppe Pintucci, Ph.D., Scientific Review Officer, Office of Scientific Review/DERA, National Heart, Lung, and Blood Institute, 6701 Rockledge Drive, Room 7192, Bethesda, MD 20892, 301–435–0285, *Pintuccig@nhlbi.nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.233, National Center for Sleep Disorders Research; 93.837, Heart and Vascular Diseases Research; 93.838, Lung Diseases Research; 93.839, Blood Diseases and Resources Research, National Institutes of Health, HHS).

Dated: May 8, 2014.

Michelle Trout,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2014–10984 Filed 5–13–14; 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, Degenerative and Dementing Diseases.

Date: June 26, 2014.

Time: 10:00 a.m. to 1:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institute on Aging, Gateway Building, Suite 2C212, 7201 Wisconsin Avenue, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Ramesh Vemuri, Ph.D., Chief, Scientific Review Branch, National Institute on Aging, National Institutes of Health, 7201 Wisconsin Avenue, Suite 2c–212, Bethesda, MD 20892, 301–402–7700, *rv23r@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. 2014–10983 Filed 5–13–14; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[USCG–2014–0093]

Collection of Information Under Review by Office of Management and Budget

AGENCY: Coast Guard, DHS.

ACTION: Thirty-day notice requesting comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995 the U.S. Coast Guard is forwarding Information Collection Requests (ICRs), abstracted below, to the Office of Management and Budget (OMB), Office of Information and Regulatory Affairs (OIRA), requesting approval of a revision to the following collection of information: 1625–0082, Navigation Safety Information and Emergency Instructions for Certain Towing Vessels. Review and comments by OIRA ensure we only impose paperwork burdens commensurate with our performance of duties.

DATES: Comments must reach the Coast Guard and OIRA on or before June 13, 2014.

ADDRESSES: You may submit comments identified by Coast Guard docket number [USCG–2014–0093] to the Docket Management Facility (DMF) at the U.S. Department of Transportation (DOT) and/or to OIRA. To avoid duplicate submissions, please use only one of the following means:

(1) *Online:* (a) To Coast Guard docket at *http://www.regulations.gov.* (b) To OIRA by email via: *OIRA-submission@omb.eop.gov*.

(2) *Mail:* (a) DMF (M–30), DOT, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590–0001. (b) To OIRA, 725 17th Street NW., Washington, DC 20503, attention Desk Officer for the Coast Guard.

(3) *Hand Delivery:* To DMF address above, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is 202–366–9329.

(4) *Fax:* (a) To DMF, 202–493–2251. (b) To OIRA at 202–395–6566. To ensure your comments are received in a timely manner, mark the fax, attention Desk Officer for the Coast Guard.

The DMF maintains the public docket for this Notice. Comments and material received from the public, as well as documents mentioned in this Notice as being available in the docket, will become part of the docket and will be available for inspection or copying at room W12–140 on the West Building Ground Floor, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. You may also find the docket on the Internet at *http://www.regulations.gov.*

Copies of the ICRs are available through the docket on the Internet at *http://www.regulations.gov.* Additionally, copies are available from: Commandant (CG–612), Attn: Paperwork Reduction Act Manager, US Coast Guard, 2703 Martin Luther King Jr Ave. SE., STOP 7710, Washington DC 20593–7710.

FOR FURTHER INFORMATION CONTACT: Anthony Smith, Office of Information Management, telephone 202–475–3532 or fax 202–372–8405, for questions on these documents. Contact Ms. Cheryl Collins, Program Manager, Docket Operations, 202–366–9826, for questions on the docket.

SUPPLEMENTARY INFORMATION:

Public Participation and Request for Comments

This Notice relies on the authority of the Paperwork Reduction Act of 1995; 44 U.S.C. Chapter 35, as amended. An ICR is an application to OIRA seeking the approval, extension, or renewal of a Coast Guard collection of information (Collection). The ICR contains information describing the Collection's purpose, the Collection's likely burden on the affected public, an explanation of the necessity of the Collection, and other important information describing

the Collections. There is one ICR for each Collection.

The Coast Guard invites comments on whether these ICRs should be granted based on the Collections being necessary for the proper performance of Departmental functions. In particular, the Coast Guard would appreciate comments addressing: (1) The practical utility of the Collections; (2) the accuracy of the estimated burden of the Collections; (3) ways to enhance the quality, utility, and clarity of information subject to the Collections; and (4) ways to minimize the burden of the Collections on respondents, including the use of automated collection techniques or other forms of information technology. These comments will help OIRA determine whether to approve the ICRs referred to in this Notice.

We encourage you to respond to this request by submitting comments and related materials. Comments to Coast Guard or OIRA must contain the OMB Control Number of the ICR. They must also contain the docket number of this request, [USCG 2014–0093], and must be received by June 13, 2014. We will post all comments received, without change, to *http://www.regulations.gov.* They will include any personal information you provide. We have an agreement with DOT to use their DMF. Please see the ''Privacy Act'' paragraph below.

Submitting Comments

If you submit a comment, please include the docket number [USCG–2014–0093]; indicate the specific section of the document to which each comment applies, providing a reason for each comment. You may submit your comments and material online (via *http://www.regulations.gov*), by fax, mail, or hand delivery, but please use only one of these means. If you submit a comment online via *www.regulations.gov,* it will be considered received by the Coast Guard when you successfully transmit the comment. If you fax, hand deliver, or mail your comment, it will be considered as having been received by the Coast Guard when it is received at the DMF. We recommend you include your name, mailing address, an email address, or other contact information in the body of your document so that we can contact you if we have questions regarding your submission.

You may submit comments and material by electronic means, mail, fax, or delivery to the DMF at the address under **ADDRESSES**, but please submit them by only one means. To submit your comment online, go to *http://www.regulations.gov,* and type ''USCG–2014–0093'' in the ''Search'' box. 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 will address them accordingly.

Viewing Comments and Documents

To view comments, as well as documents mentioned in this Notice as being available in the docket, go to *http://www.regulations.gov,* click on the ''read comments'' box, which will then become highlighted in blue. In the ''Search'' box insert ''USCG–2014–0093'' and click ''Search.'' Click the ''Open Docket Folder'' in the ''Actions'' column. You may also visit the DMF in Room W12–140 on the ground floor of the DOT West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

OIRA posts its decisions on ICRs online at *http://www.reginfo.gov/public/do/PRAMain* after the comment period for each ICR. An OMB Notice of Action on each ICR will become available via a hyperlink in the OMB Control Numbers: 1625–0082.

Privacy Act

Anyone can search the electronic form of comments received in 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 statement regarding Coast Guard public dockets in the January 17, 2008, issue of the **Federal Register** (73 FR 3316).

Previous Request for Comments

This request provides a 30-day comment period required by OIRA. The Coast Guard published the 60-day notice (79 FR 17555, March 28, 2014) required by 44 U.S.C. 3506(c)(2). That Notice elicited no comments.

Information Collection Request

1. *Title:* Navigation Safety Information and Emergency Instructions for Certain Towing Vessels.

OMB Control Number: 1625–0082.

Type of Request: Revision of a currently approved collection.

Respondents: Owners, operators and masters of vessels.

Abstract: Navigation safety regulations help assure that the mariner piloting a towing vessel has adequate equipment, charts, maps, and other publications. For inspected towing vessels, a muster list and emergency instructions provide effective plans and references for crew to follow in an emergency situation.

Forms: None.

Burden Estimate: The estimated burden has decreased from 410,465 hours to 345,620 hours a year due to a decrease in the number of respondents.

Authority: The Paperwork Reduction Act of 1995; 44 U.S.C. Chapter 35, as amended.

Dated: May 3, 2014.

R.E. Day,

Rear Admiral, U.S. Coast Guard, Assistant Commandant for Command, Control, Communications, Computers and Information Technology.

[FR Doc. 2014–10975 Filed 5–13–14; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[USCG–2014–0094]

Collection of Information Under Review by Office of Management and Budget

AGENCY: Coast Guard, DHS.

ACTION: Thirty-day notice requesting comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995 the U.S. Coast Guard is forwarding Information Collection Requests (ICRs), abstracted below, to the Office of Management and Budget (OMB), Office of Information and Regulatory Affairs (OIRA), requesting approval of an extension to the following collection of information: 1625–0062, Approval of Alterations to Marine Portable Tanks; Approval of Non-Specification Portable Tanks. Review and comments by OIRA ensure we only impose paperwork burdens commensurate with our performance of duties.

DATES: Comments must reach the Coast Guard and OIRA on or before June 13, 2014.

ADDRESSES: You may submit comments identified by Coast Guard docket number [USCG–2014–0094] to the Docket Management Facility (DMF) at the U.S. Department of Transportation (DOT) and/or to OIRA. To avoid duplicate submissions, please use only one of the following means:

(1) Online: (a) To Coast Guard docket at *http://www.regulations.gov.* (b) To

OIRA by email via: *OIRA-submission@omb.eop.gov*.

(2) Mail: (a) DMF (M–30), DOT, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590–0001. (b) To OIRA, 725 17th Street NW., Washington, DC 20503, attention Desk Officer for the Coast Guard.

(3) Hand Delivery: To DMF address above, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is 202–366–9329.

(4) Fax: (a) To DMF, 202–493–2251. (b) To OIRA at 202–395–6566. To ensure your comments are received in a timely manner, mark the fax, attention Desk Officer for the Coast Guard.

The DMF maintains the public docket for this Notice. Comments and material received from the public, as well as documents mentioned in this Notice as being available in the docket, will become part of the docket and will be available for inspection or copying at room W12–140 on the West Building Ground Floor, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. You may also find the docket on the Internet at *http://www.regulations.gov.*

Copies of the ICRs are available through the docket on the Internet at *http://www.regulations.gov.* Additionally, copies are available from: Commandant (CG–612), Attn: Paperwork Reduction Act Manager, U.S. Coast Guard, 2703 Martin Luther King Jr Ave. SE., Stop 7710, Washington, DC 20593–7710.

FOR FURTHER INFORMATION CONTACT: Contact Anthony Smith, Office of Information Management, telephone 202–475–3532 or fax 202–372–8405, for questions on these documents. Contact Ms. Cheryl Collins, Program Manager, Docket Operations, 202–366–9826, for questions on the docket.

SUPPLEMENTARY INFORMATION:

Public Participation and Request for Comments

This Notice relies on the authority of the Paperwork Reduction Act of 1995; 44 U.S.C. Chapter 35, as amended. An ICR is an application to OIRA seeking the approval, extension, or renewal of a Coast Guard collection of information (Collection). The ICR contains information describing the Collection's purpose, the Collection's likely burden on the affected public, an explanation of the necessity of the Collection, and other important information describing the Collections. There is one ICR for each Collection.

The Coast Guard invites comments on whether these ICRs should be granted based on the Collections being necessary for the proper performance of Departmental functions. In particular, the Coast Guard would appreciate comments addressing: (1) The practical utility of the Collections; (2) the accuracy of the estimated burden of the Collections; (3) ways to enhance the quality, utility, and clarity of information subject to the Collections; and (4) ways to minimize the burden of the Collections on respondents, including the use of automated collection techniques or other forms of information technology. These comments will help OIRA determine whether to approve the ICRs referred to in this Notice.

We encourage you to respond to this request by submitting comments and related materials. Comments to Coast Guard or OIRA must contain the OMB Control Number of the ICR. They must also contain the docket number of this request, [USCG 2014–0094], and must be received by June 13, 2014. We will post all comments received, without change, to *http://www.regulations.gov.* They will include any personal information you provide. We have an agreement with DOT to use their DMF. Please see the ''Privacy Act'' paragraph below.

Submitting Comments

If you submit a comment, please include the docket number [USCG–2014–0094]; indicate the specific section of the document to which each comment applies, providing a reason for each comment. You may submit your comments and material online (via *http://www.regulations.gov*), by fax, mail, or hand delivery, but please use only one of these means. If you submit a comment online via *www.regulations.gov*, it will be considered received by the Coast Guard when you successfully transmit the comment. If you fax, hand deliver, or mail your comment, it will be considered as having been received by the Coast Guard when it is received at the DMF. We recommend you include your name, mailing address, an email address, or other contact information in the body of your document so that we can contact you if we have questions regarding your submission.

You may submit comments and material by electronic means, mail, fax, or delivery to the DMF at the address under **ADDRESSES**, but please submit them by only one means. To submit your comment online, go to *http://www.regulations.gov*, and type ''USCG–2014–0094'' in the ''Search'' box. 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 will address them accordingly.

Viewing Comments and Documents

To view comments, as well as documents mentioned in this Notice as being available in the docket, go to *http://www.regulations.gov*, click on the ''read comments'' box, which will then become highlighted in blue. In the ''Search'' box insert ''USCG–2014–0094'' and click ''Search.'' Click the ''Open Docket Folder'' in the ''Actions'' column. You may also visit the DMF in Room W12–140 on the ground floor of the DOT West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

OIRA posts its decisions on ICRs online at *http://www.reginfo.gov/public/do/PRAMain* after the comment period for each ICR. An OMB Notice of Action on each ICR will become available via a hyperlink in the OMB Control Numbers: 1625–0062.

Privacy Act

Anyone can search the electronic form of comments received in 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 statement regarding Coast Guard public dockets in the January 17, 2008, issue of the **Federal Register** (73 FR 3316).

Previous Request for Comments

This request provides a 30-day comment period required by OIRA. The Coast Guard published the 60-day notice (79 FR 16020, March 24, 2014) required by 44 U.S.C. 3506(c)(2). That Notice elicited no comments.

Information Collection Request

1. *Title:* Approval of Alterations to Marine Portable Tanks; Approval of Non-Specification Portable Tanks.

OMB Control Number: 1625–0062.

Type of Request: Extension of a currently approved collection.

Respondents: Owners of marine portable tanks and owners/designers of non-specification portable tanks.

Abstract: The information will be used to evaluate the safety of proposed alterations to marine portable tanks (MPTs) and non-specification portable tank designs used to transfer hazardous materials during offshore operations, e.g., drilling rigs. Respondents will be those who wish to alter existing MPTs or use non-specification portable tanks.

Forms: None.

Burden Estimate: The estimated burden remains unchanged at 18 hours a year.

Authority: The Paperwork Reduction Act of 1995; 44 U.S.C. Chapter 35, as amended.

Dated: May 3, 2014.

R.E. Day,

Rear Admiral, U.S. Coast Guard, Assistant Commandant for Command, Control, Communications, Computers and Information Technology.

[FR Doc. 2014–10976 Filed 5–13–14; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[Docket No. USCG–2014–0328]

National Offshore Safety Advisory Committee; Vacancies

AGENCY: United States Coast Guard, DHS.

ACTION: Request for applications.

SUMMARY: The Coast Guard seeks applications for membership on the National Offshore Safety Advisory Committee (NOSAC). NOSAC advises the Secretary of the Department of Homeland Security (DHS) on matters and actions concerning activities directly involved with or in support of the exploration of offshore mineral and energy resources insofar as they relate to matters within Coast Guard jurisdiction.

DATES: Applicants for NOSAC membership should submit a cover letter and resume in time to reach the Alternate Designated Federal Officer (ADFO) on or before July 14, 2014.

ADDRESSES: Send your cover letter and resume via one of the following methods:

- *By mail:* Alternate Designated Federal Official (ADFO) of NOSAC, Commandant, (CG–OES–2)/NOSAC U.S. Coast Guard, 2703 Martin Luther King Jr. Avenue SE., STOP 7509, Washington, DC 20593–7509; or
- By fax to (202) 372–8382; or
- By email to *Scott.E.Hartley@uscg.mil.*

FOR FURTHER INFORMATION CONTACT: Mr. Scott E. Hartley, ADFO of NOSAC; telephone (202) 372–1437; fax (202) 372–8382; email *Scott.E.Hartley@uscg.mil.*

SUPPLEMENTARY INFORMATION: NOSAC is governed by the Federal Advisory Committee Act (FACA), 5 U.S.C. Appendix, Public Law 92–463 86 Stat. 770 as amended and was established under the authority of Title 6 U.S.C. 451 to advise the Secretary of DHS on matters and actions concerning activities directly involved with or in support of the exploration of offshore mineral and energy resources insofar as they relate to matters within Coast Guard jurisdiction.

The Committee expects to meet twice a year: April in New Orleans, LA, and November in Houston, TX.

We will consider applications for the five positions listed below that will become vacant on January 31, 2015:

(a) One member representing companies, organizations, enterprises or similar entities engaged in the production of petroleum;

(b) One member representing companies, organizations, enterprises or similar entities engaged in offshore drilling;

(c) One member representing companies, organizations, enterprises or similar entities engaged in the support, by offshore supply vessels or other vessels, of offshore operations;

(d) One member representing companies, organizations, enterprises or similar entities engaged in the construction of offshore facilities; and

(e) One member representing companies, organizations, enterprises or similar entities engaged in offshore operations with recent practical experience on vessels or units involved in the offshore industry.

To be eligible, applicants for vacant positions should be employed by companies, organizations, enterprises or similar entities, have expertise, knowledge and experience regarding the technology, equipment and techniques that are used or are being developed for use in the exploration for, and the recovery of, offshore mineral resources.

Registered lobbyists are not eligible to serve on federal advisory committees. Registered lobbyists are lobbyists required to comply with provisions contained in the Lobbying Disclosure Act of 1995 (Pub. L. 104–65, as amended).

Each NOSAC member serves a term of office up to three (3) years. Members may be considered to serve a maximum of three consecutive terms. All members serve at their own expense and receive no salary or reimbursement of travel expenses, or other compensation from the Federal Government.

The Department of Homeland Security (DHS) does not discriminate in selection of Committee members on the basis of race, color, religion, sex, national origin, political affiliation, sexual orientation, gender identity, marital status, disabilities and genetic information, age, membership in an employee organization, or any other non-merit factor. DHS strives to achieve a widely diverse candidate pool for all of its recruitment actions.

If you are interested in applying to become a member of NOSAC, send a cover letter stating the position you wish to represent, providing your expertise, knowledge and experience that qualifies you for service on NOSAC to Mr. Scott Hartley, ADFO for NOSAC by email or mail according to the instructions in the **ADDRESSES** section by the deadline in the **DATES** section of this notice. In addition, please include a Curriculum Vitae (CV) or resume containing your current home address, a current email address, a current telephone number, your qualifications and work experience. During the vetting process, applicants may be asked by the White House Liaison Office through the United States Coast Guard to provide their date of birth and social security number. All email submittals will receive email receipt confirmation.

To visit our online docket, go to *http://www.regulations.gov,* enter the docket number for this notice (USCG–2014–0328) in the Search box, and click ''Search''. Please do not post your resume on this site.

Dated: May 8, 2014.

J.G. Lantz,

Director of Commercial Regulations and Standards.

[FR Doc. 2014–10977 Filed 5–13–14; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Transportation Security Administration

[Docket No. TSA–2006–26514]

Intent To Request Renewal From OMB of One Current Public Collection of Information: Rail Transportation Security

AGENCY: Transportation Security Administration, DHS.

ACTION: 60-Day notice.

SUMMARY: The Transportation Security Administration (TSA) invites public comment on one currently approved Information Collection Request (ICR), Office of Management and Budget

(OMB) control number 1652–0051, abstracted below that we will submit to OMB for renewal in compliance with the Paperwork Reduction Act (PRA). The ICR describes the nature of the information collection and its expected burden. The collection involves the submission of contact information of Rail Security Coordinators (RSCs) and alternate RSCs from freight railroad carriers; shippers and receivers of certain hazardous materials; passenger railroad carriers, including each carrier operating light rail or heavy rail transit service on track that is part of the general railroad system of transportation and rail transit systems. Also, these persons are required to report significant security concerns, including security incidents, suspicious activity, and any threat information. In addition, freight railroad carriers and the affected shippers and receivers of hazardous materials are required to document the transfer of custody of certain hazardous materials.

DATES: Send your comments by July 14, 2014.

ADDRESSES: Comments may be emailed to *TSAPRA@dhs.gov* or delivered to the TSA PRA Officer, Office of Information Technology (OIT), TSA–11, Transportation Security Administration, 601 South 12th Street, Arlington, VA 20598–6011.

FOR FURTHER INFORMATION CONTACT: Christina A. Walsh at the above address, or by telephone (571) 227–2062.

SUPPLEMENTARY INFORMATION:

Comments Invited

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), 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 OMB control number. The ICR documentation is available at *http://www.reginfo.gov.* Therefore, in preparation for OMB review and approval of the following information collection, TSA is soliciting comments to—

(1) Evaluate whether the proposed information requirement 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;

(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 using appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Information Collection Requirement

TSA collects and uses contact information for rail security officials under 49 CFR part 1580 (the Rail Transportation Security Rule) to enhance the security of the Nation's rail systems. The Rail Transportation Security Rule requires freight railroad carriers, certain rail hazardous materials shipper and receiver facilities, passenger railroad carriers, and rail mass transit systems to designate and submit contact information for a RSC and at least one alternate RSC to TSA.

Section 1580.103 of the Rail Transportation Security Rule requires freight railroad carriers, shippers, and receivers in a High Threat Urban Area (HTUA) that handle certain categories and quantities of hazardous materials set forth in sec. 1580.100(b), known as ''rail security-sensitive materials'' (RSSM), to provide location and shipping information on rail cars under their physical custody and control to TSA upon request. The specified categories and quantities of RSSM cover explosive materials, materials poisonous by inhalation, and radioactive materials.

The Rail Transportation Security Rule requires a secure chain of physical custody for rail cars containing RSSM which, in turn, requires freight railroad carriers and certain hazardous materials shippers, and receivers of RSSM to document the transfer of custody of certain rail cars in writing or electronically and to retain these records for a minimum of 60 days. Specifically, 49 CFR 1580.107 requires documentation of the secure exchange of custody of rail cars containing RSSM between: A rail hazardous materials shipper and a freight railroad carrier; two separate freight railroad carriers, when the transfer of custody occurs within an HTUA or outside of an HTUA but the rail car may subsequently enter an HTUA; and a freight railroad carrier and a rail hazardous materials receiver located within an HTUA. The documentation must uniquely identify that the rail car was attended during the transfer of custody, including car initial and number; identification of individuals who attended the transfer (names or uniquely identifying employee number); location of transfer; and date and time the transfer was completed.

This Rail Transportation Security Rule also requires freight railroad carriers, certain rail hazardous materials shipper and receiver facilities, passenger railroad carriers, and rail mass transit systems to report to TSA significant security concerns, which include security incidents, suspicious activities, and threat information. *See* 49 CFR 1580.105 and 1580.203.

The total burden for this collection is approximately 54,023 hours.

Issued in Arlington, Virginia, on May 8, 2014.

Christina A. Walsh,

TSA Paperwork Reduction Act Officer, Office of Information Technology.

[FR Doc. 2014–10996 Filed 5–13–14; 8:45 am]

BILLING CODE 9110–05–P

DEPARTMENT OF HOMELAND SECURITY

Transportation Security Administration

Intent To Request Renewal From OMB of One Current Public Collection of Information: Critical Facility Information of the Top 100 Most Critical Pipelines

AGENCY: Transportation Security Administration, DHS.

ACTION: 60-Day notice.

SUMMARY: The Transportation Security Administration (TSA) invites public comment on one currently approved Information Collection Request (ICR), Office of Management and Budget (OMB) control number 1652–0050, abstracted below that we will submit to OMB for renewal in compliance with the Paperwork Reduction Act (PRA). The ICR describes the nature of the information collection and its expected burden. The Implementing Recommendations of the 9/11 Commission Act of 2007 (9/11 Act) required TSA to develop and implement a plan to inspect critical pipeline systems.

DATES: Send your comments by July 14, 2014.

ADDRESSES: Comments may be emailed to *TSAPRA@dhs.gov* or delivered to the TSA PRA Officer, Office of Information Technology (OIT), TSA–11, Transportation Security Administration, 601 South 12th Street, Arlington, VA 20598–6011.

FOR FURTHER INFORMATION CONTACT: Christina Walsh at the above address, or by telephone (571) 227–2062.

SUPPLEMENTARY INFORMATION:

Comments Invited

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), 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 OMB control

number. The ICR documentation is available at *http://www.reginfo.gov.* Therefore, in preparation for OMB review and approval of the following information collection, TSA is soliciting comments to—

(1) Evaluate whether the proposed information requirement 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;

(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 using appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Information Collection Requirement

OMB Control Number 1652–0050; Critical Facility Information of the Top 100 Most Critical Pipelines: The 9/11Act specifically tasked TSA to develop and implement a plan for inspecting critical facilities of the 100 most critical pipeline systems. (*See* sec. 1557 of the 9/11 Act (Pub. L. 110–53 codified at 6 U.S.C. 1207)). Pipeline operators determined their critical facilities based on guidance and criteria set forth in the TSA Pipeline Security Guidelines published in April 2011.

TSA intends to continue visiting critical pipeline facilities and collecting site-specific information from pipeline operators on facility security policies, procedures, and physical security measures. This collection is voluntary. TSA will collect information obtained during the visits using a Critical Facility Security Review (CFSR) Form. The CFSR differs from a Corporate Security Review (CSR) conducted by TSA in that a CSR looks at corporate or company-wide security management plans and practices while the CFSR will look at individual pipeline facility security measures and procedures.[1] TSA is seeking OMB approval to continue utilizing the CFSR document during critical facility reviews in order to collect facility security information. Information collected from the reviews will be analyzed and used to determine strengths and weaknesses at the nation's critical pipeline facilities, areas to target for risk reduction strategies, pipeline industry implementation of the voluntary guidelines, and the need for regulations in accordance with the 9/11 Act provisions previously cited. TSA anticipates visiting 90 critical facilities each year.

TSA is also seeking OMB approval to continue its follow up procedure with pipeline operators on their implementation of security improvements and recommendations made during facility visits. During critical facility visits, TSA documents and provides recommendations to improve the security posture of the facility. TSA intends to continue to follow up with pipeline operators via email on their status toward implementation of the recommendations made during the critical facility visits. The follow up will be conducted between approximately 12 and 24 months after the facility visit.

TSA will use the information collected to determine to what extent the pipeline industry is implementing the 2011 guidance document and security improvement recommendations made during critical facility visits. The information provided by owners or operators for each information collection is Sensitive Security Information (SSI), and it will be protected in accordance with procedures meeting the transmission, handling, and storage requirements of SSI set forth in 49 CFR parts 15 and 1520.

The annual burden for the approval of the information collection related to the Critical Facility Review Form is estimated to be 360 hours. A maximum of 90 facility reviews will be conducted each year with each review taking approximately 4 hours (90×4).

The annual burden for the approval of the information collection related to the follow up on the recommendations made to facility operators is estimated to be 450 hours. TSA estimates each operator will spend approximately 5 hours to submit a response to TSA regarding its implementation of security recommendations made during critical facility visits. If a maximum of 90 critical facilities are reviewed each year, and TSA follows up with each facility operator between approximately 12 and 24 months following the visit, the total annual burden is 450 (90×5) hours.

The estimated number of respondents will be 90 for the critical facility review form and 90 for the recommendations follow-up, for a total of 180 respondents. The total estimated burden is 810 hours annually, 360 hours for the critical facility review form, plus 450 hours for the recommendations follow-up procedure.

Dated: May 8, 2014.

Christina Walsh,

TSA Paperwork Reduction Act Officer, Office of Information Technology.

[FR Doc. 2014–10997 Filed 5–13–14; 8:45 am]

BILLING CODE 9910–05–P

[1] *See* OMB Control No. 1652–0056 for the PRA approval of information collection for pipeline CSRs.

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R2–ES–2014–N004; FXES11130100000C4–123–FF01E00000]

Endangered and Threatened Wildlife and Plants; 5-Year Status Reviews of Little Colorado Spinedace, Sentry Milk-Vetch, Siler Pincushion Cactus, Slender Rush-Pea, and Yuma Clapper Rail in the Southwest Region

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of initiation of reviews; request for information.

SUMMARY: We, the U.S. Fish and Wildlife Service, are initiating 5-year status reviews under the Endangered Species Act of 1973, as amended (Act), of the threatened Little Colorado spinedace (*Lepidomeda vittata*), endangered sentry milk-vetch (*Astragalus cremnophylax* var. *cremnophylax*), threatened Siler pincushion cactus (*Pediocactus* (=*Echinocactus*,=*Utahia*) *sileri*), endangered slender rush-pea (*Hoffmannseggia tenella*), and the endangered Yuma clapper rail (*Rallus longirostris yumanensis*). A 5-year review is based on the best scientific and commercial data available at the time of the review; therefore, we are requesting submission of any such information that has become available since our original listing of these five species or since the last 5-year review.

DATES: To ensure consideration, we are requesting submission of new information no later than July 14, 2014. However, we will continue to accept new information about any listed species at any time.

ADDRESSES: For how to submit information, see Request for Information and ''How Do I Ask Questions or Provide Information?'' in the **SUPPLEMENTARY INFORMATION** section.

FOR FURTHER INFORMATION CONTACT: For information on a particular species, contact the appropriate person or office listed in the table in the **SUPPLEMENTARY INFORMATION** section.

SUPPLEMENTARY INFORMATION:

Why do we conduct a 5-year review?

Under the Act (16 U.S.C. 1531 *et seq.*), we maintain Lists of Endangered and Threatened Wildlife and Plants (which we collectively refer to as the List) in the Code of Federal Regulations (CFR) at 50 CFR 17.11 (for animals) and 17.12 (for plants). Section 4(c)(2)(A) of the Act requires us to review each listed species' status at least once every 5 years. Our regulations at 50 CFR 424.21 require that we publish a notice in the **Federal Register** announcing those species under active review. For additional information about 5-year reviews, refer to our factsheet at *http://www.fws.gov/endangered/what-we-do/recovery-overview.html*.

What information do we consider in our review?

A 5-year review considers all new information available at the time of the review. For all five of these species, this will be the second 5-year review developed for each species. In conducting these reviews, we consider the best scientific and commercial data that have become available since the listing determination or most recent status review, such as:

(A) Species biology, including but not limited to population trends, distribution, abundance, demographics, and genetics;

(B) Habitat conditions, including but not limited to amount, distribution, and suitability;

(C) Conservation measures that have been implemented that benefit the species;

(D) Threat status and trends in relation to the five listing factors (as defined in section 4(a)(1) of the Act); and

(E) Other new information, data, or corrections, including but not limited to taxonomic or nomenclatural changes, identification of erroneous information contained in the List, and improved analytical methods.

Any new information will be considered during the 5-year review and will also be useful in evaluating the ongoing recovery programs for the species.

Which species are under review?

This notice announces our active review of the species listed in the table below.

Common name	Scientific name	Listing status	Where listed	Final listing rule (**Federal Register** citation and publication date)	Contact person, phone, email	Contact person's U.S. Mail address
Cactus, Siler pincushion.	*Pediocactus* (=*Echinocactus*,=*Utahia*) *sileri*.	Threatened	U.S.A. (AZ, UT)	44 FR 61786 November 26, 1979.	Field Supervisor, 602–242–0210 (phone); *Steve_Spangle@fws.gov* (email).	U.S. Fish and Wildlife Service, Arizona Ecological Services Field Office, Attention 5-Year Review, 2321 West Royal Palm Road, Suite 103, Phoenix, AZ 85021.
Milk-vetch, Sentry.	*Astragalus cremnophylax* var. *cremnophylax*.	Endangered	U.S.A. (AZ)	55 FR 50184 December 5, 1990.	Field Supervisor, 602–242–0210 (phone); *Steve_Spangle@fws.gov* (email).	U.S. Fish and Wildlife Service, Arizona Ecological Services Field Office, Attention 5-Year Review, 2321 West Royal Palm Road, Suite 103, Phoenix, AZ 85021.
Rail, Yuma Clapper.	*Rallus longirostris yumanensis*	Endangered	U.S.A (AZ, CA, NV).	32 FR 4001 March 11, 1967.	Field Supervisor, 602–242–0210 (phone); *Steve_Spangle@fws.gov* (email).	U.S. Fish and Wildlife Service, Arizona Ecological Services Field Office, Attention 5-Year Review, 2321 West Royal Palm Road, Suite 103, Phoenix, AZ 85021.
Rush-pea, Slender.	*Hoffmannseggia tenella*	Endangered	U.S.A. (TX)	50 FR 45614 November 1, 1985.	Field Supervisor, 281–286–8282 (phone); *Edith_Erfling@fws.gov* (email).	U.S. Fish & Wildlife Service, Texas Coastal Ecological Services Field Office, Attention 5-Year Review, 17629 El Camino Real, Suite 211, Houston, TX 77058.
Spinedace, Little Colorado.	*Lepidomeda vittata*	Threatened	U.S.A. (AZ)	32 FR 4001 March 11, 1967.	Field Supervisor, 602–242–0210 (phone); *Steve_Spangle@fws.gov* (email).	U.S. Fish and Wildlife Service, Arizona Ecological Services Field Office, Attention 5-Year Review, 2321 West Royal Palm Road, Suite 103, Phoenix, AZ 85021.

Request for Information

To ensure that a 5-year review is complete and based on the best available scientific and commercial information, we request new information from all sources. See ''What Information Do We Consider in Our Review?'' for specific criteria. If you submit information, please support it with documentation such as maps, bibliographic references, methods used to gather and analyze the data, and/or copies of any pertinent publications, reports, or letters by knowledgeable sources.

How do I ask questions or provide information?

If you wish to provide information for any species listed above, please submit your comments and materials to the appropriate contact in the table above. You may also direct questions to those contacts. Individuals who are hearing impaired or speech impaired may call the Federal Relay Service at 800–877–8339 for TTY assistance.

Public Availability of Comments

Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Comments and materials received will be available for public inspection, by appointment, during normal business hours at the offices where the comments are submitted.

Completed and Active Reviews

A list of all completed and currently active 5-year reviews addressing species for which the Southwest Region of the Service has lead responsibility is available at *http://www.fws.gov/southwest/es/ElectronicLibrary_Main.cfm* (under Select a Document Category, select 5-Year Review).

Authority

This document is published under the authority of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*).

Dated: May 7, 2014.

David Mendias,

Acting Regional Director, Southwest Region, U.S Fish and Wildlife Service.

[FR Doc. 2014–10928 Filed 5–13–14; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R5–R–2013–N188; BAC–4311–K9–S3]

Great Swamp National Wildlife Refuge, Morris County, NJ; Draft Comprehensive Conservation Plan and Environmental Assessment

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability; request for comments.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), announce the availability of a draft comprehensive conservation plan and environmental assessment (CCP/EA) for Great Swamp National Wildlife Refuge (NWR), located in Morris County, New Jersey, for public review and comment. The draft CCP/EA describes our proposal for managing the refuge for the next 15 years.

Also available for public review and comment are the draft findings of appropriateness and draft compatibility determinations for uses to be allowed upon initial completion of the plan, if alternative B is selected. These are included as appendix C in the draft CCP/EA.

DATES: To ensure consideration, please send your comments no later than June 30, 2014. We will announce upcoming public meetings in local news media, via our project mailing list, and on our Regional planning Web site: *http://www.fws.gov/northeast/planning/Great%20Swamp/ccphome.html.*

ADDRESSES: You may submit comments or requests for copies or more information by any of the following methods. You may request hard copies or a CD–ROM of the documents.

Email: northeastplanning@fws.gov. Please include ''Great Swamp Draft CCP'' in the subject line of the message.

Fax: Attention: Bill Perry, 413–253–8468.

U.S. Mail: Bill Perry, Natural Resource Planner, U.S. Fish and Wildlife Service, 300 Westgate Center Drive, Hadley, MA 01035.

In-Person Drop-off, Viewing, or Pickup: Call 973–425–1222 extension 116 to make an appointment (necessary for view/pickup only) during regular business hours at Great Swamp National Wildlife Refuge, 32 Pleasant Plains Road, Basking Ridge, NJ 07920. For more information on locations for viewing or obtaining documents, see ''Public Availability of Documents'' under **SUPPLEMENTARY INFORMATION.**

FOR FURTHER INFORMATION CONTACT: Bill Koch, Refuge Manager, 973–425–1222 extension 156 (phone), or Bill Perry, Planning Team Leader, 413–253–8688 (phone), *northeastplanning@fws.gov* (email).

SUPPLEMENTARY INFORMATION:

Introduction

With this notice, we continue the CCP process for Great Swamp NWR. We started this process through a notice in the **Federal Register** (75 FR 41879) on July 19, 2010.

Great Swamp was established by an act of Congress on November 3, 1960, and formally dedicated in 1964, primarily under the authorities of the Migratory Bird Treaty Act of 1918 (16 U.S.C. 703–711) and the Migratory Bird Conservation Act of 1929 (U.S.C. 715–715s, 45 Stat. 1222) as amended, ''for use as an inviolate sanctuary, or for any other management purpose, for migratory birds.'' The refuge currently encompasses 7,768 acres and has an approved acquisition boundary that would allow for refuge expansion to a maximum of 9,429 acres. Great Swamp NWR is located approximately 26 miles from New York City and is an area that is heavily suburbanized. The refuge provides vital brooding, nesting, feeding, and resting habitat for a variety of migratory bird species, including waterfowl. Although established primarily for migratory birds, the refuge's mosaic of forested wetlands, emergent wetlands, and various successional stages of upland vegetation provides habitats for a diversity of wildlife species.

Background

The CCP Process

The National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd–668ee) (Refuge Administration Act), as amended by the National Wildlife Refuge System Improvement Act of 1997, requires us to develop a CCP for each national wildlife refuge. The purpose for developing a CCP is to provide refuge managers with a 15-year plan for achieving refuge purposes and contributing toward the mission of the National Wildlife Refuge System, consistent with sound principles of fish and wildlife management, conservation, legal mandates, and our policies. In addition to outlining broad management direction on conserving wildlife and their habitats, CCPs identify wildlife-dependent recreational opportunities available to the public, including opportunities for hunting, fishing, wildlife observation and photography, and environmental education and interpretation. We will review and update the CCP at least every 15 years in accordance with the Refuge Administration Act.

Public Outreach

We started pre-planning for the Great Swamp NWR CCP in 2008. In July 2010, we distributed our first newsletter and press release announcing our intent to prepare a CCP for the refuge. In July and August 2010, we had a formal public scoping period. The purpose of the public scoping period was to solicit comments from the community and other interested parties on the issues and impacts that should be evaluated in the draft CCP/EA. To help solicit public comments, we held two public meetings at the refuge during the formal public scoping period. Throughout the rest of the planning process, we have conducted additional outreach by participating in community meetings, events, and other public forums, and by requesting public input on managing the refuge and its programs. We received comments on topics such as refuge maintenance, public use and access, natural resource management, endangered and threatened species, hunting and animal welfare, and regional or global environmental issues, including water quality, air quality, and climate change. We have considered and evaluated all of the comments we received and addressed them in various ways in the alternatives presented in the draft CCP/EA.

CCP Alternatives We Are Considering

During the public scoping process, we, the New Jersey Division of Fish and Wildlife, other governmental partners, and the public raised several issues. To address these issues, we developed and evaluated four alternatives in the draft CCP/EA. A full description of each alternative is in the draft CCP/EA. All alternatives include measures to control invasive species, monitor and abate diseases affecting wildlife and plant health, construct additional facilities to improve administrative infrastructure, protect cultural resources, facilitate or conduct biological research and investigations, develop an offsite interpretive program, and improve inventory and monitoring programs.

There are other actions that differ among the alternatives. The draft CCP/EA describes each alternative in detail and relates it to the issues and concerns that arose during the planning process. Below, we provide summaries for the four alternatives.

Alternative A (Current Management)

Alternative A (current management) satisfies the National Environmental Policy Act (40 CFR 1506.6(b)) requirement of a ''no action'' alternative, which we define as ''continuing current management.'' It describes our existing management priorities and activities, and serves as a baseline for comparing and contrasting alternatives B, C, and D. It would maintain our present levels of approved refuge staffing and the biological and visitor programs now in place. We would continue to manage for and maintain a diversity of habitats, including freshwater wetlands, impoundments, scrub-shrub, grasslands, wet meadows, and forests on the refuge. The refuge would continue to provide an active visitor use program that supports environmental education and interpretation, hunting, fishing, and wildlife observation and photography.

Alternative B (Enhance Biological Diversity and Public Use Opportunities)

This alternative is the Service-preferred alternative. It combines the actions we believe would most effectively achieve the refuge's purposes, vision, and goals, and respond to the issues raised during the scoping period. This alternative emphasizes management of specific refuge habitats to support viable populations of focal species whose habitat needs benefit other species, especially those of conservation concern. We would continue to maintain a diversity of forest, non-forested, open water, grassland, and scrub-shrub habitats. However, habitats would be reconfigured and maintained to create large (greater than 50 acres) contiguous patches to promote wildlife use, increase connectivity, decrease fragmentation, and increase maintenance efficiency and reduce associated costs. This alternative emphasizes habitat for priority bird species and federally listed species, including the bog turtle and Indiana bat.

This alternative would also enhance the refuge's public use opportunities, and place more emphasis on connecting with communities in nearby urban areas. It would expand the hunt program by permitting archery for deer and opening the refuge to turkey hunting. It would also improve wildlife viewing and photography opportunities in a variety of habitats, expand visitor center hours, and increase the number of environmental education and interpretation programs on- and off-refuge. It attempts to balance public use with resource protection.

Alternative C (Emphasis on Maximizing Natural Regeneration)

Alternative C emphasizes allowing natural succession or regeneration to occur to the maximum extent practical. We would maximize core forest habitats while maintaining large (i.e., greater than 50 acres) contiguous patches of actively managed grasslands and scrub-shrub habitats. This alternative would guide management to restore, where practical, the distribution of natural communities of the Great Swamp that would have resulted from natural processes without the influence of human settlement or management intervention. This alternative recognizes that refuge habitats and wildlife populations are not ecologically independent from the surrounding landscape, and that by taking a long-term regional perspective, the refuge can best contribute to higher conservation priorities at greater scales. This alternative continues to provide actively managed habitats in select areas to maintain wildlife viewing and photography opportunities for refuge visitors, as well as vital habitat for the refuge's species of conservation concern. Although some open water habitat would be eliminated, the refuge would continue to maintain open water habitat for waterfowl use. Under this alternative, the public use program would be similar to alternative A; however, under this alternative, we would eliminate less-used or dead-end trails in the wilderness area.

Alternative D (Focus on Expansion of Priority Public Uses)

Alternative D emphasizes expanding wildlife-dependent priority public uses on the refuge. Public use and access would be maximized to the greatest extent practical, while minimizing impacts to wildlife. We would expand refuge infrastructure, including construction of new trails, observation towers, signage, and parking lots; expand hunting; and allow fishing in select areas of the refuge. This alternative would maximize public outreach, enhance and develop new environmental interpretation and education programs, aggressively expand partnerships, and increase staff presence at programs and events. In general, refuge habitats would be managed similarly to alternative B; however, this alternative would increase open water habitat to improve public viewing opportunities.

Public Availability of Documents

In addition to any methods in **ADDRESSES**, you can view or obtain documents at the following locations:

- Our Web site: *http://www.fws.gov/northeast/planning/Great%20Swamp/ccphome.html.*

Submitting Comments

We consider comments substantive if they:

- Question, with reasonable basis, the accuracy of the information in the document.
- Question, with reasonable basis, the adequacy of the EA.
- Present reasonable alternatives other than those presented in the EA.
- Provide new or additional information relevant to the EA.

Next Steps

After this comment period ends, we will analyze the comments and address them in the form of a final CCP and, if appropriate, a finding of no significant impact.

Public Availability of Comments

Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Dated: April 7, 2014.

Deborah Rocque,

Acting Regional Director, Northeast Region.

[FR Doc. 2014–10673 Filed 5–13–14; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Geological Survey

[GX14GA0000A1000]

White House National Science and Technology Council Subcommittee on Disaster Reduction and the U.S. National Platform for the United Nations International Strategy for Disaster Reduction

AGENCY: U.S. Geological Survey, Interior.

ACTION: Notice of listening session for the U.S. National Platform.

SUMMARY: Pursuant to Public Law 106–148, the U.S National Platform for the United Nations International Strategy for Disaster Reduction (UNISDR)—facilitated by the White House National Science and Technology Council (NSTC) Subcommittee on Disaster Reduction (SDR), which is co-chaired by the U.S. Geological Survey—plans on hosting a listening session at the 39th Annual Natural Hazards Center Workshop (Interlocken A, Omni Interlocken Resort, Broomfield, Colorado) to hear multi-sectoral perspectives from non-governmental organizations, academic institutions, local and state governments, and private corporations on the development of UNISDR's successor strategy to the Hyogo Framework for Action to be launched in 2015.

DATES: Sunday, June 22, 2014, from 7:00 p.m.–9:00 p.m. Mountain Daylight Time.

FOR FURTHER INFORMATION CONTACT: For further information about the event or to RSVP to attend, please contact David Applegate, U.S. Geological Survey, Mail Stop 111, National Center, Reston, Virginia 20192, 703–648–6600 or Bret Schothorst, NSTC Subcommittee on Disaster Reduction Executive Secretary, 703–388–0312.

SUPPLEMENTARY INFORMATION: Per the Federal Advisory Committee Act, the U.S. National Platform for UNISDR must advertise any formal listening session or consultation with outside groups in the **Federal Register**. This event is free and open to the public.

Dated: April 14, 2014.

David Applegate,

Associate Director, Natural Hazards.

[FR Doc. 2014–11090 Filed 5–13–14; 8:45 am]

BILLING CODE 4311–Y7–P

DEPARTMENT OF THE INTERIOR

Bureau of Ocean Energy Management

[OMB Number 1010–0081]

Information Collection: Operations in the Outer Continental Shelf for Minerals Other Than Oil, Gas, and Sulphur; Submitted for OMB Review; Comment Request

ACTION: 30-Day notice.

SUMMARY: To comply with the Paperwork Reduction Act of 1995 (PRA), the Bureau of Ocean Energy Management (BOEM) is notifying the public that we have submitted an information collection request (ICR) to the Office of Management and Budget (OMB) for review and approval. The ICR pertains to the paperwork requirements in the regulations under 30 CFRpart 582, Operations in the Outer Continental Shelf for Minerals Other than Oil, Gas, and Sulphur. This notice provides the public a second opportunity to comment on the paperwork burden of this collection.

DATES: Submit written comments by June 13, 2014.

ADDRESSES: Submit comments on this ICR to the Desk Officer for the Department of the Interior at OMB–OIRA at (202) 395–5806 (fax) or *OIRA_submission@omb.eop.gov* (email). Please provide a copy of your comments to the BOEM Information Collection Clearance Officer, Arlene Bajusz, Bureau of Ocean Energy Management, 381 Elden Street, HM–3127, Herndon, Virginia 20170 (mail) or *arlene.bajusz@boem.gov* (email). Please reference ICR 1010–0081 in your comment and include your name and return address.

FOR FURTHER INFORMATION CONTACT: Arlene Bajusz, Office of Policy, Regulations, and Analysis at *arlene.bajusz@boem.gov* (email) or (703) 787–1025 (phone). You may review the ICR online at *http://www.reginfo.gov*. Follow the instructions to review Department of the Interior collections under review by OMB.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 1010–0081.

Title: 30 CFR 582, Operations in the Outer Continental Shelf for Minerals Other than Oil, Gas, and Sulphur.

Abstract: The Outer Continental Shelf (OCS) Lands Act, as amended (43 U.S.C. 1334 and 43 U.S.C. 1337(k)), authorizes the Secretary of the Interior to implement regulations to grant to the qualified persons, offering the highest cash bonus on a basis of competitive bidding, leases of any mineral other than oil, gas, and sulphur. This applies to any area of the OCS not then under lease for such mineral. These regulations govern mining operations within the OCS for minerals other than oil, gas and sulphur and establishes a comprehensive leasing and regulatory program for such minerals. These regulations have been designed to (1) recognize the differences between the OCS activities associated with oil, gas, and sulphur discovery and development and those associated with the discovery and development of other minerals; (2) facilitate participation by States directly affected by OCS mining activities; (3) provide opportunities for consultation and coordination with other OCS users and uses; (4) balance development with environmental protection; (5) ensure a fair return to the public; and (6) preserve and maintain free enterprise competition.

Regulations at 30 CFR part 582 implement these statutory requirements. There has been no activity in the OCS for minerals other than oil, gas and sulphur for many years; however, because these are regulatory requirements, the potential exists for information to be collected. Therefore, we are renewing OMB approval for this information collection.

We will use the information required by 30 CFR part 582 to determine if lessees are complying with the regulations that implement the mining operations program for minerals other than oil, gas, and sulphur. BOEM will also use the information to ensure that such operations are conducted in a manner that will result in orderly resource recovery, development, and the protection of the human, marine, and coastal environments and for technical and environmental evaluations that assist BOEM in making informed decisions to approve, disapprove, or require modification of the proposed activities.

We protect proprietary information according to the Freedom of Information Act (5 U.S.C. 552) and its implementing regulations (43 CFR 2), and 30 CFR 582.5, 582.6, and applicable sections of 30 CFR parts 580 and 581. No items of a sensitive nature are collected. Responses are mandatory.

Frequency: Monthly; quarterly; on occasion.

Estimated Number and Description of Respondents: As there are no active respondents, we estimated the potential

annual number of respondents to be one. Potential respondents are OCS lessees.

Estimated Reporting and Recordkeeping Hour Burden: We expect the burden estimate for the renewal will be 212 hours. This submission also removes the requirements and burdens that were transferred to the responsibility of the Bureau of Safety and Environmental Enforcement under Secretarial Order No. 3299, May 19, 2010. The following table details the individual BOEM components and respective hour burden estimates of this ICR. In calculating the burdens, we assumed that respondents perform certain requirements in the normal course of their activities. We consider these to be usual and customary and took that into account in estimating the burden.

BURDEN TABLE

Citation 30 CFR 582	Reporting or recordkeeping requirement	Hour burden	Average number of annual responses	Annual burden hours
Subpart A—General				
4; 21(b)	Governors, other Federal/State agencies, lessees, interested parties, and others review and provide comments/recommendations on all plans and environmental information.	10	1	10
4(b); 12(b)(2); 21; 22; 25; 26; 28.	Submit delineation plan, including environmental information, contingency plan, monitoring program, and various requests for approval referred to throughout; submit modifications and required information.	40	1	40
4(c); 12(c)(2); 21; 23; 25; 26; 28.	Submit testing plan, including environmental information, contingency plan, monitoring program, and various requests for approval referred to throughout; submit modifications and required information.	40	1	40
4(d); 12(d)(2); 21; 24; 25; 26; 28.	Submit mining plan, including environmental information, contingency plan, monitoring program, and various requests for approval referred to throughout; submit modifications and required information.	40	1	40
5	Request non-disclosure of G&G info.; provide consent; demonstrate loss of competitive position.	10	1	10
6	Governors of adjacent States request proprietary data, samples, etc., and disclosure agreement with BOEM.	10	1	10
7	Governor of affected State initiates negotiations on jurisdictional controversy, etc., and enters agreement with BOEM.	10	1	10
Subtotal			7	160
Subpart B—Jurisdiction and Responsibilities of Director				
11(c); 20(h); 30	Apply for right-of-use and easement; submit confirmations, demonstrations, notifications.	30	1	30
11(d);	Request consolidation/splitting of two or more OCS mineral leases or portions.	1	1	1
20(h)	Request approval of operations or departure from operating requirements.	Burden included with applicable plans.		0
14	Submit response (BOEM–1832) indicating date violations (INCs) corrected.	2	1	2
Subtotal			3	33
Subpart C—Obligations and Responsibilities of Lessees				
20(a), (g); 29(i)	Make available all mineral resource or environmental data and information; submit reports and maintain records, as specified.	Burden included with individual reporting requirements below.		0
20(b) thru (e)	Submit designation of payor, operator, or local representative; submit changes, terminations, notifications.	1	1	1
21(d)	Notify BOEM of preliminary activities	1	1	1
29(a)	Submit monthly report of minerals produced; request extension.	1	1	1
29(b), (c)	Submit quarterly status and final report on exploration and/or testing activities.	5	1	5
29(d)	Submit results of environmental monitoring activities	5	1	5
29(e)	Submit marked and certified maps annually or as required	1	1	1
29(f)	Maintain rock, minerals, and core samples for 5 years and make available upon request.	1	1	1

BURDEN TABLE—Continued

Citation 30 CFR 582	Reporting or recordkeeping requirement	Hour burden	Average number of annual responses	Annual burden hours
29(g)	Maintain original data and information and navigation tapes as long as lease is in effect and make available upon request.	1	1	1
29(h)	Maintain hard mineral records and make available upon request.	1	1	1
Subtotal			9	17
Subpart D—Payments				
40	Submit surety, personal bond, or approved alternative	2	1	2
Subpart E—Appeals				
50; 15	File an appeal	Burden exempt under 5 CFR 1320.4(a)(2), (c).		0
TOTAL BURDEN			20	212

Estimated Reporting and Recordkeeping Non-Hour Cost Burden: There are no non-hour cost burdens associated with this collection.

Public Disclosure Statement: The PRA (44 U.S.C. 3501, et seq.) provides that an agency may not conduct or sponsor a collection of information unless it displays a currently valid OMB control number. Until OMB approves a collection of information, you are not obligated to respond.

Comments: We invite comments concerning this information collection on:

- Whether or not the collection of information is necessary, including whether or not the information will have practical utility;
- The accuracy of our burden estimates;
- Ways to enhance the quality, utility, and clarity of the information to be collected; and
- Ways to minimize the burden on respondents.

To comply with the public consultation process, on February 26, 2014, BOEM published a **Federal Register** notice (79 FR 10838) announcing that we would submit this ICR to OMB for approval. This notice provided the required 60-day comment period. We received no comments.

Public Availability of Comments: Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Dated: May 6, 2014.

Deanna Meyer-Pietruszka,

Chief, Office of Policy, Regulations, and Analysis.

[FR Doc. 2014–11093 Filed 5–13–14; 8:45 am]

BILLING CODE 4810–MR–P

DEPARTMENT OF JUSTICE

Notice of Extension of Comment Period for Proposed Settlement Agreement Under the Federal Debt Collection Procedure Act, the Comprehensive Environmental Response, Compensation and Liability Act, the Resource Conservation and Recovery Act, and Other Statutes

Notice is hereby given of an extension of the period for public comment with respect to the Columbus, Mississippi site under the proposed settlement agreement (''Settlement Agreement'') entered into by Anadarko Petroleum Corp. and seven of its affiliates (the ''Defendants''), the United States, and the Anadarko Litigation Trust in the matter entitled *Tronox Inc., et al., and United States* v. *Anadarko Petroleum Corp., et al.,* Bankruptcy Adversary Proceeding No. 09–1198. This matter is part of the bankruptcy case of Tronox Inc. and its affiliates (collectively ''Tronox''), *In re Tronox Inc., et al.,* No. 09–10156, in the same court. The Settlement Agreement was lodged with the United States Bankruptcy Court for the Southern District of New York on April 3, 2014, in *Tronox Inc., et al., and United States* v. *Anadarko Petroleum Corp., et al.,* Bankruptcy Adversary Proceeding No. 09–1198.

The Settlement Agreement provides for $5.15 billion dollars to be paid to the Anadarko Litigation Trust. These proceeds will then be distributed to the United States, certain environmental response trusts, a tort claims trust, and certain state and tribal governments as provided by the Plan of Reorganization, Litigation Trust Agreement, Environmental Settlement Agreement, and other documents (collectively, the ''Bankruptcy Documents'') previously approved by the bankruptcy court in Tronox's bankruptcy.

The Settlement Agreement resolves fraudulent conveyance claims brought by the United States and the Anadarko Litigation Trust against Defendants. As part of the Settlement Agreements, Defendants will receive covenants not to sue from the United States under various statutes, included the Comprehensive Environmental Response Compensation, and Liability Act and Resource Conservation and Recovery Act, and for certain common law claims, all as and to the extent specified in the Settlement Agreement. Pursuant to this Settlement Agreement and the Bankruptcy Documents, portions of the Defendants' payment under the Settlement Agreement will either fund clean-up or provide compensation for past or future environmental costs at numerous sites around the county.

Notice of lodging of the Settlement Agreement was published in the **Federal Register** on April 14, 2014. *See* 79 FR 20910. The public comment period for the Settlement Agreement is scheduled to close on May 14, 2014.

However, in response to requests for an extension of the public comment period relating to the Columbus, Mississippi site, the United States has elected to extend the comment period with respect to the Columbus, Mississippi site and to accept public comments received no later than May 21, 2014.

Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and should refer to *Tronox and United States* v. *Anadarko Petroleum Corp.,* D.J. Ref. No. 90–11–3–09688. All comments must be received no later than May 21, 2014. Comments may be submitted either by email or by mail:

To submit comments:	*Send them to:*
By e-mail	*pubcomment-ees.enrd@usdoj.gov.*
By mail	Assistant Attorney General, U.S. DOJ—ENRD, P.O. Box 7611, Washington, DC 20044–7611.

During the public comment period, the Settlement Agreement may be examined and downloaded at a Justice Department Web site: *http://www.usdoj.gov/enrd/Consent_Decrees.html.* We will provide a paper copy of the Settlement Agreement upon written request and payment of reproduction costs. Please mail your request and payment to: Consent Decree Library, U.S. DOJ–ENRD, P.O. Box 7611, Washington, DC 20044–7611.

Please enclose a check or money order for $32.00 (25 cents per page reproduction cost) payable to the United States Treasury. For a paper copy without exhibits or notice of lodging, the cost is $14.75.

Maureen M. Katz,

Assistant Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 2014–11063 Filed 5–13–14; 8:45 am]

BILLING CODE 4410–15–P

DEPARTMENT OF JUSTICE

Antitrust Division

United States v. Ebay Inc.; Proposed Final Judgment and Competitive Impact Statement

Notice is hereby given pursuant to the Antitrust Procedures and Penalties Act, 15 U.S.C. 16(b)–(h), that a proposed Final Judgment, Stipulation and Competitive Impact Statement have been filed with the United States District Court for the Northern District of California in *United States of America* v. *eBay Inc.,* Civil Action No. 12–5869. On November 16, 2012, the United States filed a Complaint alleging that eBay Inc. entered into an agreement with Intuit, Inc., that restrained the recruiting and hiring of high technology workers, in violation of Section 1 of the Sherman Act, 15 U.S.C. 1. The proposed Final Judgment prevents eBay from maintaining or entering into similar agreements.

Copies of the Complaint, as amended, Stipulation, proposed Final Judgment and Competitive Impact Statement are available for inspection at the Department of Justice, Antitrust Division, Antitrust Documents Group, 450 Fifth Street NW., Suite 1010, Washington, DC 20530 (telephone: 202–514–2481), on the Department of Justice's Web site at *http://www.usdoj.gov/atr*, and at the Office of the Clerk of the United States District Court for the Northern District of California. Copies of these materials may be obtained from the Antitrust Division upon request and payment of the copying fee set by Department of Justice regulations.

Public comment is invited within 60 days of the date of this notice. Such comments, including the name of the submitter, and responses thereto, will be posted on the U.S. Department of Justice, Antitrust Division's internet Web site, filed with the Court and, under certain circumstances, published in the **Federal Register**. Comments should be directed to James J. Tierney, Chief, Networks and Technology Enforcement Section, Antitrust Division, Department of Justice, Washington, DC 20530, (telephone: 202–307–6640).

Patricia Brink,

Director of Civil Enforcement.

N. Scott Sacks, Attorney (D.C. Bar No. 913087)
Jessica N. Butler-Arkow, Attorney (D.C. Bar No. 430022)
Adam T. Severt, Attorney (Member, Maryland Bar, Numbers not assigned)
Ryan Struve, Attorney (D.C. Bar No. 495406)
Anna T. Pletcher, Attorney (California State Bar No. 239730)
United States Department of Justice, Antitrust Division, 450 Fifth Street NW., Suite 7100, Washington, DC 20530, Telephone: 202–307–6200, Facsimile: 202–616–8544, Email: *scott.sacks@usdoj.gov*

[Additional counsel listed on signature page]

Attorneys for Plaintiff United States of America

UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF CALIFORNIA SAN JOSE DIVISION

UNITED STATES OF AMERICA, Plaintiff, v. EBAY, INC., Defendant.

Case No. 12–CV–05869 EJD

Amended Complaint

The United States of America, acting under the direction of the Attorney General of the United States, brings this civil antitrust action to obtain equitable relief against Defendant eBay, Inc. (''eBay''), alleging as follows:

Nature of the Action

1. This action challenges under Section 1 of the Sherman Act a no-solicitation and no-hiring agreement between eBay and Intuit, Inc. (''Intuit''), pursuant to which eBay and Intuit agreed not to recruit each other's employees and eBay agreed not to hire Intuit employees, even those that approached eBay for a job. This agreement harmed employees by lowering the salaries and benefits they might otherwise have commanded, and deprived these employees of better job opportunities at the other company. Meg Whitman, then the CEO of eBay, and Scott Cook, Founder and Chairman of the Executive Committee at Intuit, were intimately involved in forming, monitoring, and enforcing this anticompetitive agreement.

2. Senior executives at eBay and Intuit entered into an evolving ''handshake'' agreement to restrict their ability to recruit and hire employees of the other company. The agreement, which was entered into no later than 2006, prohibited either company from soliciting one another's employees for employment opportunities, and, for over a year, prevented at least eBay from hiring any employees from Intuit at all. The agreement was enforced at the highest levels of each company.

3. The agreement reduced eBay's and Intuit's incentives and ability to compete for employees and restricted employees' mobility. This agreement thus harmed employees by lowering the salaries and benefits they otherwise would have commanded, and deprived these employees of better job opportunities at the other company.

4. This agreement between eBay and Intuit is a naked restraint of trade that is per se unlawful under Section 1 of the Sherman Act, 15 U.S.C. 1. The United States seeks an order prohibiting any such agreement and other relief.

Jurisdiction and Venue

5. eBay hires specialized computer engineers, scientists, and other employees throughout the United

States, and sells products and services throughout the United States. Such activities, including the recruitment and hiring activities at issue in this Complaint, are in the flow of and substantially affect interstate commerce. The Court has subject matter jurisdiction under Section 4 of the Sherman Act, 15 U.S.C. 4, and under 28 U.S.C. 1331 and 1337 to prevent and restrain the Defendant from violating Section 1 of the Sherman Act, 15 U.S.C. 1.

6. Venue is proper in this judicial district under Section 12 of the Clayton Act, 15 U.S.C. 22, and under 28 U.S.C. 1391(b)(2), (c). eBay transacts or has transacted business in this district and has its principal place of business here. A substantial part of the events that gave rise to this action occurred here.

Intradistrict Assignment

7. Venue is proper in the San Jose Division because this action arose primarily in Santa Clara County. Civil L.R. 3–2(c), (e). A substantial part of the events that gave rise to the claim occurred in Santa Clara County, and eBay has its principal place of business in Santa Clara County. Judge Koh in the San Jose Division is currently presiding over a case that is similar in certain respects. In addition, the Attorney General of the State of California is filing a Complaint that is related to the United States' Complaint, pursuant to the requirements of Local Rule 3–12(a).

Defendant

8. eBay is a Delaware corporation with its principal place of business in San Jose, California.

Co-Conspirators

9. Various other corporations and persons not made defendants in this Complaint, including Intuit and senior executives at Intuit and eBay, participated as co-conspirators in the violation alleged and performed acts and made statements in furtherance of the violation alleged. Intuit is not named as a defendant in this action because Intuit is subject to a court order in *United States* v. *Adobe Systems,* No. 10–01629 (D.D.C. judgment entered Mar. 17, 2011), barring it from entering into or enforcing any agreement that improperly limits competition for employee services.

Trade and Commerce

10. Firms in the same or similar industries often compete to hire and retain talented employees. This is particularly true in technology industries in which particular expertise and highly specialized skills sought by one firm can often be found at another firm. Solicitation of skilled employees at other companies is an effective method of competing for needed employees. For example, Beth Axelrod, eBay's Senior Vice President for Human Resources at the time the agreement with Intuit was in effect, co-authored a book, ''The War for Talent,'' which emphasizes the importance of ''cold-calling'' as a recruitment tool: ''The recruiting game is changing for yet another reason: It's no longer sufficient to target your efforts to people looking for a job; you have to reach people who aren't looking.''

11. eBay's agreement with Intuit eliminated this competition. The agreement harmed employees by reducing the salaries, benefits, and employment opportunities they might otherwise have earned if competition had not been eliminated. The agreement also misallocated labor between eBay and Intuit—companies that drove innovation based in no small measure on the talent of their employees. In a well-functioning labor market, employers compete to attract the most valuable talent for their needs. Competition among employers for skilled employees may benefit employees' salaries and benefits, and facilitates employee mobility. The no-solicitation and no-hiring agreement between Intuit and eBay distorted this competitive process and likely resulted in some of eBay's and Intuit's employees remaining in jobs that did not fully utilize their unique skills. Ms. Axelrod and her co-authors described how the ''structural forces fueling the war for talent'' have resulted in power ''shift[ing] from the corporation to the individual,'' giving ''talented individuals . . . the negotiating leverage to ratchet up their expectation for their careers.''

12. Instead of working harder to acquire this critical and scarce talent, eBay and Intuit called a truce in the ''war for talent'' to protect their own interests at the expense of their employees. eBay initially sought a limited no-solicitation agreement aimed at high-level executives. eBay ultimately agreed to an expansive no-solicitation and no-hire agreement in large part to placate Intuit's Mr. Cook, who was serving as a member of eBay's Board of Directors and who, at the same time, was making several complaints on behalf of Intuit about eBay's hiring practices. eBay elevated the interests of Mr. Cook above the welfare of its own employees. Similarly, Mr. Cook was willing to sacrifice the welfare of Intuit's employees in order to advance his own personal interests in serving on eBay's Board.

13. Neither eBay nor Intuit publicly announced their no hire/no solicit agreement or ensured that all potentially affected employees were aware of the agreement. Disclosure of the agreement could have created substantial legal problems for eBay and Intuit under California law and significant embarrassment for the executives and other individuals who entered into, and monitored compliance with, the agreement on behalf of the two firms. Many eBay and Intuit employees reside in California, a state with a strong public policy prohibiting firms from restricting employee movement by, among other things, barring employers from enforcing ''no compete'' agreements. California law provides that ''every contract by which anyone is restrained from engaging in a lawful profession, trade, or business of any kind is to that extent void.'' California Business & Professions Code § 16600.

The Unlawful Agreement

14. Beginning no later than 2006, and lasting at least until 2009, Intuit and eBay maintained an illegal agreement that restricted their ability to actively recruit employees from each other, and for some part of that time, further restricted eBay from hiring any employees from Intuit. As alleged in more detail below, this agreement was entered into and enforced at the most senior levels of these two companies.

15. In November 2005, eBay's Chief Operating Officer, Maynard Webb, wrote to Scott Cook, Intuit's Founder and Chairman of its Executive Committee, to ''get [Mr. Cook's] advice on a specific hiring situation and then see if we could establish some guidelines on an ongoing basis.'' Mr. Webb asked Mr. Cook for ''permission to proceed'' with hiring an Intuit employee who had contacted eBay regarding a job, and then proposed a ''structure'' to Mr. Cook for future situations, whereby eBay would ''not actively recruit from Intuit.'' Under Mr. Webb's proposal, for Intuit candidates ''below Senior Director level'' who contacted eBay regarding employment, eBay would be permitted to hire them and would give Intuit ''notice'' only after a candidate accepted a job offer. For Intuit candidates ''at Senior Director level or above,'' eBay would not make an offer unless Intuit was notified in advance. Mr. Cook rejected this proposal insofar as it allowed hiring of any employees without prior notice to Intuit, saying that ''we don't recruit from board companies, period'' and ''[w]e're passionate on this.'' In other words, because Mr. Cook served on eBay's board, Intuit employees should be

denied any chance to work for eBay. Mr. Cook committed that Intuit would not make an offer to anyone from eBay without first notifying eBay, and said ''[w]e would ask the same.''

16. A month later, in December 2005, Meg Whitman, the CEO of eBay at the time, and Mr. Cook discussed the competition for two employees with an eye toward eliminating that competition altogether. As Ms. Whitman told Ms. Axelrod, Mr. Cook was ''slightly miffed by our recent hire of two Intuit executives.''

17. No later than August 2006, the initial agreement between eBay and Intuit restricting the hiring of each other's employees was put into effect. In August 2006, when eBay considered hiring an Intuit employee for an opening at its PayPal subsidiary, Ms. Axelrod said that while she was ''happy to have a word with Meg [Whitman] about it,'' Ms. Axelrod was ''quite confident she will say hands off because Scott [Cook] insists on a no poach policy with Intuit.'' When the PayPal executive asked Ms. Axelrod to confer with Ms. Whitman, Ms. Axelrod reported back that ''I confirmed with Meg [Whitman] that we cannot proceed without notifying Scott Cook first.'' eBay does not appear to have pursued the potential candidate beyond this point as everyone agreed ''that it's to[o] awkward to call Scott [Cook] when we don't even know if the candidate has interest,'' demonstrating that the non-solicitation agreement had a distinct chilling effect on recruitment and hiring between the two companies.

18. On or about April 2007, eBay's commitment metastasized into a no-hire agreement. The impetus was a complaint from Mr. Cook to Ms. Whitman that he was ''quite unhappy'' about a potential offer that eBay was going to make to an Intuit employee who had approached eBay. Ms. Axelrod spoke with Ms. Whitman regarding Mr. Cook's concerns, and instructed David Knight, then eBay's Vice President, Internal Communications, to hold off on making the offer. Mr. Knight urged Ms. Axelrod to find a way to make the offer happen, as the decision put the applicant ''in a tough position and us in a bad place with California law'' and left eBay ''another 6 months away from getting another candidate'' for the position. A week later, Mr. Knight wrote to Ms. Axelrod and Ms. Whitman pleading with them to at least ''negotiate'' any shift from a ''no poaching'' agreement to a ''no hiring'' agreement after this particular applicant was hired, as eBay ''desperately need[ed] this position filled.''

19. While Ms. Axelrod ultimately authorized Mr. Knight to extend an offer to this Intuit employee, eBay did expand the agreement to prohibit eBay from hiring any employee from Intuit, regardless of how that employee applied for the job. A few months later, for example, an eBay human resources manager alerted Ms. Axelrod to a potential ''situation'' and wanted to know if eBay ''continue[d] to be sensitive to Scott [Cook]'s request'' or if there was ''any flexibility on hiring from Intuit.'' The Intuit candidate was ''getting a lot of responses from managers directly'' before the human resource manager's team was involved as his ''education is fantastic.'' Ms. Axelrod confirmed, however, that even when an Intuit employee was ''dying'' to work for eBay and had proactively reached out to eBay, hiring managers had ''no flexibility'' and must keep their ''hands off'' the potential applicant.

20. Two eBay staffers sought to clarify the situation with Ms. Axelrod shortly thereafter. Ms. Axelrod said: ''We have an explicit hands of[f] that we cannot violate with any Intuit employee. There is no flexibility on this.'' The staff asked for further amplification: ''This applies even if the Intuit employee has reached out and specifically asked? If so then I assume that person could NEVER be hired by ebay unless they quit Intuit first.'' Ms. Axelrod confirmed this was ''correct.'' Ms. Axelrod similarly explained the impact of the agreement to Ms. Whitman: ''I keep getting inquiries from our folks to recruit from Intuit and I am firmly holding the line. No exceptions even if the candidate proactively contacts us.'' In another email exchange, Ms. Axelrod explained that she was responding to all inquiries regarding hiring from Intuit by ''firmly holding the line and saying absolutely not (including to myself since their comp[ensation] and ben[efits] person is supposed to be excellent!).''

21. Mr. Cook was a driving force behind eBay's no-hire agreement with Intuit. In one 2007 email, an eBay recruiter confirmed that the message to Intuit candidates should be that eBay was ''not allowed to hire from Intuit per Scott Cook regardless of whether the candidate applies directly or if we reach out.'' eBay recruiting personnel understood that ''Meg [Whitman] and Scott Cook entered into the agreement (handshake style, not written) that eBay would not hire from Intuit, period.'' Mr. Cook and Intuit, on the other hand, agreed that Intuit would not recruit from eBay. Mr. Cook explained to one applicant who had decided to work for eBay but expressed a future interest in joining Intuit, that ''Intuit is precluded from recruiting you'' unless eBay has decided it does not need the employee or where the employee informs his management and then proactively contacts Intuit.

22. eBay insisted that Intuit refrain from recruiting its employees in exchange for the limitation on eBay's ability to recruit and hire Intuit employees. On August 27, 2007, Ms. Axelrod wrote Ms. Whitman to complain that while eBay was sticking to its agreement not to hire Intuit employees, ''it is hard to do this when Intuit recruits our folks.'' Ms. Axelrod forwarded Ms. Whitman a recruiting flyer that Intuit had sent to an eBay employee. Ms. Whitman forwarded Ms. Axelrod's email to Mr. Cook the same day asking him to ''remind your folks not to send this stuff to eBay people.'' Mr. Cook responded quickly: ''#@!%$#^&!!! Meg my apologies. I'll find out how this slip up occurred again. . . .''

23. Throughout the course of the agreement, eBay repeatedly declined opportunities to hire or interview Intuit employees, even when eBay had open positions for ''quite some time,'' when the potential employee ''look[ed] great,'' or when ''the only guy who was good was from [I]ntuit.'' eBay employees were instructed not to pursue potential hires that came from Intuit and to discard their resumes. When a candidate applied for a position and told eBay that she had left Intuit, Ms. Axelrod went so far as to write Mr. Cook to confirm that the applicant had, in fact, left the company.

24. The companies acknowledged that throughout the agreement, they ''passed'' on ''talented'' applicants, consistent with their anticompetitive agreement. The repeated requests from lower level employees at both companies to be allowed to recruit employees from the other firm demonstrates that the agreement denied employees the opportunity to compete for better job opportunities.

25. The agreement between eBay and Intuit remained in effect for at least some period of time after a United States Department of Justice investigation of agreements between technology companies that restricted hiring practices became public. One eBay employee asked another in June 2009 if she had been ''able to connect with Beth [Axelrod] re our policies around hiring from Intuit with respect to'' a former employee at eBay's PayPal division who ''wishes to return'' and noted press reports of the Department of Justice investigation. The employee responded: ''It's a no go . . . too

complicated. We should move to plan b.'' (Ellipses in original.)

Violation Alleged (Violation of Section 1 of the Sherman Act)

26. The United States hereby incorporates paragraphs 1 through 25.

27. eBay and Intuit are direct competitors for employees, including specialized computer engineers and scientists, covered by the agreement at issue here. eBay and Intuit entered into a naked no-solicitation and no-hire agreement, thereby reducing their ability and incentive to compete for employees. This agreement suppressed competition between eBay and Intuit, thereby limiting affected employees' ability to secure better compensation, benefits, and working conditions.

28. eBay's agreement with Intuit is per se unlawful under Section 1 of the Sherman Act, 15 U.S.C. 1. No elaborate industry analysis is required to demonstrate the anticompetitive character of this agreement.

29. The no-solicitation and no-hire agreement between eBay and Intuit is also an unreasonable restraint of trade that is unlawful under Section 1 of the Sherman Act, 15 U.S.C. 1, under an abbreviated or ''quick look'' rule of reason analysis. The principal tendency of the agreement between eBay and Intuit is to restrain competition, as the nature of the restraint is obvious and the agreement has no legitimate pro-competitive justification. Even an observer with a rudimentary understanding of economics could therefore conclude the agreement would have an anticompetitive effect on employees and harm the competitive process.

Requested Relief

The United States requests that:

(A) The Court adjudge and decree that the Defendant's agreement with Intuit not to compete constitutes an illegal restraint of interstate trade and commerce in violation of Section 1 of the Sherman Act;

(B) the Defendant be enjoined and restrained from enforcing or adhering to any existing agreement that unreasonably restricts competition for employees between it and anyone else;

(C) the Defendant be permanently enjoined and restrained from establishing any similar agreement unreasonably restricting competition for employees except as prescribed by the Court;

(D) the United States be awarded such other relief as the Court may deem just and proper to redress and prevent recurrence of the alleged violation and to dissipate the anticompetitive effects of the illegal agreement entered into by eBay and Intuit; and

(E) the United States be awarded the costs of this action.

Dated: April 19, 2013.

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UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF CALIFORNIA SAN JOSE DIVISION

UNITED STATES OF AMERICA, *Plaintiff,* v. EBAY, INC., *Defendant.*

Case No. 12–CV–05869–EJD–PSG

COMPETITIVE IMPACT STATEMENT

Competitive Impact Statement

Plaintiff United States of America (''United States''), pursuant to Section 2(b) of the Antitrust Procedures and Penalties Act (''APPA'' or ''Tunney Act''), 15 U.S.C. 16(b)–(h), files this Competitive Impact Statement relating to the proposed Final Judgment submitted for entry in this civil antitrust proceeding.

I. Nature and Purpose of the Proceeding

The United States brought this lawsuit against Defendant eBay Inc. (''eBay'') on November 16, 2012, to remedy a violation of Section 1 of the Sherman Act, 15 U.S.C. 1.[1] Section 1 of the Sherman Act outlaws ''[e]very contract, combination in the form of trust or otherwise, or conspiracy, in restraint of trade or commerce among the several States.'' 15 U.S.C. 1. The Sherman Act is designed to ensure ''free and unfettered competition as the rule of trade. It rests on the premise that the unrestrained interaction of competitive forces will yield the best allocation of our economic resources, the lowest prices, the highest quality and the greatest material progress. . . .'' *National Collegiate Athletic Assn* v. *Board of Regents of Univ. of Okla.,* 468 U.S. 85, 104 n.27 (1984) (quoting *Northern Pac. Ry.* v. *United States,* 356 U.S. 1, 4–5 (1958)).

The Complaint alleges that eBay entered an agreement with Intuit, Inc. (''Intuit''), pursuant to which each firm agreed to restrict certain employee recruiting and hiring practices. The two firms agreed not to recruit each other's employees, and eBay agreed not to hire Intuit employees. The effect of this agreement was to reduce competition for highly-skilled technical and other employees, diminish potential employment opportunities for those same employees, and interfere with the competitive and efficient functioning of the price-setting mechanism in the labor market that would otherwise have prevailed. The Complaint alleged the agreement is a naked restraint of trade and violates Section 1 of the Sherman Act, 15 U.S.C. 1.

[1] The United States filed an Amended Complaint on June 4, 2013. Am. Compl., *United States* v. *eBay Inc.,* No.12–cv–05869–EJD (N.D. Cal. filed June 4, 2013), ECF No. 36. All references to the Complaint refer to the Amended Complaint.

eBay filed a Motion to Dismiss (''Motion'') pursuant to Federal Rule of Civil Procedure 12(b)(6) (failure to state a claim upon which relief can be granted), arguing that the Complaint failed to allege (1) an actionable agreement between two separate and independent firms because the agreement was essentially the product of the relationship between eBay and one of its outside directors, Scott Cook, in his capacity as an eBay director and (2) harm to competition under a ''rule of reason'' analysis. Def.'s Mot. to Dismiss the Compl. Pursuant to FRCP 12(b)(6), & Mem. Of P. & A. In Support Thereof, *United States* v. *eBay Inc.,* ____ F. Supp. 2d ____, 2013 WL 5423734 (N.D. Cal. Sept. 27, 2013) (No.12–cv–05869–EJD), ECF No. 15.

In Opposition to the Motion, the United States maintained that the Complaint alleged facts to demonstrate that the agreement was between eBay and Intuit as two separate and independent firms (*i.e,* that Cook was acting in his capacity as Chairman of the Executive Committee of Intuit, Inc.), and that the alleged ''naked'' horizontal market allocation agreement was ''per se'' unlawful or, alternatively, unlawful under a ''quick-look'' rule of reason analysis, and thus a full rule of reason analysis was unnecessary. Opp'n of the United States to Def.'s Mot. to Dismiss Pursuant to FRCP Rule 12(b)(6), *United States* v. *eBay Inc.,* ____ F. Supp. 2d ____, 2013 WL 5423734 (N.D. Cal. Sept. 27, 2013) (No.12–cv–05869–EJD), ECF No. 24. After eBay's Reply brief and a hearing, the Court denied the motion to dismiss on September 27, 2013. *United States* v. *eBay Inc.,* ____ F. Supp. 2d ____, 2013 WL 5423734 (N.D. Cal. Sept. 27, 2013).

The Court found that the United States had alleged an actionable agreement between two separate firms, eBay and Intuit. *Id.* at *4. The Court, after noting that horizontal market allocation agreements typically constitute per se violations of Section 1, also found that the United States had adequately alleged a per se horizontal market allocation agreement. In doing so, the Court rejected eBay's contention that the fact that the alleged agreement involved a labor market should prevent the court from finding a ''classic'' horizontal market agreement that would warrant per se treatment. *Id.* at *5–6. The Court noted that eBay's argument that the alleged restraint was not naked as alleged by the United States but was ancillary to a legitimate business purpose could only be resolved after discovery. *Id.* at *6.

The United States today filed a Stipulation and proposed Final Judgment which would remedy the violation by enjoining eBay from enforcing any such agreements currently in effect, and prohibit eBay from entering similar agreements in the future. The United States and eBay have stipulated that the proposed Final Judgment may be entered after compliance with the APPA, unless the United States withdraws its consent. Entry of the proposed Final Judgment would terminate this action, except that this Court would retain jurisdiction to construe, modify, and enforce the proposed Final Judgment and to punish violations thereof.

II. Description of the Events Giving Rise to the Alleged Violation of the Antitrust Laws

eBay and Intuit compete to hire specialized computer engineers, scientists, and other categories of employees. According to eBay's Senior Vice President for Human Resources, and co-author of The War for Talent, soliciting the employees of other firms in similar industries is an important arena of competition. (Compl. ¶¶ 5, 10, 11.)

Beginning no later than 2006, and lasting at least until 2009, Intuit and eBay maintained an illegal agreement that restricted their ability to actively recruit employees from each other, and for some part of that time, further restricted eBay from hiring any employees from Intuit. The agreement covered all employees of both firms and was not limited by geography, job function, product group, or time period.

As the Complaint alleges, senior executives and directors at eBay and Intuit reached this express agreement through direct and explicit communications. The executives actively managed and enforced the agreement through direct communications. For example, in November 2005, eBay Chief Operating Officer Maynard Webb asked Cook, Intuit's Founder and Chairman of its Board Executive Committee and an outside director of eBay, to enter into a no-solicitation agreement under which eBay would not actively recruit from Intuit; eBay would notify Intuit in advance before offering a position at the Senior Director level or above to an Intuit employee; and eBay would notify Intuit after making an offer below that level. Intuit rejected the proposal because it allowed eBay to hire Intuit employees without prior notice to Intuit. Cook wrote that Intuit did not recruit from board companies (i.e., the companies from which its outside directors came), ''period'' and ''[w]e're passionate on this.'' (Compl. ¶ 15.) Cook committed that Intuit would not make an offer to anyone from eBay without first notifying eBay. (Compl. ¶ 15.)

In December 2005, eBay Chief Executive Officer Meg Whitman and Cook again discussed their firms' competition for employees with an eye toward ending that competition entirely. (Compl. ¶ 16.) Ultimately, an agreement not to solicit each other's employees was put into effect. When eBay considered hiring an Intuit employee for an opening at Paypal, executives internally expected that Whitman ''will say hands off because Scott [Cook] insists on a no poach policy with Intuit.'' Whitman confirmed that eBay could not proceed without notifying Intuit. (Compl. ¶ 17.)

In April 2007, eBay and Intuit expanded their agreement to bar eBay from hiring any Intuit employees. Cook had complained to eBay about a potential offer to an Intuit employee who had approached eBay. Even when Intuit employees were well-suited for its positions, eBay refrained from hiring them due to its agreement with Intuit. (Compl. ¶¶ 19–20.) As eBay's Senior Vice President for Human Resources Beth Axelrod explained to recruiting staff, ''We have an explicit hands of[f] that we cannot violate with any Intuit employee. There is no flexibility on this.'' (Compl. ¶ 20.) When asked if the agreement meant that a ''person could NEVER be hired by eBay unless they quit Intuit first,'' Axelrod confirmed that this was the case. (Compl. ¶ 20.) In another email exchange, Axelrod explained that she was responding to all inquiries regarding hiring from Intuit by ''firmly holding the line and saying absolutely not (including to myself since their comp[ensation] and ben[efits] person is supposed to be excellent!).'' (Compl. ¶ 20.) eBay recruiting personnel understood that ''Meg [Whitman] and Scott Cook entered into the agreement (handshake style, not written) that eBay would not hire from Intuit, period.'' (Compl. ¶ 21.)

eBay insisted that Intuit refrain from recruiting its employees in exchange for a limitation on eBay's ability to recruit and hire Intuit employees. Both eBay and Intuit personnel policed adherence to the agreement. In 2007, Whitman complained to Cook that Intuit had solicited eBay's employees even though eBay was sticking to its agreement not to hire Intuit employees. Cook apologized, ''#@!%$#∧&!!! Meg my apologies. I'll find out how this slip up occurred again . . . .'' (Compl. ¶ 22.)

Throughout the course of the agreement, eBay repeatedly declined opportunities to hire or interview Intuit employees, even when eBay had open

positions for ''quite some time,'' when the potential employee ''look[ed] great,'' or when ''the only guy who was good was from [I]ntuit.'' (Compl. ¶ 23.) Both Intuit and eBay acknowledged that throughout the agreement, they ''passed'' on ''talented'' applicants, consistent with their anticompetitive agreement. The repeated requests from lower level employees at both companies to be allowed to recruit employees from the other firm demonstrates that there were opportunities for employees to move between the two firms and that employees were denied those opportunities. (Compl. ¶ 24.)

The agreement harmed employees by depriving them of opportunities for better jobs with higher salaries and greater benefits at the other firm. (Compl. ¶¶ 1, 3, 11.) The agreement also distorted the competitive process in the labor markets in which eBay and Intuit compete. (Compl. ¶ 11.)

III. The Agreement Was a Naked Restraint and Not Ancillary To Achieving Legitimate Business Purposes

A. The Agreement Was a Naked Restraint of Trade That Is Per Se Unlawful Under Section 1 of the Sherman Act, 15 U.S.C. 1

The law has long recognized that ''certain agreements or practices which because of their pernicious effect on competition and lack of any redeeming virtue are conclusively presumed to be unreasonable and therefore illegal without elaborate inquiry as to the precise harm they have caused or the business excuse for their use.'' *Northern Pac. Ry.,* 356 U.S. at 545; *accord, Catalano, Inc.* v. *Target Sales, Inc.,* 446 U.S. 643, 646 n.9 (1980). Such naked restraints of competition among horizontal competitors (*i.e.,* agreements that have a pernicious effect on competition with no redeeming virtue), such as price-fixing or market allocation agreements, are deemed per se unlawful.

eBay's agreement with Intuit is a per se unlawful horizontal market allocation agreement under Section 1 of the Sherman Act. *See eBay, Inc., 2013 WL 5423734* at *5–*7 (in denying Defendant's Motion to Dismiss, the Court recognized that a horizontal market allocation typically constitutes a per se violation of Section 1 and that the facts alleged in the United States' Complaint taken as true ''suffice to state a horizontal market allocation agreement''). The two firms' concerted behavior both reduced their ability to compete for employees and disrupted the normal competitive mechanisms that allocate employees in labor markets. The market allocation agreement is facially anticompetitive because it clearly eliminated significant competition between the firms to attract technical and other employees. Overall, the agreement diminished competition to the detriment of the affected employees who likely were deprived of competitively important information and access to better job opportunities, as well as distorting competition in the labor market.

In analogous circumstances, the Sixth Circuit has held that an agreement among competitors not to solicit one another's customers was a per se violation of the antitrust laws. *U.S.* v. *Cooperative Theaters of Ohio, Inc.,* 845 F.2d 1367 (6th Cir. 1988). In that case, two movie theater booking agents agreed to refrain from actively soliciting each other's customers. Despite the defendants' arguments that they ''remained free to accept *unsolicited* business from their competitors' customers,'' *id.* (emphasis in original), the Sixth Circuit found their no-solicitation agreement'' was ''undeniably a type of customer allocation scheme which courts have often condemned in the past as a per se violation of the Sherman Act.'' *Id.* at 1373.

B. The Per Se Rule Against Naked Restraints of Trade Applies With Equal Force in Labor Markets

Market allocation agreements cannot be distinguished from one another based solely on whether they involve input or output markets, as anticompetitive agreements in both input and output markets create allocative inefficiencies.[2] Nor are labor markets treated differently than other input markets under the antitrust laws.

Accordingly, in denying eBay's Motion to Dismiss, the Court held in this case that the fact that the alleged market allocation occurs in an input market, *i.e.,* the employment market, did not, as a matter of law, prevent the Court from finding that the agreement as alleged amounts to a ''classic'' horizontal market division, and that antitrust law does not treat employment markets differently from other markets in this respect. See *eBay, Inc.,* 2013 WL 5423734 at *5.

The United States has previously challenged restraints on employment as per se illegal.[3] In fact, the restraint challenged here is broader than the no cold call restraints challenged in *United States* v. *Adobe Systems, Inc.* and the prohibition on counteroffers challenged in *United States* v. *Lucasfilm Ltd.,* because the conduct challenged here also prohibited eBay from hiring Intuit employees. The prohibition of hiring in its entirety renders the eBay-Intuit agreement, taken as a whole, more pernicious than previously-challenged agreements to refrain from cold-calling or counter-offering, and is also per se unlawful. *See National Soc'y of Prof. Engineers* v. *United States,* 435 U.S. 679, 695 (1978); *Harkins Amusement Enter., Inc.* v. *Gen. Cinema Corp.,* 850 F.2d 477, 487 (9th Cir. 1988).

C. The Unlawful Agreements Were Not Ancillary to a Legitimate Procompetitive Venture

An agreement that would normally be condemned as a per se unlawful restraint on competition may nonetheless be lawful if it is ancillary to a legitimate procompetitive venture and reasonably necessary to achieve the procompetitive benefits of the collaboration. Ancillary restraints therefore are not per se unlawful, but rather are evaluated under the rule of reason, which balances a restraint's procompetitive benefits against its anticompetitive effects.[4] To be

[2] In 1991, the Antitrust Division brought an action against conspirators who competed to procure billboard leases and who had agreed to refrain from bidding on each other's former leases for a year after the space was lost or abandoned by the other conspirator. *United States* v. *Brown,* 936 F.2d 1042 (9th Cir. 1991) (affirming jury verdict convicting defendants of conspiring to restrain trade in violation of 15 U.S.C. 1). The agreement was limited to an input market (the procurement of billboard leases) and did not extend to downstream sales (in which the parties also competed). In affirming defendants' convictions, the appellate court held that the agreement was per se unlawful, finding that the agreement restricted each company's ability to compete for the other's billboard sites and clearly allocated markets between the two billboard companies. A market allocation agreement between two companies at the same market level is a classic per se antitrust violation. *Id.* at 1045.

[3] In September 2010, the United States filed suit charging six high technology companies with a per se violation of Section 1 for entering bilateral agreements to prohibit each company from cold calling the other company's employees. *United States* v. *Adobe Sys., Inc., et al.;* Proposed Final Judgment and Competitive Impact Statement, 75 FR 60820, 60820–01 (Oct. 1, 2010); Final Judgment, *United States* v. *Adobe Sys., Inc., et al.,* 10–cv–1629 (D.D.C. Mar. 17, 2011), ECF No. 17. In December 2010, the United States filed suit charging Lucasfilm Ltd. with a per se violation of Section 1 for entering an agreement with Pixar to prohibit cold calling of each other's employees and setting forth anti-counteroffer rules that restrained bidding for employees. *United States* v. *Lucasfilm Ltd.;* Proposed Final Judgment and Competitive Impact Statement, 75 FR 81651–01 (Dec. 28, 2010); Order, *United States* v. *Lucasfilm Ltd.,* 10–cv–2220 (D.D.C. June 3, 2011), ECF No. 7.

[4] *See generally* Department of Justice, Antitrust Division, and Federal Trade Commission, *Antitrust Guidelines for Collaborations Among Competitors* § 1.2 (2000) (''*Collaboration Guidelines*''). *See also Major League Baseball* v. *Salvino,* 542 F.3d 290, 339 (2d Cir. 2008) (Sotomayor, J., concurring) (''a per se

considered ''ancillary'' under established antitrust law, however, the restraint must be a necessary or intrinsic part of the procompetitive collaboration.[5] Restraints that are broader than reasonably necessary to achieve the efficiencies from a business collaboration are not ancillary and are properly treated as per se unlawful.

The Division saw no evidence of a relevant legitimate collaborative project involving eBay and Intuit, nor was the recruiting agreement into which they entered, under established antitrust law, properly ancillary to any such collaboration if it existed. The agreement extended to all employees at the firms, regardless of any employee's relationship to any collaboration. The agreement was not limited by geography, job function, product group, or time period. Accordingly, the agreement was not reasonably necessary for any collaboration between the two firms and hence, not a legitimate ancillary restraint.

IV. Explanation of the Proposed Final Judgment

The proposed Final Judgment sets forth (1) conduct in which eBay may not engage; (2) conduct in which eBay may engage without violating the proposed Final Judgment; (3) certain actions eBay is required to take to ensure compliance with the terms of the proposed Final Judgment; and (4) oversight procedures the United States may use to ensure compliance with the proposed Final Judgment. Section VI of the proposed Final Judgment provides that these provisions will expire five years after entry of the proposed Final Judgment.

A. Prohibited Conduct

The proposed Final Judgment is essentially the same as that entered in *United States* v. *Adobe Sys., Inc., et al.;* Proposed Final Judgment and Competitive Impact Statement, 75 FR 60820, 60820–01 (Oct. 1, 2010). Section IV of the proposed Final Judgment preserves competition for employees by prohibiting eBay, and all other persons in active concert or participation with eBay with notice of the Final Judgment, from agreeing, or attempting to agree, with another person to refrain from cold calling, soliciting, recruiting, hiring or otherwise competing for employees of the other person. It also prohibits eBay from requesting or pressuring another person to refrain from cold calling, soliciting, recruiting, hiring or otherwise competing for employees of the other person. These provisions prohibit agreements not to make counteroffers and agreements to notify each other when making an offer to each other's employee.

B. Conduct Not Prohibited

The Final Judgment does not prohibit all agreements related to employee solicitation and recruitment. Section V makes clear that the proposed Final Judgment does not prohibit ''no direct solicitation provisions''[6] that are reasonably necessary for, and thus ancillary to, legitimate procompetitive collaborations.[7] Such restraints remain subject to scrutiny under the rule of reason.

Section V.A.1 does not prohibit no direct solicitation provisions contained in existing and future employment or severance agreements with eBay's employees. Narrowly tailored no direct solicitation provisions are often included in severance agreements and rarely present competition concerns. Sections V.A.2–5 also make clear that the proposed Final Judgment does not prohibit no direct solicitation provisions reasonably necessary for:

1. Mergers or acquisitions (consummated or unconsummated), investments, or divestitures, including due diligence related thereto;
2. contracts with consultants or recipients of consulting services, auditors, outsourcing vendors, recruiting agencies or providers of temporary employees or contract workers;
3. the settlement or compromise of legal disputes; and
4. contracts with resellers or OEMs; contracts with certain providers or recipients of services; or the function of a legitimate collaboration agreement, such as joint development, technology integration, joint ventures, joint projects (including teaming agreements), and the shared use of facilities.

Section V of the proposed Final Judgment contains additional requirements applicable to no direct solicitation provisions contained in these types of contracts and collaboration agreements. The proposed Final Judgment recognizes that eBay may sometimes enter written or unwritten contracts and collaboration agreements and sets forth requirements that recognize the different nature of written and unwritten contracts.

Thus, for written contracts, Section V.B of the proposed Final Judgment requires eBay to: (1) Identify, with specificity, the agreement to which the no direct solicitation provision is ancillary; (2) narrowly tailor the no direct solicitation provision to affect only employees who are anticipated to be directly involved in the arrangement; (3) identify with reasonable specificity the employees who are subject to the no direct solicitation provision; (4) include a specific termination date or event; and (5) sign the agreement, including any modifications to the agreement.

If the no direct solicitation provision relates to an oral agreement, Section V.C of the proposed Final Judgment requires eBay to maintain documents sufficient to show the terms of the no direct solicitation provision, including: (1) The specific agreement to which the no direct solicitation provision is ancillary; (2) an identification, with reasonable specificity, of the employees who are subject to the no direct solicitation provision; and (3) the no direct

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or quick look approach may apply . . . where a particular restraint is not reasonably necessary to achieve any of the efficiency-enhancing benefits of a joint venture and serves only as a naked restraint against competition.''); *Dagher* v. *Saudi Refining, Inc.,* 369 F.3d 1108, 1121 (9th Cir. 2004) (describing ancillary restraints as ''reasonably necessary to further the legitimate aims of the joint venture''); *rev'd on other grounds sub nom. Texaco* v. *Dagher,* 547 U.S. 1, 8 (2006); *Rothery Storage & Van Co.* v. *Atlas Van Lines, Inc.,* 792 F.2d 210, 227 (D.C. Cir. 1986) (''[T]he restraints it imposes are reasonably necessary to the business it is authorized to conduct''); *In re Polygram Holdings., Inc.,* 2003 WL 21770765 (F.T.C. 2003) (stating that parties must prove that the restraint was ''reasonably necessary'' to permit them to achieve particular alleged efficiency), *aff'd, Polygram Holdings, Inc.* v. *F.T.C.,* 416 F.3d 29 (D.C. Cir. 2005).

[5] *See Rothery Storage & Van Co.,* 792 F.2d at 227 (national moving network in which the participants shared physical resources, scheduling, training, and advertising resources, could forbid contractors from free riding by using its equipment, uniforms, and trucks for business they were conducting on their own); *Salvino,* 542 F.3d at 337 (Sotomayor, J., concurring) (Major League Baseball teams' formal joint venture to exclusively license, and share profits for, team trademarks, resulted in ''decreased transaction costs, lower enforcement and monitoring costs, and the ability to one-stop shop. . . .'' and such benefits ''could not exist without the . . . agreements.''); *Addamax* v. *Open Software Found.,* 152 F.3d 48 (1st Cir. 1998) (computer manufacturers' nonprofit joint research and development venture agreement on price to be paid for security software that was used by the joint venture was ancillary to effort to develop a new operating system). *See also Collaboration Guidelines* at § 3.2 (''[I]f the participants could achieve an equivalent or comparable efficiency-enhancing integration through practical, significantly less restrictive means, then . . . the agreement is not reasonably necessary.'').

[6] Section II.C. of the proposed Final Judgment defines ''no direct solicitation provision'' as ''any agreement, or part of an agreement, among two or more persons that restrains any person from hiring, cold calling, soliciting, recruiting, or otherwise competing for employees of another person.''

[7] The Complaint alleges a violation of the Sherman Antitrust Act, 15 U.S.C. 1. The scope of the Final Judgment is limited to violations of the federal antitrust laws. It prohibits certain conduct and specifies other conduct that the Judgment would not prohibit. The Judgment does not address whether any conduct it does not prohibit would be prohibited by other federal or state laws, including California Business & Professions Code § 16600 (prohibiting firms from restraining employee movement).

solicitation provision's specific termination date or event.[8]

The purpose of Sections V.B. and V.C. is to ensure that no direct solicitation provisions related to eBay's contracts with resellers, OEMs, and providers of services, and collaborations with other companies, are reasonably necessary to the contract or collaboration. In addition, the requirements set forth in Sections V.B and V.C of the proposed Final Judgment provide the United States with the ability to monitor eBay's compliance with the proposed Final Judgment.

eBay has a number of routine consulting and services agreements that contain no direct solicitation provisions that may not comply with the terms of the proposed Final Judgment. To avoid the unnecessary burden of identifying these existing contracts and re-negotiating any no direct solicitation provisions, Section V.D of the proposed Final Judgment provides that eBay shall not be required to modify or conform existing no direct solicitation provisions included in consulting or services agreements to the extent such provisions violate this Final Judgment. The Final Judgment further prohibits eBay from enforcing any such existing no direct solicitation provision that would violate the proposed Final Judgment.

Finally, Section V.E of the proposed Final Judgment provides that eBay is not prohibited from unilaterally adopting or maintaining a policy not to consider applications from employees of another person, or not to solicit, cold call, recruit or hire employees of another person, provided that eBay does not request or pressure another person to adopt, enforce, or maintain such a policy.

C. Required Conduct

Section VI of the proposed Final Judgment sets forth various mandatory procedures to ensure eBay's compliance with the proposed Final Judgment, including providing officers, directors, human resource managers, and senior managers who supervise employee recruiting with copies of the proposed Final Judgment and annual briefings about its terms. Section VI.A.5 requires eBay to provide its employees with reasonably accessible notice of the existence of all agreements covered by Section V.A.5 and entered into by the company.

Under Section VI, eBay must file annually with the United States a statement identifying any agreement covered by Section V.A.5., and describing any violation or potential violation of the Final Judgment known to any officer, director, human resources manager, or senior manager who supervises employee recruiting, solicitation, or hiring efforts. If one of these persons learns of a violation or potential violation of the Judgment, eBay must take steps to terminate or modify the activity to comply with the Judgment and maintain all documents related to the activity.

D. Compliance

To facilitate monitoring of eBay's compliance with the proposed Final Judgment, Section VII grants the United States access, upon reasonable notice, to eBay's records and documents relating to matters contained in the proposed Final Judgment. eBay must also make its employees available for interviews or depositions about such matters. Moreover, upon request, eBay must answer interrogatories and prepare written reports relating to matters contained in the proposed Final Judgment.

V. Remedies Available to Potential Private Litigants

Section 4 of the Clayton Act, 15 U.S.C. 15, provides that any person who has been injured as a result of conduct prohibited by the antitrust laws may bring suit in federal court to recover three times the damages the person has suffered, as well as costs and reasonable attorneys' fees. Entry of the proposed Final Judgment will neither impair nor assist the bringing of any private antitrust damage action. Under the provisions of Section 5(a) of the Clayton Act, 15 U.S.C. 16(a), the proposed Final Judgment has no *prima facie* effect in any subsequent private lawsuit that may be brought against eBay.

On the same date and in the same court this case was filed by the United States, the State of California filed a related case based on the same factual allegations, *The People of the State of California* v. *eBay, Inc.,* No. 12–cv–5874–EJD (N.D. Cal. filed November 16, 2012). On the same date that the United States filed its proposed final judgment in this case, the State of California filed a proposed *parens patriae* settlement which would provide up to $2.675 million in restitution directly to individuals and to compensate for harm to the state's economy.

VI. Procedures Applicable for Approval or Modification of the Proposed Final Judgment

The United States and eBay have stipulated that the proposed Final Judgment may be entered by the Court after compliance with the provisions of the APPA, provided that the United States has not withdrawn its consent. The APPA conditions entry upon the Court's determination that the proposed Final Judgment is in the public interest.

The APPA provides a period of at least sixty (60) days preceding the effective date of the proposed Final Judgment within which any person may submit to the United States written comments regarding the proposed Final Judgment. Any person who wishes to comment should do so within sixty (60) days of the date of publication of this Competitive Impact Statement in the **Federal Register**, or the last date of publication in a newspaper of the summary of this Competitive Impact Statement, whichever is later. All comments received during this period will be considered by the United States, which remains free to withdraw its consent to the proposed Final Judgment at any time prior to the Court's entry of judgment. The comments and the response of the United States will be filed with the Court and published in the **Federal Register**.

Written comments should be submitted to: James J. Tierney, Chief, Networks & Technology Enforcement Section, Antitrust Division, United States Department of Justice, 450 Fifth Street NW., Suite 7100, Washington, DC 20530.

The proposed Final Judgment provides that the Court retains jurisdiction over this action, and the parties may apply to the Court for any order necessary or appropriate for the modification, interpretation, or enforcement of the Final Judgment.

VII. Alternatives to the Proposed Final Judgment

The United States considered, as an alternative to the proposed Final Judgment, a full trial on the merits against eBay. The United States is satisfied, however, that the relief contained in the proposed Final Judgment will quickly establish, preserve, and ensure that employees can benefit from competition between eBay and others. Thus, the proposed Final Judgment would achieve all or substantially all of the relief the United States would have obtained through litigation, but avoids the time, expense, and uncertainty of a full trial on the merits of the Complaint.

[8] For example, eBay might document these requirements through electronic mail or in memoranda that it will retain.

VIII. Standard of Review Under the APPA for the Proposed Final Judgment

The Clayton Act, as amended by the APPA, requires that proposed consent judgments in antitrust cases brought by the United States be subject to a sixty-day comment period, after which the Court shall determine whether entry of the proposed Final Judgment ''is in the public interest.'' 15 U.S.C. 16(e)(1). In making that determination, the Court, in accordance with the statute as amended in 2004, is required to consider:

> (A) The competitive impact of such judgment, including termination of alleged violations, provisions for enforcement and modification, duration of relief sought, anticipated effects of alternative remedies actually considered, whether its terms are ambiguous, and any other competitive considerations bearing upon the adequacy of such judgment that the court deems necessary to a determination of whether the consent judgment is in the public interest; and
>
> (B) the impact of entry of such judgment upon competition in the relevant market or markets, upon the public generally and individuals alleging specific injury from the violations set forth in the complaint including consideration of the public benefit, if any, to be derived from a determination of the issues at trial.

15 U.S.C. 16(e)(1)(A) & (B). In considering these statutory factors, the Court's inquiry is necessarily a limited one as the United States is entitled to ''broad discretion to settle with the Defendant within the reaches of the public interest.'' *United States* v. *Microsoft Corp.,* 56 F.3d 1448, 1461 (D.C. Cir. 1995); *see generally United States* v. *SBC Commc'ns, Inc.,* 489 F. Supp. 2d 1 (D.D.C. 2007) (assessing public interest standard under the Tunney Act); *United States* v. *InBev N.V./S.A.,* 2009–2 Trade Cas. (CCH) ¶ 76,736, 2009 U.S. Dist. LEXIS 84787, No. 08–1965 (JR), at *3 (D.D.C. Aug. 11, 2009) (noting that the court's review of a consent judgment is limited and only inquires ''into whether the government's determination that the proposed remedies will cure the antitrust violations alleged in the complaint was reasonable, and whether the mechanism to enforce the final judgment are clear and manageable'').[9]

Under the APPA a court considers, among other things, the relationship between the remedy secured and the specific allegations set forth in the United States' complaint, whether the decree is sufficiently clear, whether enforcement mechanisms are sufficient, and whether the decree may positively harm third parties. *See Microsoft,* 56 F.3d at 1458–62. With respect to the adequacy of the relief secured by the decree, a court may not ''engage in an unrestricted evaluation of what relief would best serve the public.'' *United States* v. *BNS, Inc.,* 858 F.2d 456, 462 (9th Cir. 1988) (citing *United States* v. *Bechtel Corp.,* 648 F.2d 660, 666 (9th Cir. 1981)); *see also Microsoft,* 56 F.3d at 1460–62; *United States* v. *Alcoa, Inc.,* 152 F. Supp. 2d 37, 40 (D.D.C. 2001); *InBev,* 2009 U.S. Dist. LEXIS 84787, at *3. Courts have held that:

> [t]he balancing of competing social and political interests affected by a proposed antitrust consent decree must be left, in the first instance, to the discretion of the Attorney General. The court's role in protecting the public interest is one of insuring that the government has not breached its duty to the public in consenting to the decree. The court is required to determine not whether a particular decree is the one that will best serve society, but whether the settlement is '*within the reaches of the public interest.*' More elaborate requirements might undermine the effectiveness of antitrust enforcement by consent decree.

Bechtel, 648 F.2d at 666 (emphasis added) (citations omitted).[10] In determining whether a proposed settlement is in the public interest, a district court ''must accord deference to the government's predictions about the efficacy of its remedies, and may not require that the remedies perfectly match the alleged violations.'' *SBC Commc'ns,* 489 F. Supp. 2d at 17; *see also Microsoft,* 56 F.3d at 1461 (noting the need for courts to be ''deferential to the government's predictions as to the effect of the proposed remedies''); *United States* v. *Archer-Daniels-Midland Co.,* 272 F. Supp. 2d 1, 6 (D.D.C. 2003) (noting that the court should grant due respect to the United States' prediction as to the effect of proposed remedies, its perception of the market structure, and its views of the nature of the case).

In addition, ''a proposed decree must be approved even if it falls short of the remedy the court would impose on its own, as long as it falls within the range of acceptability or is 'within the reaches of public interest.' '' *United States* v. *American Tel. & Tel. Co.,* 552 F. Supp. 131, 151 (D.D.C. 1982) (citations omitted) (quoting *United States* v. *Gillette Co.,* 406 F. Supp. 713, 716 (D. Mass. 1975)), *aff'd sub nom. Maryland* v. *United States,* 460 U.S. 1001 (1983); *see also United States* v. *Alcan Aluminum Ltd.,* 605 F. Supp. 619, 622 (W.D. Ky. 1985) (approving the consent decree even though the court would have imposed a greater remedy). To meet this standard, the United States ''need only provide a factual basis for concluding that the settlements are reasonably adequate remedies for the alleged harms.'' *SBC Commc'ns,* 489 F. Supp. 2d at 17.

Moreover, the Court's role under the APPA is limited to reviewing the remedy in relationship to the violations that the United States has alleged in its Complaint, and does not authorize the court to ''construct [its] own hypothetical case and then evaluate the decree against that case.'' *Microsoft,* 56 F.3d at 1459; *see also InBev,* 2009 U.S. Dist. LEXIS 84787, at *20 (''[T]he 'public interest' is not to be measured by comparing the violations alleged in the complaint against those the court believes could have, or even should have, been alleged.''). Because the ''court's authority to review the decree depends entirely on the government's exercising its prosecutorial discretion by bringing a case in the first place,'' it follows that ''the court is only authorized to review the decree itself,'' and not to ''effectively redraft the complaint'' to inquire into other matters that the United States did not pursue. *Microsoft,* 56 F.3d. at 1459–60. Courts ''cannot look beyond the complaint in making the public interest determination unless the complaint is drafted so narrowly as to make a mockery of judicial power.'' *SBC Commc'ns,* 489 F. Supp. 2d at 15.

In its 2004 amendments, Congress made clear its intent to preserve the practical benefits of utilizing consent decrees in antitrust enforcement, adding the unambiguous instruction that ''[n]othing in this section shall be construed to require the court to conduct an evidentiary hearing or to require the court to permit anyone to intervene.'' 15 U.S.C. 16(e)(2). This language effectuates what Congress intended when it enacted the Tunney Act in 1974, as Senator Tunney explained: ''[t]he court is nowhere compelled to go to trial or to engage in extended proceedings which might have the effect of vitiating the benefits of

[9] The 2004 amendments substituted ''shall'' for ''may'' in directing relevant factors for a court to consider and amended the list of factors to focus on competitive considerations and to address potentially ambiguous judgment terms. *Compare* 15 U.S.C. 16(e) (2004), *with* 15 U.S.C. 16(e)(1) (2006); *see also SBC Commc'ns,* 489 F. Supp. 2d at 11 (concluding that the 2004 amendments ''effected minimal changes'' to Tunney Act review).

[10] *Cf. BNS,* 858 F.2d at 464 (holding that the court's ''ultimate authority under the [APPA] is limited to approving or disapproving the consent decree''); *United States* v. *Gillette Co.,* 406 F. Supp. 713, 716 (D. Mass. 1975) (noting that, in this way, the court is constrained to ''look at the overall picture not hypercritically, nor with a microscope, but with an artist's reducing glass''). *See generally Microsoft,* 56 F.3d at 1461 (discussing whether ''the remedies [obtained in the decree are] so inconsonant with the allegations charged as to fall outside of the 'reaches of the public interest.' '').

prompt and less costly settlement through the consent decree process.'' 119 *Cong. Rec.* 24,598 (1973) (statement of Senator Tunney). Rather, the procedure for the public interest determination is left to the discretion of the Court, with the recognition that the court's ''scope of review remains sharply proscribed by precedent and the nature of Tunney Act proceedings.'' *SBC Commc'ns,* 489 F. Supp. 2d at 11.[11]

IX. Determinative Documents

There are no determinative materials or documents within the meaning of the APPA that the United States considered in formulating the proposed Final Judgment.

Dated: May 1, 2014.

For Plaintiff United States of America.

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EXHIBIT A

UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF CALIFORNIA SAN JOSE DIVISION

UNITED STATES OF AMERICA, Plaintiff,
v.
EBAY INC., Defendant.

Case No. 12–CV–05869–EJD–PSG

[PROPOSED] FINAL JUDGMENT

[Proposed] Final Judgment

WHEREAS, the United States of America filed its Complaint on November 16, 2012, alleging that the Defendant participated in an agreement in violation of Section One of the Sherman Act, and the United States and the Defendant, by their attorneys, have consented to the entry of this Final Judgment without trial or further adjudication of any issue of fact or law;

AND WHEREAS, this Final Judgment does not constitute any admission by the Defendant that the law has been violated or of any issue of fact or law;

AND WHEREAS, the Defendant agrees to be bound by the provisions of this Final Judgment pending its approval by this Court;

NOW THEREFORE, before any testimony is taken, without trial or further adjudication of any issue of fact or law, and upon consent of the Defendant, it is ORDERED, ADJUDGED, AND DECREED:

I. Jurisdiction

This Court has jurisdiction over the subject matter and the parties to this action. The Complaint states a claim upon which relief may be granted against the Defendant under Section One of the Sherman Act, as amended, 15 U.S.C. 1.

II. Definitions

As used in this Final Judgment:

A. ''eBay'' means eBay Inc., its (i) successors and assigns, (ii) controlled subsidiaries, divisions, groups, affiliates, partnerships, and joint ventures, and (iii) directors, officers, managers, agents acting within the scope of their agency, and employees.

B. ''Agreement'' means any contract, arrangement, or understanding, formal or informal, oral or written, between two or more persons.

C. ''No direct solicitation provision'' means any agreement, or part of an agreement, among two or more persons that restrains any person from cold calling, soliciting, recruiting, hiring, or otherwise competing for employees of another person.

D. ''Person'' means any natural person, corporation, company, partnership, joint venture, firm, association, proprietorship, agency, board, authority, commission, office, or other business or legal entity, whether private or governmental.

E. ''Senior manager'' means any company officer or employee above the level of vice president.

III. Applicability

This Final Judgment applies to eBay, as defined in Section II, and to all other persons in active concert or participation with eBay who receive actual notice of this Final Judgment by personal service or otherwise.

IV. Prohibited Conduct

The Defendant is enjoined from attempting to enter into, entering into, maintaining or enforcing any agreement with any other person to in any way refrain from, requesting that any person in any way refrain from, or pressuring any person in any way to refrain from hiring, soliciting, cold calling, recruiting, or otherwise competing for employees of the other person.

V. Conduct Not Prohibited

A. Nothing in Section IV shall prohibit the Defendant and any other person from attempting to enter into, entering into, maintaining or enforcing a no direct solicitation provision, provided the no direct solicitation provision is:

1. Contained within existing and future employment or severance agreements with the Defendant's employees;

2. reasonably necessary for mergers or acquisitions, consummated or unconsummated, investments, or divestitures, including due diligence related thereto;

3. reasonably necessary for contracts with consultants or recipients of consulting services, auditors, outsourcing vendors, recruiting agencies or providers of temporary employees or contract workers;

4. reasonably necessary for the settlement or compromise of legal disputes; or

5. reasonably necessary for (i) contracts with resellers or OEMs; (ii) contracts with providers or recipients of services other than those enumerated in paragraphs V.A.1–4 above; or (iii) the function of a legitimate collaboration agreement, such as joint development, technology integration, joint ventures, joint projects (including teaming agreements), and the shared use of facilities.

B. All no direct solicitation provisions that relate to written agreements described in Section V.A.5.i, ii, or iii that the Defendant enters into, renews, or affirmatively extends after the date of entry of this Final Judgment shall:

1. Identify, with specificity, the agreement to which it is ancillary;

2. be narrowly tailored to affect only employees who are anticipated to be directly involved in the agreement;

3. identify with reasonable specificity the employees who are subject to the agreement;

4. contain a specific termination date or event; and

5. be signed by all parties to the agreement, including any modifications to the agreement.

C. For all no direct solicitation provisions that relate to unwritten agreements described in Section V.A.5.i, ii, or iii, that the Defendant enters into,

[11] *See United States* v. *Enova Corp.,* 107 F. Supp. 2d 10, 17 (D.D.C. 2000) (noting that the ''Tunney Act expressly allows the court to make its public interest determination on the basis of the competitive impact statement and response to comments alone''); *United States* v. *Mid-Am. Dairymen, Inc.,* 1977–1 Trade Cas. (CCH) ¶ 61,508, at 71,980 (W.D. Mo. 1977) (''Absent a showing of corrupt failure of the government to discharge its duty, the Court, in making its public interest finding, should . . . carefully consider the explanations of the government in the competitive impact statement and its responses to comments in order to determine whether those explanations are reasonable under the circumstances.''); S. Rep. No. 93–298, 93d Cong., 1st Sess., at 6 (1973) (''Where the public interest can be meaningfully evaluated simply on the basis of briefs and oral arguments, that is the approach that should be utilized.'').

renews, or affirmatively extends after the date of entry of this Final Judgment, the Defendant shall maintain documents sufficient to show:

1. The specific agreement to which the no direct solicitation provision is ancillary;

2. the employees, identified with reasonable specificity, who are subject to the no direct solicitation provision; and

3. the provision's specific termination date or event.

D. The Defendant shall not be required to modify or conform, but shall not enforce, any no direct solicitation provision to the extent it violates this Final Judgment if the no direct solicitation provision appears in the Defendant's consulting or services agreements in effect as of the date of this Final Judgment (or in effect as of the time the Defendant acquires a company that is a party to such an agreement).

E. Nothing in Section IV shall prohibit the Defendant from unilaterally deciding to adopt a policy not to consider applications from employees of another person, or to solicit, cold call, recruit or hire employees of another person, provided that the Defendant is prohibited from requesting that any other person adopt, enforce, or maintain such a policy, and is prohibited from pressuring any other person to adopt, enforce, or maintain such a policy.

VI. Required Conduct

A. The Defendant shall:

1. Furnish a copy of this Final Judgment and related Competitive Impact Statement within sixty (60) days of entry of the Final Judgment to its officers, directors, human resources managers, and senior managers who supervise employee recruiting, solicitation, or hiring efforts;

2. furnish a copy of this Final Judgment and related Competitive Impact Statement to any person who succeeds to a position described in Section VI.A.1 within thirty (30) days of that succession;

3. annually brief each person designated in Sections VI.A.1 and VI.A.2 on the meaning and requirements of this Final Judgment and the antitrust laws;

4. obtain from each person designated in Sections VI.A.1 and VI.A.2, within sixty (60) days of that person's receipt of the Final Judgment, a certification that he or she (i) has read and, to the best of his or her ability, understands and agrees to abide by the terms of this Final Judgment; (ii) is not aware of any violation of the Final Judgment that has not been reported to the Defendant; and (iii) understands that any person's failure to comply with this Final Judgment may result in an enforcement action for civil or criminal contempt of court against the Defendant and/or any person who violates this Final Judgment;

5. provide employees reasonably accessible notice of the existence of all agreements covered by Section V.A.5 and entered into by the company; and

6. maintain (i) a copy of all agreements covered by Section V.A.5; and (ii) a record of certifications received pursuant to this Section.

B. For five (5) years after the entry of this Final Judgment, on or before its anniversary date, the Defendant shall file with the United States an annual statement identifying and providing copies of any agreement and any modifications thereto described in Section V.A.5, as well as describing any violation or potential violation of this Final Judgment known to any officer, director, human resources manager, or senior manager who supervises employee recruiting, solicitation, or hiring efforts. Descriptions of violations or potential violations of this Final Judgment shall include, to the extent practicable, a description of any communications constituting the violation or potential violation, including the date and place of the communication, the persons involved, and the subject matter of the communication.

C. If any officer, director, human resources manager, or senior manager who supervises employee recruiting, solicitation, or hiring efforts of the Defendant learns of any violation or potential violation of any of the terms and conditions contained in this Final Judgment, the Defendant shall promptly take appropriate action to terminate or modify the activity so as to comply with this Final Judgment and maintain all documents related to any violation or potential violation of this Final Judgment.

VII. Compliance Inspection

A. For the purposes of determining or securing compliance with this Final Judgment, or of determining whether the Final Judgment should be modified or vacated, from time to time authorized representatives of the United States Department of Justice, including consultants and other persons retained by the United States, shall, upon the written request of an authorized representative of the Assistant Attorney General in charge of the Antitrust Division, and on reasonable notice to the Defendant, subject to any legally recognized privilege, be permitted:

1. Access during the Defendant's regular office hours to inspect and copy, or at the option of the United States, to require the Defendant to provide electronic or hard copies of, all books, ledgers, accounts, records, data, and documents in the possession, custody, or control of the Defendant, relating to any matters contained in this Final Judgment; and

2. to interview, either informally or on the record, the Defendant's officers, employees, or agents, who may have their counsel, including any individual counsel, present, regarding such matters. The interviews shall be subject to the reasonable convenience of the interviewee and without restraint or interference by the Defendant.

B. Upon the written request of an authorized representative of the Assistant Attorney General in charge of the Antitrust Division, the Defendant shall submit written reports or responses to written interrogatories, under oath if requested, relating to any of the matters contained in this Final Judgment as may be requested.

C. No information or documents obtained by the means provided in this section shall be divulged by the United States to any person other than an authorized representative of the executive branch of the United States, except in the course of legal proceedings to which the United States is a party (including grand jury proceedings), or for the purpose of securing compliance with this Final Judgment, or as otherwise required by law.

D. If at the time information or documents are furnished by the Defendant to the United States, the Defendant represents and identifies in writing the material in any such information or documents to which a claim of protection may be asserted under Rule 26(c)(1)(G) of the Federal Rules of Civil Procedure, and the Defendant marks each pertinent page of such material, ''Subject to claim of protection under Rule 26(c)(1)(G) of the Federal Rules of Civil Procedure,'' then the United States shall give the Defendant ten (10) calendar days notice prior to divulging such material in any legal proceeding (other than a grand jury proceeding).

VIII. Retention of Jurisdiction

This Court retains jurisdiction to enable any party to this Final Judgment to apply to this Court at any time for further orders and directions as may be necessary or appropriate to carry out or construe this Final Judgment, to modify any of its provisions, to enforce compliance, and to punish violations of its provisions.

IX. Expiration of Final Judgment

Unless this court grants an extension, this Final Judgment shall expire five (5) years from the date of its approval by the Court.

X. Notice

For purposes of this Final Judgment, any notice or other communication shall be given to the persons at the addresses set forth below (or such other addresses as they may specify in writing to EBay): Chief, Networks & Technology Enforcement Section, U.S. Department of Justice, Antitrust Division, 450 Fifth Street NW., Suite 7100, Washington, DC 20530.

XI. Public Interest Determination

Entry of this Final Judgment is in the public interest. The parties have complied with the Procedures of the Antitrust Procedures and Penalties Act, 15 U.S.C. 16, including making copies available to the public of this Final Judgment, the Competitive Impact Statement, and any comments thereon and the United States' responses to comments. Based upon the record before the Court, which includes the Competitive Impact Statement and any comments and response to comments filed with the Court, entry of this final judgment is in the public interest.

Court approval subject to procedures of Antitrust Procedures and Penalties Act, 15 U.S.C. 16

United States District Judge

[FR Doc. 2014–11056 Filed 5–13–14; 8:45 am]

BILLING CODE P

DEPARTMENT OF LABOR

Employment and Training Administration

Notice of a Virtual Public Meeting of the Advisory Committee on Apprenticeship (ACA)

AGENCY: Employment and Training Administration (ETA), Labor.

ACTION: Notice of a virtual public meeting.

SUMMARY: Pursuant to Section 10 of the Federal Advisory Committee Act (FACA) (5 U.S.C. App. 2 § 10), notice is hereby given to announce an open virtual meeting of the Advisory Committee on Apprenticeship (ACA) on Tuesday, June 3, 2014, which can be accessed from the Office of Apprenticeship's homepage: *http://www.doleta.gov/oa/*. The ACA is a discretionary committee established by the Secretary of Labor, in accordance with FACA, as amended in 5 U.S.C. App. 2, and its implementing regulations (41 CFR 101–6 and 102–3). All meetings of the ACA are open to the public. A virtual meeting of the ACA provides a cost savings to the government while still offering a venue that allows for public participation and transparency, as required by FACA.

DATES: The meeting will begin at approximately 12:30 p.m. Eastern Standard Time on Tuesday, June 3, 2014, and will adjourn at approximately 4:30 p.m. The meeting is being held virtually. Dial-in instructions will be posted on the Office of Apprenticeship's homepage at *http://www.doleta.gov/oa,* as well as any updates to the agenda and meeting logistics.

FOR FURTHER INFORMATION CONTACT: The Designated Federal Official, Mr. John V. Ladd, Administrator, Office of Apprenticeship, Employment and Training Administration, U.S. Department of Labor, 200 Constitution Avenue NW., Room N–5311, Washington, DC 20210, Telephone: (202) 693–2796 (this is not a toll-free number).

SUPPLEMENTARY INFORMATION: In order to promote openness, and increase public participation, webinar and audio conference technology will be used throughout the meeting. Webinar and audio instructions will be prominently posted on the Office of Apprenticeship homepage: *http://www.doleta.gov/oa/.* Members of the public are encouraged to attend the meeting virtually. For members of the public wishing to attend in person, a listening room, with limited seating, will be made available upon request. Members of the public that have made requests to attend in person are encouraged to arrive early to allow for security clearance into the Francis Perkins Building.

Security and Transportation Instructions for the Frances Perkins Building

Meeting participants should use the visitor's entrance to access the Frances Perkins Building, one block north of Constitution Avenue on 3rd and C Streets NW. For security purposes meeting participants must:

1. Present valid photo identification (ID) to receive a visitor badge.
2. Know the name of the event you are attending: the meeting event is the Advisory Committee on Apprenticeship meeting.
3. Visitor badges are issued by the security officer at the Visitor Entrance located at 3rd and C Streets NW., as described above.
4. Laptops and other electronic devices may be inspected and logged for identification purposes.
5. Due to limited parking options, Metro rail is the easiest way to travel to the Frances Perkins Building. For individuals wishing to take metro rail, the closest metro stop to the building is Judiciary Square on the Red Line.

Notice of Intent To Attend the Meeting

1. All meeting participants are being asked to submit a notice of intent to attend by Tuesday, May 20, 2014, via email to Mr. John V. Ladd at *oa.administrator@dol.gov,* with the subject line ''June 2014 Virtual ACA Meeting.''
2. Please indicate if you will be attending virtually, or in person, to ensure adequate space is arranged to accommodate all meeting participants.
3. If individuals have special needs and/or disabilities that will require special accommodations, please contact Kenya Huckaby on (202) 693–3795 or via email at *huckaby.kenya@dol.gov* no later than Tuesday, May 20, 2014.
4. Any member of the public who wishes to file written data or comments pertaining to the agenda may do so by sending the data or comments to Mr. John V. Ladd via email at *oa.administrator@dol.gov,* subject line ''June 2014 Virtual ACA Meeting,'' or to the Office of Apprenticeship, Employment and Training Administration, U.S. Department of Labor, Room N–5311, 200 Constitution Avenue NW., Washington, DC 20210. Such submissions will be included in the record for the meeting if received by Tuesday, May 20, 2014.
5. See below regarding members of the public wishing to speak at the ACA meeting.

Purpose of the Meeting and Topics To Be Discussed

The primary purpose of the meeting is to discuss and focus on committee updates and several recent initiatives impacting the national Registered Apprenticeship system. The meeting agenda will include the following topics:

- Updates on the American Apprenticeship Grant Initiative
- Report Outs and Updates from Workgroups
- Plans for Manufacturing Focused Meeting in September 2014
- Status and Activity of Committee after June 2014
- Other Matters of Interest to the Apprenticeship Community
- Public Comment
- Adjourn

The agenda and meeting logistics may be updated should priority items come before the ACA between the time of this publication and the scheduled date of the ACA meeting. All meeting updates will be posted to the Office of Apprenticeship's homepage: *http://www.doleta.gov/oa/.* Any member of the public who wishes to speak at the meeting should indicate the nature of the intended presentation and the amount of time needed by furnishing a written statement to the Designated Federal Official, Mr. John V. Ladd, by Tuesday, May 20, 2014. The Chairperson will announce at the beginning of the meeting the extent to which time will permit the granting of such requests.

Portia Wu,

Assistant Secretary for the Employment and Training Administration.

[FR Doc. 2014–10985 Filed 5–13–14; 8:45 am]

BILLING CODE 4510–FR–P

DEPARTMENT OF LABOR

Employment and Training Administration

Notice on Reallotment of Workforce Investment Act (WIA) Title I Formula Allotted Funds for Dislocated Worker Activities for Program Year (PY) 2013

AGENCY: Employment and Training Administration, Labor.

ACTION: Notice.

SUMMARY: Public Law 105–220, the Workforce Investment Act (WIA), requires the Secretary of Labor (Secretary) to conduct reallotment of dislocated worker formula allotted funds based on State financial reports submitted as of the end of the prior program year (PY). This notice publishes the dislocated worker PY 2013 funds for recapture by State and the amount to be reallotted to eligible States.

DATES: This notice is effective May 14, 2014.

FOR FURTHER INFORMATION CONTACT: Ms. Amanda Ahlstrand, Administrator, U.S. Department of Labor, Office of Workforce Investment, Employment and Training Administration, Room C–4526, 200 Constitution Avenue NW., Washington, DC. Telephone (202) 693–3052 (this is not a toll-free number) or fax (202) 693–3981.

SUPPLEMENTARY INFORMATION: In the FY 2013 Appropriations Act, Congress appropriated WIA PY 2013 funds in two portions: (1) Funds available for obligation July 1, 2013 (i.e., PY 2013 ''base'' funds), and (2) funds available for obligation October 1, 2013 (i.e., FY 2014 ''advance'' funds). Together, these two portions make up the complete PY 2013 WIA allotment. TEGL 25–12 announced WIA allotments based on this appropriation and alerted states to the recapture and reallotment of funds' provisions, as required under WIA Section 132(c). This section of WIA requires the Secretary of Labor (Secretary) to conduct reallotment of excess unobligated WIA Adult, Youth, and Dislocated Worker formula funds based on state financial reports submitted at the end of the prior program year (i.e., PY 2012).

WIA regulations at 20 CFR 667.150 describe the procedures the Secretary uses for recapture and reallotment of funds. We will not recapture any PY 2013 funds for Adult and Youth programs because there are no cases where PY 2012 unobligated funds exceed the statutory requirements of 20 percent of state allotted funds. For the Dislocated Worker program, however, one state had unobligated PY 2012 funds in excess of 20 percent. Therefore, ETA will recapture a total of $56,422 from PY 2013 funding from this one state and reallot those funds to the remaining eligible states, as required by WIA Section 132(c).

ETA will issue Notices of Obligation and Deobligation for the states to reflect the recapture and reallotment of these funds. The adjustment of funds will be made to the FY 2014 advance portion of the PY 2013 allotments, which ETA issued in October 2013. The attached tables display the net changes to PY 2013 formula allotments and a description of the reallotment methodology.

Neither WIA statutory language, nor WIA regulatory language provides specific requirements by which states must distribute recaptured funds among states and local areas, so states have flexibility to determine the methodology used.

For any state subject to recapture of funds, WIA Section 132(c)(5) requires the Governor to prescribe equitable procedures for reacquiring funds from the state and local areas.

As mentioned, the recapture/reallotment will apply to the FY 2014 advance portion of the PY 2013 allotment. Therefore, for reporting purposes, states should reflect the recapture/reallotment amount (decrease or increase) in the ''Total Federal Funds Authorized'' line of any affected FY 2014 WIA 9130 Financial Status Reports (State Dislocated Worker Activities, Statewide Rapid Response, Local Dislocated Worker Activities) in a manner consistent with the method of distribution of these amounts to state and local areas used by the state. The state should include an explanation of the adjustment in the remarks section of the adjusted reports.

I. Attachment A

ATTACHMENT A—U.S. DEPARTMENT OF LABOR EMPLOYMENT AND TRAINING ADMINISTRATION WIA DISLOCATED WORKER ACTIVITIES PY 2013 REALLOTMENT TO STATES

	Excess unobligated PY 2012 funds to be recaptured in PY 2013	Eligible states' PY 2012 * dislocated worker allotments	PY 2013 reallotment amount for eligible states	Total PY 2013 allotments	Recapture/reallotment adjustment to PY 2013 allotments	Revised total PY 2013 allotments
Alabama	0	15,470,929	868	12,455,814	868	12,456,682
Alaska	0	1,617,454	91	1,702,318	91	1,702,409
Arizona **	0	21,501,357	1,206	18,333,183	1,206	18,334,389
Arkansas	0	7,022,636	394	6,881,074	394	6,881,468
California	0	167,290,806	9,386	162,982,853	9,386	162,992,239
Colorado	0	16,139,023	906	15,672,487	906	15,673,393
Connecticut	0	12,426,602	697	11,913,095	697	11,913,792
Delaware	0	2,364,307	133	2,136,390	133	2,136,523
District of Columbia	56,422	0	0	2,733,764	(56,422)	2,677,342
Florida	0	77,493,519	4,348	67,109,375	4,348	67,113,723
Georgia	0	36,621,852	2,055	33,902,103	2,055	33,904,158
Hawaii	0	2,544,269	143	2,658,487	143	2,658,630

ATTACHMENT A—U.S. DEPARTMENT OF LABOR EMPLOYMENT AND TRAINING ADMINISTRATION WIA DISLOCATED WORKER ACTIVITIES PY 2013 REALLOTMENT TO STATES—Continued

	Excess unobligated PY 2012 funds to be recaptured in PY 2013	Eligible states' PY 2012 * dislocated worker allotments	PY 2013 reallotment amount for eligible states	Total PY 2013 allotments	Recapture/reallotment adjustment to PY 2013 allotments	Revised total PY 2013 allotments
Idaho	0	4,848,932	272	4,113,487	272	4,113,759
Illinois	0	45,178,269	2,535	47,415,147	2,535	47,417,682
Indiana	0	19,765,678	1,109	19,210,950	1,109	19,212,059
Iowa	0	5,396,616	303	4,479,610	303	4,479,913
Kansas	0	6,269,506	352	5,244,331	352	5,244,683
Kentucky	0	14,427,521	809	12,670,474	809	12,671,283
Louisiana	0	10,053,591	564	10,343,401	564	10,343,965
Maine	0	3,412,078	191	3,558,306	191	3,558,497
Maryland	0	13,447,267	754	14,160,334	754	14,161,088
Massachusetts	0	18,124,524	1,017	14,686,948	1,017	14,687,965
Michigan	0	37,953,582	2,129	31,831,964	2,129	31,834,093
Minnesota	0	12,017,269	674	9,577,081	674	9,577,755
Mississippi	0	10,347,906	581	9,722,013	581	9,722,594
Missouri	0	19,340,590	1,085	14,872,573	1,085	14,873,658
Montana	0	2,228,587	125	1,820,084	125	1,820,209
Nebraska	0	1,769,179	99	1,779,828	99	1,779,927
Nevada	0	14,405,631	808	13,990,600	808	13,991,408
New Hampshire	0	2,024,043	114	2,192,012	114	2,192,126
New Jersey	0	30,893,743	1,733	34,280,662	1,733	34,282,395
New Mexico **	0	4,691,957	263	4,387,085	263	4,387,348
New York	0	53,044,468	2,976	64,292,997	2,976	64,295,973
North Carolina	0	33,777,825	1,895	36,354,385	1,895	36,356,280
North Dakota	0	491,619	28	466,156	28	466,184
Ohio	0	37,413,569	2,099	29,848,097	2,099	29,850,196
Oklahoma	0	5,818,631	326	5,230,860	326	5,231,186
Oregon	0	14,180,338	796	12,544,754	796	12,545,550
Pennsylvania	0	33,631,354	1,887	35,257,512	1,887	35,259,399
Puerto Rico	0	13,793,419	774	13,657,789	774	13,658,563
Rhode Island	0	4,729,729	265	5,071,296	265	5,071,561
South Carolina	0	17,249,177	968	15,453,121	968	15,454,089
South Dakota	0	914,670	51	717,751	51	717,802
Tennessee	0	21,003,845	1,178	18,116,992	1,178	18,118,170
Texas	0	65,049,307	3,650	58,272,349	3,650	58,275,999
Utah **	0	6,236,709	350	4,299,449	350	4,299,799
Vermont	0	1,060,432	59	864,140	59	864,199
Virginia	0	16,431,137	922	15,640,645	922	15,641,567
Washington	0	22,717,337	1,275	21,476,440	1,275	21,477,715
West Virginia	0	4,805,853	270	3,992,664	270	3,992,934
Wisconsin	0	15,287,864	858	14,349,020	858	14,349,878
Wyoming	0	909,452	51	867,129	51	867,180
STATE TOTAL	$56,422	$1,005,635,958	$56,422	$955,591,379	$0	$955,591,379

* PY 2012 allotment amounts include prior year recapture/reallotment amounts and are used to determine the reallotment amount eligible states receive of the recaptured amount.

** Includes Navajo Nation.

1/7/2014.

II. Attachment B

ATTACHMENT B—U.S. DEPARTMENT OF LABOR EMPLOYMENT AND TRAINING ADMINISTRATION WIA DISLOCATED WORKER ACTIVITIES PY 2013 REVISED ALLOTMENTS WITH REALLOTMENT—PY/FY SPLIT

	Total allotment			Available 7/1/13			Available 10/1/13		
	Original	Recapture/ reallotment	Revised	Original	Recapture/ reallotment	Revised	Original	Recapture/ reallotment	Revised
Alabama	12,455,814	868	12,456,682	1,156,963		1,156,963	11,298,851	868	11,299,719
Alaska	1,702,318	91	1,702,409	177,118		177,118	1,525,200	91	1,525,291
Arizona*	18,333,183	1,206	18,334,389	1,751,421		1,751,421	16,581,762	1,206	16,582,968
Arkansas	6,881,074	394	6,881,468	697,414		697,414	6,183,660	394	6,184,054
California	162,982,853	9,386	162,992,239	16,482,232		16,482,232	146,500,621	9,386	146,510,007
Colorado	15,672,487	906	15,673,393	1,582,932		1,582,932	14,089,555	906	14,090,461
Connecticut	11,913,095	697	11,913,792	1,197,161		1,197,161	10,715,934	697	10,716,631
Delaware	2,136,390	133	2,136,523	209,496		209,496	1,926,894	133	1,927,027
District of Columbia	2,733,764	(56,422)	2,677,342	284,922		284,922	2,448,842	(56,422)	2,392,420
Florida	67,109,375	4,348	67,113,723	6,457,526		6,457,526	60,651,849	4,348	60,656,197
Georgia	33,902,103	2,055	33,904,158	3,358,754		3,358,754	30,543,349	2,055	30,545,404
Hawaii	2,658,487	143	2,658,630	275,901		275,901	2,382,586	143	2,382,729
Idaho	4,113,487	272	4,113,759	392,031		392,031	3,721,456	272	3,721,728
Illinois	47,415,147	2,535	47,417,682	4,928,468		4,928,468	42,486,679	2,535	42,489,214
Indiana	19,210,950	1,109	19,212,059	1,940,989		1,940,989	17,269,961	1,109	17,271,070
Iowa	4,479,610	303	4,479,913	422,490		422,490	4,057,120	303	4,057,423
Kansas	5,244,331	352	5,244,683	496,459		496,459	4,747,872	352	4,748,224
Kentucky	12,670,474	809	12,671,283	1,226,982		1,226,982	11,443,492	809	11,444,301
Louisiana	10,343,401	564	10,343,965	1,067,541		1,067,541	9,275,860	564	9,276,424
Maine	3,558,306	191	3,558,497	369,032		369,032	3,189,274	191	3,189,465
Maryland	14,160,334	754	14,161,088	1,473,584		1,473,584	12,686,750	754	12,687,504
Massachusetts	14,686,948	1,017	14,687,965	1,368,705		1,368,705	13,318,243	1,017	13,319,260
Michigan	31,831,964	2,129	31,834,093	3,017,299		3,017,299	28,814,665	2,129	28,816,794
Minnesota	9,577,081	674	9,577,755	884,911		884,911	8,692,170	674	8,692,844
Mississippi	9,722,013	581	9,722,594	969,070		969,070	8,752,943	581	8,753,524
Missouri	14,872,573	1,085	14,873,658	1,348,265		1,348,265	13,524,308	1,085	13,525,393
Montana	1,820,084	125	1,820,209	170,284		170,284	1,649,800	125	1,649,925
Nebraska	1,779,828	99	1,779,927	182,198		182,198	1,597,630	99	1,597,729
Nevada	13,990,600	808	13,991,408	1,413,120		1,413,120	12,577,480	808	12,578,288
New Hampshire	2,192,012	114	2,192,126	230,313		230,313	1,961,699	114	1,961,813
New Jersey	34,280,662	1,733	34,282,395	3,630,874		3,630,874	30,649,788	1,733	30,651,521
New Mexico *	4,387,085	263	4,387,348	436,439		436,439	3,950,646	263	3,950,909
New York	64,292,997	2,976	64,295,973	6,996,846		6,996,846	57,296,151	2,976	57,299,127
North Carolina	36,354,385	1,895	36,356,280	3,811,703		3,811,703	32,542,682	1,895	32,544,577
North Dakota	466,156	28	466,184	46,639		46,639	419,517	28	419,545
Ohio	29,848,097	2,099	29,850,196	2,759,456		2,759,456	27,088,641	2,099	27,090,740
Oklahoma	5,230,860	326	5,231,186	511,808		511,808	4,719,052	326	4,719,378
Oregon	12,544,754	796	12,545,550	1,218,785		1,218,785	11,325,969	796	11,326,765
Pennsylvania	35,257,512	1,887	35,259,399	3,663,344		3,663,344	31,594,168	1,887	31,596,055
Puerto Rico	13,657,789	774	13,658,563	1,389,808		1,389,808	12,267,981	774	12,268,755
Rhode Island	5,071,296	265	5,071,561	531,035		531,035	4,540,261	265	4,540,526
South Carolina	15,453,121	968	15,454,089	1,509,711		1,509,711	13,943,410	968	13,944,378
South Dakota	717,751	51	717,802	65,783		65,783	651,968	51	652,019
Tennessee	18,116,992	1,178	18,118,170	1,740,095		1,740,095	16,376,897	1,178	16,378,075
Texas	58,272,349	3,650	58,275,999	5,692,801		5,692,801	52,579,548	3,650	52,583,198
Utah*	4,299,449	350	4,299,799	365,082		365,082	3,934,367	350	3,934,717
Vermont	864,140	59	864,199	80,759		80,759	783,381	59	783,440
Virginia	15,640,645	922	15,641,567	1,567,306		1,567,306	14,073,339	922	14,074,261
Washington	21,476,440	1,275	21,477,715	2,146,144		2,146,144	19,330,296	1,275	19,331,571
West Virginia	3,992,664	270	3,992,934	376,719		376,719	3,615,945	270	3,616,215
Wisconsin	14,349,020	858	14,349,878	1,429,710		1,429,710	12,919,310	858	12,920,168
Wyoming	867,129	51	867,180	86,951		86,951	780,178	51	780,229
STATE TOTAL	955,591,379	0	955,591,379	95,591,379		95,591,379	860,000,000	0	860,000,000

III. Attachment C

Dislocated Worker State Formula PY 2013 Reallotment Methodology

Reallotment Summary: This year the Employment and Training Administration (ETA) analyzed State Workforce Investment Act (WIA) Dislocated Worker 9130 financial reports from the June 30, 2013 reporting period for PY 2012, to determine if any state had unobligated funds in excess of 20 percent of their PY 2012 allotment amount. If so, ETA will recapture that amount from PY 2013 funds and reallot the recaptured funds among eligible states.

- Source Data: State WIA 9130 financial status reports
- Programs:
  State Dislocated Worker
  State Rapid Response
  Local Dislocated Worker (includes local administration)
- Period: June 30, 2013
- Years covered: PY 2012 and FY 2013

Reallotment Calculation Process:

1. *Determine each state's unobligated balance:* ETA computes the state's total amount of PY 2012 state obligations (including FY 2013 funds) for the DW program. State obligations are the sum of DW statewide activities obligations, Rapid Response obligations, and 100 percent of what the state authorizes for DW local activities. To determine the unobligated balance for the DW program, ETA subtracts the total DW obligations amount from the state's total 2012 DW allotment (adjusted for recapture/reallotment and statutory formula-based rescissions, if applicable). For this year's calculation, PY 2012 allotments were adjusted for recapture/reallotment, but there was no applicable rescission. (Note: for this process, ETA adds DW allotted funds transferred to the Navajo Nation back to Arizona, New Mexico, and Utah local DW authorized amounts).

2. *Excluding state administrative costs:* Section 667.150 of the regulations provides that the recapture calculations exclude the reserve for state administration which is part of the DW statewide activities. States do not report data on state administrative amounts authorized and obligated on WIA 9130 financial reports. In the preliminary calculation, to determine states potentially liable for recapture, ETA estimates the DW portion of the state administrative amount authorized by calculating the five percent maximum amount for state DW administrative costs using the DW state allotment amounts (excluding any recapture/reallotment that occurred). For the DW portion of the state administrative amount obligated, ETA treats 100 percent of the estimated authorized amount as obligated, although the estimate of state administration obligations is limited by reported statewide activities obligations overall.

3. *Follow-up with states potentially liable for recapture:* ETA requests that those states potentially liable for recapture provide additional data on state administrative amounts which are not regularly reported on the PY 2012 and FY 2013 statewide activities reports. The additional information requested includes the amount of statewide activities funds the state authorized and obligated for state administration as of June 30, 2013. If a state provides actual state DW administrative costs, authorized and obligated, in the comments section of revised 9130 reports, this data replaces the estimates. Based on the requested additional actual data submitted by potentially liable states on revised reports, ETA reduces the DW total allotment for these states by the amount states indicate they authorized for state administrative costs. Likewise, ETA reduces the DW total obligations for these states by the portion obligated for state administration.

4. *Recapture calculation:* States (including those adjusted by actual state administrative data) with *unobligated balances* exceeding 20 percent of the combined PY 2012/FY 2013 DW *allotment amount* (adjusted for recapture/reallotment in PY 2012) will have their PY 2013 DW funding (from the FY 2014 portion) reduced (recaptured) by the amount of the excess.

5. *Reallotment calculation:* Finally, states with unobligated balances which do *not* exceed 20 percent (eligible states) will receive a share of the total recaptured amount (based on their share of the total PY 2012/FY 2013 DW allotments of eligible states) in their PY 2013 DW funding (the FY 2014 portion).

Portia Wu,

Assistant Secretary for the Employment and Training Administration.

[FR Doc. 2014–11045 Filed 5–13–14; 8:45 am]

BILLING CODE 4510–30–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–72131; File No. SR–NSCC–2014–805]

Self-Regulatory Organizations; National Securities Clearing Corporation; Notice of Filing and No Objection to Advance Notice To Renew NSCC's Existing Credit Facility

May 8, 2014.

Pursuant to Section 806(e)(1) of Title VIII of the Dodd-Frank Wall Street Reform and Consumer Protection Act, entitled the Payment, Clearing, and Settlement Supervision Act of 2010 (''Clearing Supervision Act'') [1] and Rule 19b–4(n)(1)(i) under the Securities Exchange Act of 1934,[2] notice is hereby given that on April 21, 2014, National Securities Clearing Corporation (''NSCC'') filed with the Securities and Exchange Commission (''Commission'') advance notice SR–NSCC–2014–805 (''Advance Notice'') as described in Items I, II and III below, which Items have been prepared primarily by NSCC. The Commission is publishing this notice to solicit comments on the Advance Notice from interested persons and provide notice that the Commission does not object to the Advance Notice.

I. Clearing Agency's Statement of the Terms of Substance of the Advance Notice

NSCC is renewing its 364-day syndicated revolving credit facility (''Renewal''), as more fully described below.

II. Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Advance Notice

In its filing with the Commission, NSCC included statements concerning the purpose of and basis for the Advance Notice and discussed any comments it received on the Advance Notice. The text of these statements may be examined at the places specified in Item IV below. NSCC has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

A. Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Advance Notice

1. Purpose

As part of its liquidity risk management regime, NSCC maintains a 364-day committed revolving line of credit with a syndicate of commercial lenders which is renewed every year.

[1] 12 U.S.C. 5465(e)(1).

[2] 17 CFR 240.19b–4(n)(1)(i).

The terms and conditions of the current Renewal will be specified in the Thirteenth Amended and Restated Revolving Credit Agreement, to be dated as of May 13, 2014 (''Renewal Agreement''), among The Depository Trust Company (''DTC''), National Securities Clearing Corporation,[3] the Lenders party thereto and JPMorgan Chase Bank, N.A., as Administrative Agent, and are substantially the same as the terms and conditions of the existing credit agreement, dated as of May 14, 2013 (''Existing Agreement''),[4] among the same parties. The substantive terms of the Renewal are set forth in the Summary of Indicative Principal Terms and Conditions, dated March 17, 2014, which is not a public document. The aggregate commitments being sought under the Renewal will be for an amount of up to $15 billion for NSCC and DTC together, of which all but $1.9 billion aggregate commitments would be the commitments to NSCC as borrower, as provided in the Existing Agreement.

This agreement and its substantially similar predecessor agreements have been in place since the introduction of same day funds settlement at NSCC. NSCC requires same-day liquidity resources to cover the failure-to-settle of its largest Member or affiliated family of Members. If a Member defaults on its end of day settlement obligations, NSCC may borrow under the line to enable it, if necessary, to fund settlement among non-defaulting Members. Any borrowing would be secured principally by (i) securities deposited by Members in NSCC's Clearing Fund (i.e., the Eligible Clearing Fund Securities, as defined in NSCC's Rule 4, pledged by Members to NSCC in lieu of cash Clearing Fund deposits), and (ii) securities cleared through NSCC's Continuous Net Settlement System (CNS) that were intended for delivery to the defaulting Member upon payment of its net settlement obligation. NSCC's Clearing Fund[5] (which operates as its default fund) addresses potential exposure through a number of risk-based component charges calculated and assessed daily. As integral parts of NSCC's risk management structure, the line of credit and the Clearing Fund, together, provide NSCC liquidity to complete end-of-day money settlement.

2. Statutory Basis

The Renewal is consistent with Section 805(b) of the Clearing Supervision Act[6] and with Commission Rule 17Ad–22(d)(11)[7] (regarding default procedures) because it mitigates liquidity risk.

B. Clearing Agency's Statement on Comments on the Advance Notice Received From Members, Participants, or Others

Written comments on the Advance Notice have not yet been solicited or received. NSCC will notify the Commission of any written comments received by NSCC.

C. Advance Notice Filed Pursuant to Section 806(e) of the Payment, Clearing and Settlement Supervision Act

1. Description of Change

The terms and conditions to be specified in the Renewal Agreement are substantially the same as the terms and conditions specified in the Existing Agreement, except that, in order to help protect against concentration risk, an enhancement is being added for a back-up Administrative Agent and Collateral Agent in case the primary Administrative Agent and Collateral Agent is unable to perform its obligations.

2. Anticipated Effect on and Management of Risks

As noted, the committed revolving line of credit is a cornerstone of NSCC risk management and this Renewal is critical to the NSCC risk management infrastructure. The Renewal does not otherwise affect or alter the management of risk at NSCC.

III. Date of Effectiveness of the Advance Notice and Timing for Commission Action

The proposed change may be implemented if the Commission does not object to the proposed change within 60 days of the later of (i) the date that the proposed change was filed with the Commission or (ii) the date that any additional information requested by the Commission is received. NSCC shall not implement the proposed change if the Commission has any objection to the proposed change.

The Commission may extend the period for review by an additional 60 days if the proposed change raises novel or complex issues, subject to the Commission providing NSCC with prompt written notice of the extension. A proposed change may be implemented in less than 60 days from the date the advance notice is filed, or the date further information requested by the Commission is received, if the Commission notifies NSCC in writing that it does not object to the proposed change and authorizes NSCC to implement the proposed change on an earlier date, subject to any conditions imposed by the Commission.

NSCC shall post notice on its Web site of proposed changes that are implemented.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the Advance Notice is consistent with the Clearing Supervision 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 No. SR–NSCC–2014–805 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 No. SR–NSCC–2014–805. 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

[3] The Renewal Agreement will provide for both DTC and NSCC as borrowers, with an aggregate commitment of $1.9 billion for DTC and the amount of any excess aggregate commitment for NSCC. The borrowers are not jointly and severally liable and each lender has a ratable commitment to each borrower. DTC and NSCC have separate collateral to secure their separate borrowings.

[4] Last year, the Commission published notice of no objection to NSCC's advance notice filing with respect to NSCC's renewal beginning on May 14, 2013. *See* Release No. 34–69557 (May 10, 2013), 78 FR 28936 (May 16, 2013) (SR–NSCC–2013–803).

[5] NSCC's Clearing Fund now includes additional liquidity deposits by certain Members pursuant to NSCC's newly implemented Supplemental Liquidity Deposit rule (new Rule 4(A)). On December 5, 2013, the Commission approved rule filing SR–NSCC–2013–02, as amended on April 19, 2013, June 11, 2013, and on October 4 and 7, 2013 creating new Rule 4(A). *See* Release No. 34–70999 (Dec. 5, 2013), 78 FR 75413 (Dec. 11, 2013) (SR–NSCC–2013–02).

[6] 12 U.S.C. 5461(b). The Financial Stability Oversight Council (''FSOC'') designated NSCC a systemically important financial market utility (''SIFMU'') on July 18, 2012. *See* FSOC 2012 Annual Report, Appendix A, *http://www.treasury.gov/initiatives/fsoc/Documents/2012%20Annual%20Report.pdf* (''FSOC Designation''). Therefore, NSCC is required to comply with the Clearing Supervision Act.

[7] 17 CFR 240.17Ad–22(d)(11).

submission, all subsequent amendments, all written statements with respect to the Advance Notice that are filed with the Commission, and all written communications relating to the Advance Notice 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 NSCC and on NSCC's Web site at *http://dtcc.com/en/legal/sec-rule-filings.aspx*.

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 No. SR–NSCC–2014–805 and should be submitted on or before June 4, 2014

V. Commission Findings and Notice of No Objection

Although the Clearing Supervision Act does not specify a standard of review for advance notices, the Commission believes that the stated purpose of the Clearing Supervision Act is instructive.[8] The stated purpose is to mitigate systemic risk in the financial system and promote financial stability by, among other things, promoting uniform risk management standards for SIFMUs.[9]

Section 805(a)(2) of the Clearing Supervision Act authorizes the Commission to prescribe risk management standards for the payment, clearing, and settlement activities of designated clearing entities and financial institutions engaged in designated activities for which it is the supervisory agency or the appropriate financial regulator.[10] Section 805(b) of the Clearing Supervision Act states that the objectives and principles for the risk management standards prescribed under Section 805(a) shall be to:

- Promote robust risk management;
- promote safety and soundness;
- reduce systemic risks; and
- support the stability of the broader financial system.[11]

The Commission adopted risk management standards under Section 805(a)(2) of the Clearing Supervision Act on October 22, 2012 (''Clearing Agency Standards'').[12] The Clearing Agency Standards became effective on January 2, 2013 and require registered clearing agencies to establish, implement, maintain, and enforce written policies and procedures that are reasonably designed to meet certain minimum requirements for their operations and risk management practices on an ongoing basis.[13] As such, it is appropriate for the Commission to review advance notices against the objectives and principles for risk management standards as described in Section 805(b) of the Clearing Supervision Act,[14] as well as the applicable Clearing Agency Standards promulgated under Section 805(a) of the Clearing Supervision Act.[15]

The Advance Notice is a proposal to enter into a renewed credit facility, as described above, which is designed to help mitigate the risk that NSCC would be unable to meet payment or settlement obligations in the event of a Member default. Consistent with Section 805(b) of the Clearing Supervision Act,[16] the Commission believes the proposal promotes robust risk management, as well as the safety and soundness of NSCC's operations, while reducing systemic risks and supporting the stability of the broader financial system, by providing a readily available source of liquidity for NSCC.

Additionally, Commission Rule 17Ad–22(d)(11),[17] adopted as part of the Clearing Agency Standards,[18] requires that registered clearing agencies ''establish, implement, maintain and enforce written policies and procedures reasonably designed to, as applicable . . . establish default procedures that ensure that the clearing agency can take timely action to contain losses and liquidity pressures and to continue meeting its obligations in the event of a participant default.'' [19] Here, as described above, the renewed credit facility will help NSCC continue to meet its respective obligations in a timely fashion in the event of a Member default, thereby helping to contain losses and liquidity pressures from that default.

Finally, Commission Rule 17Ad–22(b)(3),[20] also adopted as part of the Clearing Agency Standards,[21] requires a central counterparty (''CCP''), like NSCC,[22] to ''establish, implement, maintain and enforce written policies and procedures reasonably designed to . . . [m]aintain sufficient financial resources to withstand, at a minimum, a default by the participant family to which it has the largest exposure in extreme but plausible market conditions. . . .'' [23] Here, as described above, NSCC's proposal to enter into a renewed credit facility will help it maintain sufficient financial resources to withstand, at a minimum, a default by an NSCC Member to which NSCC has the largest exposure.

As described in Item III above, Section 806(e)(1)(G) of the Clearing Supervision Act provides that a designated SIFMU may implement a change contained in an advance notice if it has not received an objection to the proposed change within the applicable 60 day period.[24] However, Section 806(e)(1)(I) of the Clearing Supervision Act allows the Commission to issue a non-objection prior to the 60th day.[25] If the Commission chooses to issue no objection prior to the 60th day, it must notify the SIFMU in writing that it does not object and authorize implementation of the change on an earlier date.[26] If the Commission chooses to object prior to the 60th day, it must similarly notify the SIFMU.[27]

In its filing with the Commission, NSCC requested that the Commission notify NSCC, under Section 806(e)(1)(I) of the Clearing Supervision Act, that the Commission has no objection to the Advance Notice no later than Thursday, May 8, 2014, three business days before the existing credit facility is set to expire on Tuesday, May 13, 2014, to ensure that there is no period of time that NSCC operates without a credit facility.

For the reasons stated above, the Commission does not object to the Advance Notice.

[8] 12 U.S.C. 5461(b).

[9] *Id.*

[10] 12 U.S.C. 5464(a)(2).

[11] 12 U.S.C. 5464(b).

[12] Release No. 34–68080 (Oct. 22, 2012), 77 FR 66219 (Nov. 2, 2012).

[13] The Clearing Agency Standards are substantially similar to the risk management standards established by the Board of Governors of the Federal Reserve System governing the operations of SIFMUs that are not clearing entities and financial institutions engaged in designated activities for which the Commission or the Commodity Futures Trading Commission is the Supervisory Agency. *See* Financial Market Utilities, 77 FR 45907 (Aug. 2, 2012).

[14] *See* 12 U.S.C. 5464(b).

[15] *See* 12 U.S.C. 5464(a).

[16] *See* 12 U.S.C. 5464(b).

[17] 17 CFR 240.17Ad–22(d)(11).

[18] Release No. 34–68080 (Oct. 22, 2012), 77 FR 66219 (Nov. 2, 2012).

[19] 17 CFR 240.17Ad–22(d)(11).

[20] 17 CFR 240.17Ad–22(b)(3).

[21] Release No. 34–68080 (Oct. 22, 2012), 77 FR 66219 (Nov. 2, 2012).

[22] *See* FSOC Designation, *supra* note 6.

[23] 17 CFR 240.17Ad–22(b)(3).

[24] *See* 12 U.S.C. 5465(e)(1)(G).

[25] 12 U.S.C. 5465(e)(1)(I).

[26] *Id.*

[27] 12. U.S.C. 5465(e)(1)(E).

VI. Conclusion

It is therefore noticed, pursuant to Section 806(e)(1)(I) of the Clearing Supervision Act,[28] that the Commission *does not object* to the change described in advance notice SR–NSCC–2014–805 and that NSCC be and hereby is *authorized* to implement the change as of the date of this notice.

By the Commission.

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2014–11035 Filed 5–13–14; 8:45 am]

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[28] 12 U.S.C. 5465(e)(1)(I).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–72123; File No. SR–NYSE–2014–25]

Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Amending Its Price List, Effective May 2, 2014, To Set Forth a Fee for a Bond Trading License Under Rule 87 and a Rebate for Bond Liquidity Providers That Bring Liquidity to the Exchange's Bond Market in Accordance With Rule 88 and To Delete an Obsolete Fee

May 8, 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 May 2, 2014, New York Stock Exchange LLC (''NYSE'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend its Price List, effective May 2, 2014, to (1) set forth a fee for a bond trading license under Rule 87 and a rebate for BLPs that bring liquidity to the Exchange's bond market in accordance with Rule 88 and (2) delete an obsolete fee. The text of the proposed rule change is available on the Exchange's Web site at *www.nyse.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

[1] 15 U.S.C.78s(b)(1).

[2] 17 CFR 240.19b–4.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend its Price List, effective May 2, 2014, to (1) set forth a fee for a bond trading license under Rule 87 and a rebate for BLPs that bring liquidity to the Exchange's bond market in accordance with Rule 88 and (2) delete an obsolete fee.

On February 27, 2014, the Exchange filed a proposed rule change to make permanent its pilot program that provided for a bond trading license for member organizations that desire to trade only debt securities on the Exchange and that established a new class of market participants called BLPs.[3] The proposal was published for comment on March 14, 2014 and approved by the Securities and Exchange Commission (''Commission'') on April 25, 2014.[4]

The Exchange proposes to amend its Price List to set forth the price of the bond trading license and a liquidity provider rebate and cap. First, the Exchange will offer a bond trading license under Rule 87 for $1,000. By way of comparison, a trading license under Rule 300, which covers all debt and equity securities listed on the Exchange, is $40,000. Second, if a BLP meets the quoting requirements for a bond pursuant to Rule 88, the BLP will receive a liquidity provider rebate of $0.05 per bond, with a $50.00 rebate cap per transaction. The rebate first will be applied against any bond liquidity taking or other fees that the BLP owes to the Exchange. If the rebate exceeds such fees in any given month, the Exchange will pay the excess amount to the BLP. The Exchange does not propose any changes to its Price List for liquidity taking transactions on its bond platform, which were adopted on a permanent basis in 2010.[5]

The Exchange also proposes to delete the reference to a $5,000 fee for the NYSE-Sponsored Graphic User Interface, which is no longer offered and not necessary for market participants to submit orders to NYSE Bonds.

The proposed change is not otherwise intended to address any other issues, and the Exchange is not aware of any problems that members and member organizations would have in complying with the proposed change.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,[6] in general, and furthers the objectives of Sections 6(b)(4) and 6(b)(5) of the Act,[7] in particular, because it provides for the equitable allocation of reasonable dues, fees, and other charges among its members, issuers and other persons using its facilities and does not unfairly discriminate between customers, issuers, brokers or dealers. The Exchange believes that it is reasonable to charge a lower fee for a bond trading license because holders will only be able to trade the narrower class of securities, rather than all securities on the Exchange. The price also reflects the Exchange's lower cost of administering and surveilling a narrower class of securities. The bond trading license fee is equitable because it will be offered to all market participants that wish to trade the narrower class of debt securities only.

The Exchange believes that the proposed rebate and rebate cap are reasonable because they will reward liquidity providers on the bond platform. The Exchange believes that it is reasonable to cap the rebates because excess rebates will be paid to the BLP after the rebates are applied against any bond liquidity taking or other fees that

[3] *See* Securities Exchange Act Release No. 71671 (March 10, 2014), 79 FR 14558 (March 14, 2014) (SR–NYSE–2014–08). The Commission previously approved the proposed bond trading license and BLP program on a pilot basis. *See* Securities Exchange Act Release No. 63736 (January 19, 2011), 76 FR 4959 (January 27, 2011) (SR–NYSE–2010–74). The pilot program was originally scheduled to expire on January 19, 2012, but the Commission approved two one-year extensions. *See* Securities Exchange Act Release No. 65995 (December 16, 2011), 76 FR 79726 (December 22, 2011) (SR–NYSE–2011–63); Securities Exchange Act Release No. 68533 (December 21, 2012), 77 FR 77166 (December 31, 2012) (SR–NYSE–2012–74). The pilot program terminated on January 19, 2014.

[4] *See* Securities Exchange Act Release No. 72026 (April 25, 2014) (SR–NYSE–2014–08).

[5] *See* Securities Exchange Act Release No. 63593 (December 21, 2010), 75 FR 81701 (December 28, 2010) (SR–NYSE–2010–83).

[6] 15 U.S.C. 78f(b).

[7] 15 U.S.C. 78f(b)(4), (5).

the BLP owes to the Exchange. The cap will help to ensure that the rebates do not have an inappropriate negative impact on fees collected for other transactions or programs. The liquidity provider rebate and cap are equitable because they will apply to all BLPs that meet their quoting obligations under Rule 88.

The deletion of the reference to a $5,000 fee for the NYSE-Sponsored Graphic User Interface, which is no longer offered and not necessary for market participants to submit orders to NYSE Bonds, is reasonable and equitable because it will add clarity to the Price List and provide better notice to market participants.

B. Self-Regulatory Organization's Statement on Burden on Competition

In accordance with Section 6(b)(8) of the Act,[8] the Exchange believes that the proposed rule change would not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. Debt securities typically trade in a decentralized over-the-counter (''OTC'') dealer market that is less liquid and transparent than the equities markets. The Exchange believes that the proposed change would increase competition with these OTC venues by reducing the cost of obtaining an Exchange trading license and rewarding market participants for actively quoting and providing liquidity in the only transparent bond market, which the Exchange believes will enhance market quality.

The Exchange notes that it operates in a highly competitive market in which market participants can readily favor competing venues that are not transparent. In such an environment, the Exchange must continually review, and consider adjusting its fees and rebates to remain competitive with other exchanges as well as with alternative trading systems and other venues that are not required to comply with the statutory standards applicable to exchanges. Because competitors are free to modify their own fees and credits in response, and because market participants may readily adjust their order routing practices, the Exchange believes that the degree to which fee changes in this market may impose any burden on competition is extremely limited. As a result of all of these considerations, the Exchange does not believe that the proposed change will impair the ability of member organizations or competing order execution venues to maintain their competitive standing in the financial markets.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change is effective upon filing pursuant to Section 19(b)(3)(A)[9] of the Act and subparagraph (f)(2) of Rule 19b–4[10] thereunder, because it establishes a due, fee, or other charge imposed by the Exchange.

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings under Section 19(b)(2)(B)[11] of the Act to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–NYSE–2014–25 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSE–2014–25. 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 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–NYSE–2014–25 and should be submitted on or before June 4, 2014.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[12]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2014–11027 Filed 5–13–14; 8:45 am]

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[8] 15 U.S.C. 78f(b)(8).

[9] 15 U.S.C. 78s(b)(3)(A).

[10] 17 CFR 240.19b–4(f)(2).

[11] 15 U.S.C. 78s(b)(2)(B).

[12] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–72132; File No. SR–DTC–2014–805]

Self-Regulatory Organizations; The Depository Trust Company; Notice of Filing and No Objection To Advance Notice To Renew DTC's Existing Credit Facility

May 8, 2014.

Pursuant to Section 806(e)(1) of Title VIII of the Dodd-Frank Wall Street Reform and Consumer Protection Act, entitled the Payment, Clearing, and Settlement Supervision Act of 2010 (''Clearing Supervision Act'')[1] and Rule 19b–4(n)(1)(i) under the Securities Exchange Act of 1934,[2] notice is hereby given that on April 21, 2014, The Depository Trust Company (''DTC'')

[1] 12 U.S.C. 5465(e)(1).

[2] 17 CFR 240.19b–4(n)(1)(i).

filed with the Securities and Exchange Commission (''Commission'') advance notice SR–DTC–2014–805 (''Advance Notice'') as described in Items I, II and III below, which Items have been prepared primarily by DTC. The Commission is publishing this notice to solicit comments on the Advance Notice from interested persons and provide notice that the Commission does not object to the Advance Notice.

I. Clearing Agency's Statement of the Terms of Substance of the Advance Notice

DTC is renewing its 364-day syndicated revolving credit facility (''Renewal''), as more fully described below.

II. Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Advance Notice

In its filing with the Commission, DTC included statements concerning the purpose of and basis for the Advance Notice and discussed any comments it received on the Advance Notice. The text of these statements may be examined at the places specified in Item IV below. DTC has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

A. Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Advance Notice

1. Purpose

As part of its liquidity risk management regime, DTC maintains a $1.9 billion 364-day committed revolving line of credit with a syndicate of commercial lenders which is renewed every year. The terms and conditions of the current Renewal will be specified in the Thirteenth Amended and Restated Revolving Credit Agreement, to be dated as of May 13, 2014 (''Renewal Agreement''), among The Depository Trust Company, National Securities Clearing Corporation (''NSCC''),[3] the Lenders party thereto and JPMorgan Chase Bank, N.A., as Administrative Agent, and are substantially the same as the terms and conditions of the existing credit agreement, dated as of May 14, 2013 (''Existing Agreement''),[4] among the same parties. The substantive terms of the Renewal are set forth in the Summary of Indicative Principal Terms and Conditions, dated March 17, 2014, which is not a public document. The aggregate commitments being sought under the Renewal will be for an amount of up to $15 billion for NSCC and DTC together, with a $1.9 billion aggregate commitment to DTC, as provided in the Existing Agreement.

This agreement and its substantially similar predecessor agreements have been in place since the introduction of same day funds settlement at DTC. DTC requires same-day liquidity resources to cover the failure-to-settle of the Participant or affiliated family of Participants with the largest net settlement obligation. If a Participant fails to satisfy its end-of-day net settlement obligation, DTC may borrow under the line to enable it, if necessary, to fund settlement among non-defaulting Participants. Any borrowing would be secured principally by securities that were intended to be delivered to the defaulting Participant upon payment of its net settlement obligation and securities previously designated by the defaulting Participant as collateral. The liquidity facility is built into DTC's primary risk management controls, the net debit cap and collateral monitor, which together require that the end-of-day net funds settlement obligation of a Participant cannot exceed DTC's liquidity resources and is fully collateralized.

2. Statutory Basis

The Renewal is consistent with Section 805(b) of the Clearing Supervision Act[5] and with Commission Rule 17Ad–22(d)(11)[6] (regarding default procedures) because it mitigates liquidity risk.

B. Clearing Agency's Statement on Comments on the Advance Notice Received From Members, Participants, or Others

Written comments on the Advance Notice have not yet been solicited or received. DTC will notify the Commission of any written comments received by DTC.

C. Advance Notice Filed Pursuant to Section 806(e) of the Payment, Clearing and Settlement Supervision Act

1. Description of Change

The terms and conditions to be specified in the Renewal Agreement are substantially the same as the terms and conditions specified in the Existing Agreement, except that, in order to help protect against concentration risk, an enhancement is being added for a back-up Administrative Agent and Collateral Agent in case the primary Administrative Agent and Collateral Agent is unable to perform its obligations.

2. Anticipated Effect on and Management of Risks

As noted, the committed revolving line of credit is a cornerstone of DTC risk management and this Renewal is critical to the DTC risk management infrastructure. The Renewal does not otherwise affect or alter the management of risk at DTC.

III. Date of Effectiveness of the Advance Notice and Timing for Commission Action

The proposed change may be implemented if the Commission does not object to the proposed change within 60 days of the later of (i) the date that the proposed change was filed with the Commission or (ii) the date that any additional information requested by the Commission is received. DTC shall not implement the proposed change if the Commission has any objection to the proposed change.

The Commission may extend the period for review by an additional 60 days if the proposed change raises novel or complex issues, subject to the Commission providing DTC with prompt written notice of the extension. A proposed change may be implemented in less than 60 days from the date the advance notice is filed, or the date further information requested by the Commission is received, if the Commission notifies DTC in writing that it does not object to the proposed change and authorizes DTC to implement the proposed change on an earlier date, subject to any conditions imposed by the Commission.

DTC shall post notice on its Web site of proposed changes that are implemented.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the Advance Notice is consistent with the Clearing

[3] The Renewal Agreement will provide for both DTC and NSCC as borrowers, with an aggregate commitment of $1.9 billion for DTC and the amount of any excess aggregate commitment for NSCC. The borrowers are not jointly and severally liable and each lender has a ratable commitment to each borrower. DTC and NSCC have separate collateral to secure their separate borrowings.

[4] Last year, the Commission published notice of no objection to DTC's advance notice filing with respect to DTC's renewal beginning on May 14, 2013. *See* Release No. 34–69556 (May 10, 2013), 78 FR 28933 (May 16, 2013) (SR–DTC–2013–802).

[5] 12 U.S.C. 5461(b). The Financial Stability Oversight Council (''FSOC'') designated DTC a systemically important financial market utility (''SIFMU'') on July 18, 2012. *See* FSOC 2012 Annual Report, Appendix A, *http://www.treasury.gov/initiatives/fsoc/Documents/2012%20Annual%20Report.pdf* (''FSOC Designation''). Therefore, DTC is required to comply with the Clearing Supervision Act.

[6] 17 CFR 240.17Ad–22(d)(11).

Supervision 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 No. SR–DTC–2014–805 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 No. SR–DTC–2014–805. 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 Advance Notice that are filed with the Commission, and all written communications relating to the Advance Notice 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 DTC and on DTC's Web site at *http://dtcc.com/en/legal/sec-rule-filings.aspx.*

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 No. SR–DTC–2014–805 and should be submitted on or before June 4, 2014.

V. Commission Findings and Notice of No Objection

Although the Clearing Supervision Act does not specify a standard of review for advance notices, the Commission believes that the stated purpose of the Clearing Supervision Act is instructive.[7] The stated purpose is to mitigate systemic risk in the financial system and promote financial stability by, among other things, promoting uniform risk management standards for SIFMUs.[8]

Section 805(a)(2) of the Clearing Supervision Act authorizes the Commission to prescribe risk management standards for the payment, clearing, and settlement activities of designated clearing entities and financial institutions engaged in designated activities for which it is the supervisory agency or the appropriate financial regulator.[9] Section 805(b) of the Clearing Supervision Act states that the objectives and principles for the risk management standards prescribed under Section 805(a) shall be to:

- promote robust risk management;
- promote safety and soundness;
- reduce systemic risks; and
- support the stability of the broader financial system.[10]

The Commission adopted risk management standards under Section 805(a)(2) of the Clearing Supervision Act on October 22, 2012 (''Clearing Agency Standards'').[11] The Clearing Agency Standards became effective on January 2, 2013 and require registered clearing agencies to establish, implement, maintain, and enforce written policies and procedures that are reasonably designed to meet certain minimum requirements for their operations and risk management practices on an ongoing basis.[12] As such, it is appropriate for the Commission to review advance notices against the objectives and principles for risk management standards as described in Section 805(b) of the Clearing Supervision Act,[13] as well as the applicable Clearing Agency Standards promulgated under Section 805(a) of the Clearing Supervision Act.[14]

The Advance Notice is a proposal to enter into a renewed credit facility, as described above, which is designed to help mitigate the risk that DTC would fail to meet its settlement obligations event that a Participant would fail to satisfy its end-of-day net settlement obligation. Consistent with Section 805(b) of the Clearing Supervision Act,[15] the Commission believes the proposal promotes robust risk management, as well as the safety and soundness of DTC's operations, while reducing systemic risks and supporting the stability of the broader financial system, by providing a readily available source of liquidity for DTC.

Additionally, Commission Rule 17Ad–22(d)(11) regarding default procedures,[16] adopted as part of the Clearing Agency Standards,[17] requires that registered clearing agencies ''establish, implement, maintain and enforce written policies and procedures reasonably designed to, as applicable . . . establish default procedures that ensure that the clearing agency can take timely action to contain losses and liquidity pressures and to continue meeting its obligations in the event of a participant default.'' [18] Here, as described above, the renewed credit facility will help DTC continue to meet its respective obligations in a timely fashion in the event that a Participant fails-to-settle, thereby helping to contain losses and liquidity pressures from that failure.

As described in Item III above, Section 806(e)(1)(G) of the Clearing Supervision Act provides that a SIFMU may implement a change contained in an advance notice if it has not received an objection to the proposed change within the applicable 60 day period.[19] However, Section 806(e)(1)(I) of the Clearing Supervision Act allows the Commission to issue no objection prior to the 60th day.[20] If the Commission chooses to issue no objection prior to the 60th day, it must notify the SIFMU in writing that it does not object and authorize implementation of the change on an earlier date.[21] If the Commission chooses to object prior to the 60th day, it must similarly notify the SIFMU.[22]

In its filing with the Commission, DTC requested that the Commission notify DTC, under Section 806(e)(1)(I) of the Clearing Supervision Act, that the Commission has no objection to the Advance Notice no later than Thursday, May 8, 2014, three business days before the existing credit facility is set to expire on Tuesday, May 13, 2014, to ensure that there is no period of time

[7] 12 U.S.C. 5461(b).

[8] *Id.*

[9] 12 U.S.C. 5464(a)(2).

[10] 12 U.S.C. 5464(b).

[11] Release No. 34–68080 (Oct. 22, 2012), 77 FR 66219 (Nov. 2, 2012).

[12] The Clearing Agency Standards are substantially similar to the risk management standards established by the Board of Governors of the Federal Reserve System governing the operations of SIFMUs that are not clearing entities and financial institutions engaged in designated activities for which the Commission or the Commodity Futures Trading Commission is the Supervisory Agency. *See* Financial Market Utilities, 77 FR 45907 (Aug. 2, 2012).

[13] *See* 12 U.S.C. 5464(b).

[14] *See* 12 U.S.C. 5464(a).

[15] *See* 12 U.S.C. 5464(b).

[16] 17 CFR 240.17Ad–22(d)(11).

[17] Release No. 34–68080 (Oct. 22, 2012), 77 FR 66219 (Nov. 2, 2012).

[18] 17 CFR 240.17Ad–22(d)(11).

[19] *See* 12 U.S.C. 5465(e)(1)(G).

[20] 12 U.S.C. 5465(e)(1)(I).

[21] *Id.*

[22] 12. U.S.C. 5465(e)(1)(E).

that DTC operates without a credit facility.

For the reasons stated above, the Commission does not object to the Advance Notice.

VI. Conclusion

It is therefore noticed, pursuant to Section 806(e)(1)(I) of the Clearing Supervision Act,[23] that the Commission *does not object* to the change described in advance notice SR–DTC–2014–805 and that DTC be and hereby is *authorized* to implement the change as of the date of this notice.

By the Commission.

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2014–11036 Filed 5–13–14; 8:45 am]

BILLING CODE 8011–01–P

[23] 12 U.S.C. 5465(e)(1)(I).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–72127; File No. SR–BYX–2014–008]

Self-Regulatory Organizations; BATS Y-Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Related to Fees for Use of BATS Y-Exchange, Inc.

May 8, 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 29, 2014, BATS Y-Exchange, Inc. (the ''Exchange'' or ''BYX'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II and III below, which Items have been prepared by the Exchange. The Exchange has designated the proposed rule change as one establishing or changing a member due, fee, or other charge imposed by the Exchange under Section 19(b)(3)(A)(ii) of the Act[3] and Rule 19b–4(f)(2) thereunder,[4] which renders the proposed rule change effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of the Substance of the Proposed Rule Change

The Exchange filed a proposal to amend the fee schedule applicable to Members[5] and non-members of the Exchange pursuant to BYX Rules 15.1(a) and (c). Changes to the fee schedule pursuant to this proposal are effective upon filing.

The text of the proposed rule change is available at the Exchange's Web site at *http://www.batstrading.com/,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to modify its fee schedule applicable to use of the Exchange effective May 1, 2014, in order to modify pricing related to executions that occur on NASDAQ OMX BX, Inc. (''NASDAQ BX'') through either a BYX + NASDAQ BX Destination Specific Order[6] or through the Exchange's TRIM routing strategy.[7] NASDAQ BX implemented certain pricing changes effective April 8, 2014, including modification from a highest potential rebate[8] of $0.0013 per share when removing liquidity to a highest potential rebate of $0.0015 per share when removing liquidity.[9] To maintain a direct pass through of the applicable economics for TRIM executions at NASDAQ BX (assuming the Exchange is able to achieve the highest potential rebate), the Exchange proposes to rebate $0.0015 per share for an order routed through its TRIM routing strategy and executed on NASDAQ BX, rather than the rebate of $0.0013 per share that it currently offers for such orders.

Similarly, because NASDAQ BX is part of the Exchange's ''One Under/Better'' pricing program for Destination Specific Orders, the Exchange intends to rebate $0.0001 per share more than if a Member executed an order directly on NASDAQ BX. Accordingly, the Exchange proposes to rebate $0.0016 per share for an order routed as a Destination Specific Order to NASDAQ BX and executed on NASDAQ BX, which is $0.0001 per share more than NASDAQ BX rebates directly. The Exchange's ''One Under/Better'' pricing does not apply to securities priced below $1.00. In addition, the Exchange will maintain the pricing currently charged by the Exchange for all other Destination Specific Orders.

Implementation Date

The Exchange proposes to implement these amendments to its fee schedule on May 1, 2014.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder that are applicable to a national securities exchange, and, in particular, with the requirements of Section 6 of the Act.[10] Specifically, the Exchange believes that the proposed rule change is consistent with Section 6(b)(4) of the Act,[11] in that it provides for the equitable allocation of reasonable dues, fees and other charges among members and other persons using any facility or system which the Exchange operates or controls. The Exchange notes that it operates in a highly competitive market in which market participants can readily direct order flow to competing venues if they deem fee levels at a particular venue to be excessive. The Exchange believes that the proposed changes to certain of the Exchange's non-standard routing fees and strategies for orders routed to and executed on NASDAQ BX are equitably allocated,

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A)(ii).

[4] 17 CFR 240.19b–4(f)(2).

[5] A Member is defined as ''any registered broker or dealer that has been admitted to membership in the Exchange.'' *See* Exchange Rule 1.5(n).

[6] A ''Destination Specific Order'' is defined as a ''market or limit order that instructs the System to route the order to a specified away trading center or centers, after exposing the order to the BATS Book. Destination Specific Orders that are not executed in full after routing away are processed by the Exchange as described below in Rule 11.13(a)(2).'' BYX Rule 11.9(c)(12).

[7] The TRIM routing strategy is set forth in BYX Rule 11.13(a)(3)(G).

[8] NASDAQ BX maintains a tiered pricing structure that results in variable rebates and fees depending on the amount of liquidity added or removed. *See* the Nasdaq BX Pricing List *available at http://www.nasdaqtrader.com/Trader.aspx?id=bx_pricing* (last visited April 28, 2014).

[9] *See* Securities Exchange Act Release No. 71956 (April 16, 2014), 79 FR 22565 (April 22, 2014) (SR–BX–2014–018) (Notice of Filing and Immediate Effectiveness).

[10] 15 U.S.C. 78f.

[11] 15 U.S.C. 78f(b)(4).

fair and reasonable, and non-discriminatory in that they are equally applicable to all Members and are designed to mirror or provide an improvement over the rebate applicable to the execution if such routed orders were executed directly by the Member at NASDAQ BX.

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. Because the market for order execution is extremely competitive, Members may readily opt to disfavor the Exchange's routing services if they believe that alternatives offer them better value. For orders routed through the Exchange and executed at NASDAQ BX through the TRIM routing strategy, the proposed fee change is designed to equal the rebate that a Member would have received if such routed orders would have been executed directly by a Member at NASDAQ BX.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange has not solicited, and does not intend to solicit, comments on this proposed rule change. The Exchange has not received any written comments from members or other interested parties.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act[12] and paragraph (f) of Rule 19b–4 thereunder.[13] At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–BYX–2014–008 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–BYX–2014–008. 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 at 100 F Street NE., Washington, DC 20549–1090 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 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–BYX–2014–008, and should be submitted on or before June 4, 2014.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[14]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2014–11031 Filed 5–13–14; 8:45 am]

BILLING CODE 8011–01–P

[12] 15 U.S.C. 78s(b)(3)(A).

[13] 17 CFR 240.19b–4(f).

[14] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–72129; File No. SR–MSRB–2014–01]

Self-Regulatory Organizations; Municipal Securities Rulemaking Board; Notice of Filing of Amendment No. 1 and Order Granting Accelerated Approval of a Proposed Rule Change, as Modified by Amendment No. 1, Consisting of Proposed Revisions to MSRB Rule G–30, on Prices and Commissions and the Deletion of Rule G–18, on Execution of Transactions

May 8, 2014.

I. Introduction

On January 29, 2014, the Municipal Securities Rulemaking Board (the ''MSRB'' or ''Board'') filed with the Securities and Exchange Commission (the ''SEC'' or ''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 consisting of proposed revisions to MSRB Rule G–30, on prices and commissions and the deletion of Rule G–18, on execution of transactions. The proposed rule change was published for comment in the **Federal Register** on February 19, 2014.[3]

The Commission received two comment letters on the proposal.[4] On April 29, 2014, the MSRB submitted a response to these comments[5] and filed Amendment No. 1 to the proposed rule change.[6] The Commission is publishing

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Securities Exchange Act Release No. 71536 (February 12, 2014), 79 FR 9558.

[4] *See* Letter to Elizabeth M. Murphy, Secretary, Commission, from David L. Cohen, Managing Director and Associate General Counsel, Securities Industry and Financial Markets Association (''SIFMA''), dated March 12, 2014 (the ''SIFMA Letter''); and Letter from Seth M. Yarmis, dated March 14, 2014 (the ''Individual Investor Letter'').

[5] *See* Letter to Secretary, Commission, from Michael L. Post, Deputy General Counsel, MSRB, dated April 29, 2014 (the ''MSRB Response Letter''), available at *http://www.sec.gov/comments/sr-msrb-2014-01/msrb201401-4.pdf.*

[6] *See* Letter to Secretary, Commission, from Michael L. Post, Deputy General Counsel, MSRB, dated April 29, 2014 (the ''MSRB Amendment Letter''), available at *http://www.sec.gov/comments/sr-msrb-2014-01/msrb201401-3.pdf.* In Amendment No. 1, the MSRB partially amended the text of the original proposed rule change to (i) revise Supplemental Material .05 of Rule G–30 to reference MSRB Rule G–48 (Transactions with Sophisticated Municipal Market Professionals) rather than MSRB Rule G–17; (ii) amend the text of MSRB Rule G–48(b) to reference MSRB Rule G–30 rather than Rule G–18; (iii) preserve rule number G–18 for possible future rulemaking; and (iv) insert a clarifying clause into Supplementary Material .02(b) of Rule G–30. The MSRB also requested that the proposed rule change be made effective 60 days after Commission approval.

this notice to solicit comments on Amendment No. 1 to the proposed rule change from interested persons and is approving the proposed rule change, as modified by Amendment No. 1, on an accelerated basis.

II. Description of the Proposed Rule Change

The MSRB states that the purpose of the proposed rule change is to codify the substance of existing fair-pricing obligations of brokers, dealers, and municipal securities dealers (collectively, ''dealers'') and further streamline the MSRB's Rule Book.[7] Fair-pricing provisions are currently organized in two separate rules, Rules G–18 and G–30, with interpretive guidance under Rule G–30 as well as under a third rule, Rule G–17, on fair dealing.[8]

According to the MSRB, the proposed rule change will achieve this purpose by consolidating Rules G–18 and G–30 into a single fair-pricing rule, and consolidating the existing interpretive guidance under Rules G–17 and G–30[9] and codifying that guidance in the same rule.[10] The MSRB states that it will archive the past interpretive guidance, current as of January 1, 2013, on its Web site.[11] The MSRB states that, to the extent that the past interpretive guidance does not conflict with any MSRB rules or interpretations thereof, it remains potentially applicable, depending on the facts and circumstances of a particular case.[12]

The MSRB believes the proposed rule change will significantly enhance regulated entities' ability to understand and comply with their fair-pricing obligations by organizing them together in a single location.[13] Further, the MSRB believes the relevant information from the existing interpretive guidance will be succinctly stated in the new rule.[14] The MSRB believes this could be particularly beneficial for new municipal market entrants, which would be in a position to focus, with respect to fair-pricing obligations, on the new, consolidated rule.[15] The MSRB states that the proposed rule change will ease burdens on dealers and reduce costs by clarifying dealer obligations.[16]

1. Proposed Changes to Rule G–30

Following is a summary of the provisions and the supplementary material comprising the proposed changes to Rule G–30:

Rule Language

Proposed revised Rule G–30(a) applies to principal transactions and states that a dealer can only purchase municipal securities for its own account from a customer, or sell municipal securities for its own account to a customer, at an aggregate price (including any mark-up or mark-down) that is fair and reasonable.[17]

Proposed revised Rule G–30(b) applies to agency transactions. Subsection (i) states that when a dealer executes a transaction in municipal securities for or on behalf of a customer, the dealer must make a reasonable effort to obtain a price for the customer that is fair and reasonable in relation to prevailing market conditions.[18] Subsection (ii) states a dealer cannot purchase or sell municipal securities for a customer for a commission or service charge in excess of a fair and reasonable amount.[19]

Supplementary Material

Supplementary Material .01 specifies five general principles concerning the fair-pricing requirements: (a) That a dealer, whether effecting a trade on an agency or principal basis, must exercise diligence in establishing the market value of the security and the reasonableness of the compensation received on the transaction; (b) that a dealer effecting an agency transaction must exercise the same level of care as it would if acting for its own account; (c) that a ''fair and reasonable'' price bears a reasonable relationship to the prevailing market price of the security; (d) that dealer compensation on a principal transaction is considered to be a mark-up or mark-down that is computed from the inter-dealer market price prevailing at the time of the customer transaction;[20] and (e) that reasonable compensation differs from fair pricing.[21]

Supplementary Material .02 provides a non-exhaustive list of relevant factors in determining the fairness and reasonableness of prices.[22]

Supplementary Material .03 provides a non-exhaustive list of relevant factors in determining the fairness and reasonableness of commissions or service charges.[23] According to the MSRB, the proposed rule change makes it easier for market participants to find these relevant factors.

Supplementary Material .04 discusses the application of fair-pricing requirements to some of the situations that may create large intra-day price differentials.[24]

Supplementary Material .05 discusses the general duty under proposed revised Rule G–30(b)(i) of dealers operating alternative trading systems to act to investigate any alleged pricing

[7] *See supra* note 3.

[8] *Id.*

[9] The formal fair-pricing guidance under current Rule G–30 that is to be codified was not filed with the Commission, and is as follows: *Review of Dealer Pricing Responsibilities* (Jan. 26, 2004) (''2004 Notice''); *Interpretive Notice on Commissions and Other Charges, Advertisements and Official Statements Relating to Municipal Fund Securities* (Dec. 19, 2001); *Republication of September 1980, Report on Pricing* (Oct. 3, 1984); *Interpretive Notice on Pricing of Callable Securities* (Aug. 10, 1979); *Interpretive Letter—Rules G–21, G–30 and G–32 (Dec. 11, 2001);* and *Factors in Pricing* (Nov. 29, 1993). The formal fair-pricing guidance under Rule G–17 that is to be codified that was not filed with the Commission is as follows: *Guidance on Disclosure and Other Sales Practice Obligations to Individual and Other Retail Investors in Municipal Securities* (Jul. 14, 2009); *MSRB Reminds Firms of their Sales Practice and Due Diligence Obligations When Selling Municipal Securities in the Secondary Market* (Sept. 20, 2010); and *Bond Insurance Ratings—Application of MSRB Rules* (Jan. 22, 2008). The formal guidance under Rule G–17 that is to be codified that was filed with the Commission is contained in *Restated Interpretive Notice Regarding the Application of MSRB Rules to Transactions with Sophisticated Municipal Market Professionals* (Jul. 9, 2012).

[10] *See supra* note 3.

[11] *Id.*

[12] *Id.*

[13] *Id.*

[14] *Id.*

[15] *Id.*

[16] *Id.*

[17] Proposed revised Rule G–30(a) is substantially similar to the first clause of existing Rule G–30(a).

[18] Subsection (i) of proposed Rule G–30(b) is derived from current Rule G–18.

[19] Subsection (ii) of proposed Rule G–30(b) is derived from the first clause of existing Rule G–30(b).

[20] This language was added to address comments the MSRB received in response to its August 6, 2013, request for comment on a draft of the proposed rule change.

[21] Supplementary Material .01 is derived from the 2004 Notice.

[22] Supplementary Material .02(a) is derived from the 2004 Notice. Supplementary Material.02(b) is derived from Rule G–30(a), the 2004 Notice, the *MSRB Interpretive Letter —Rule s G–21, G–30 and G–32* (Dec. 11, 2001), the *MSRB Interpretive Letter—Factors in Pricing* (Nov. 29, 1993), the *Republication of September 1980, Report on Pricing* (Oct. 3, 1984); and the *Interpretive Notice on Pricing of Callable Securities* (Aug. 10, 1979).

[23] Supplementary Material .03 is derived from existing Rule G–30(b), the 2004 Notice and *Republication of September 1980, Report on Pricing* (Oct. 3, 1984). Supplementary Material .03(a)(viii) refers to Rule 2830 of the National Association of Securities Dealers, Inc. (''NASD''), which provides a sales charge schedule for registered investment company securities, and remains in effect in the Financial Industry Regulatory Authority, Inc. rulebook. The MSRB has stated it recognizes that, due to the limitations of Section 15B(b)(2)(C) of the Act, it could not, by rule or interpretation, ''impose any schedule or fix rates of commissions, allowances, discounts, or other fees to be charged'' by dealers for the sale of municipal fund securities. The MSRB believes, however, that the charges permitted by FINRA under NASD Rule 2830 may, depending upon the totality of the facts and circumstances, be a significant factor in determining whether a dealer selling municipal fund securities is charging a commission or other fee that is fair and reasonable.

[24] Supplementary Material .04 is derived from the 2004 Notice.

irregularities on their systems brought to their attention, which duty applies equally to transactions effected for SMMPs.[25]

III. Summary of Comments Received and the MSRB's Response

As noted previously, the Commission received two comment letters on the proposed rule change and a response letter from the MSRB.[26] The comment letters each raised specific concerns discussed in more detail below.

1. SIFMA Letter

As noted above, the Commission received a comment letter from SIFMA on the proposed rule change. SIFMA is generally supportive of the proposed rule change.[27] At the same time, SIFMA expressed concerns about the timing of the proposed rule change and suggested that the MSRB modify the proposed rule change in some respects.[28]

On February 19, 2014, after the filing of the proposed rule change, the MSRB published a request for comment on a draft best-execution rule.[29] SIFMA stated that the proposed rule change and the draft best-execution rule should be viewed together because of the interplay and practical effects between best execution and fair pricing.[30] SIFMA requested that the SEC not move forward at this time to allow the MSRB to submit, and allow market participants to comment on, a single filing on dealer execution and fair pricing obligations.[31]

The MSRB responded that any potential interplay between a best-execution rule and fair-pricing rules would be unchanged by this non-substantive codification of the MSRB's existing fair-pricing requirements.[32] The MSRB noted that any concerns about interplay can and should be raised and addressed in the context of any future rulemaking process for the proposed best-execution rule, which would involve substantive changes to dealers' existing obligations.[33] In addition, the MSRB stated that delaying the review of the proposed rule change would not provide the SEC with any additional information that would aid its review or serve any other beneficial purpose that cannot be adequately served in any future rulemaking process for a best-execution rule.[34] The MSRB noted that a delay, however, would prolong the MSRB Rule Book consolidation initiative designed to ease the burden on market participants who are seeking to understand, comply with, and enforce fair-pricing requirements.[35]

SIFMA stated that all factors discussed in existing MSRB interpretive guidance which may be relevant in making pricing determinations should be listed in Supplementary Material .02.[36] Specifically, SIFMA requested inclusion of the following factors: (i) Improved market conditions; and (ii) trading history, which could encompass such matters as the degree of market activity for the securities and the existence or non-existence of market-makers in the securities.[37] SIFMA noted that its members' experience with enforcement regulators is that a factor listed in the rule is given more weight than an equally relevant, or arguably more relevant, factor that is not contained in the rule.[38] SIFMA also requested that the first sentence of Supplementary Material .02(b) be amended as follows: ''Other factors include (*but are not limited to*)'' (SIFMA's proposed additional language underlined).[39]

The MSRB responded that the substance of the interpretive guidance is codified in the proposed amendments to Rule G–30.[40] The MSRB noted that Supplementary Material .02(a) encompasses the concept of ''improved market conditions.''[41] Specifically, Supplementary Material .02(a) refers to the ''yield on other securities of comparable quality, maturity, coupon rate, and block size *then available in the market''* (emphasis added in MSRB Response Letter).[42] As a more general matter, the MSRB has agreed with SIFMA's suggestion to amend the first sentence of Supplementary Material .02(b) by inserting a clarifying clause (*i.e.,* ''but are not limited to''), and has filed Amendment No. 1 concurrently with the submission of its response.[43] The MSRB stated that the existing rules and interpretive guidance do not purport to exhaustively identify all relevant factors.[44] According to the MSRB, the list of factors in Supplementary Material .02(b) is (and was intended to be) non-exhaustive.[45] The MSRB further stated that SIFMA's suggested clarification is consistent with the substance of the existing rules and guidance.[46] Additionally, as the MSRB stated in the proposed rule change, the interpretive guidance that would be deleted from the MSRB Rule Book will be archived on the MSRB's Web site and, to the extent that past interpretive guidance does not conflict with any MSRB rules or interpretations thereof, it remains potentially applicable, depending on the facts and circumstances of a particular case.[47] The MSRB concluded that, on these grounds, the potential relevance of the ''improved market conditions'' and ''trading history'' factors, if the proposed rule change as amended were approved, would remain unchanged.[48]

SIFMA stated that improvements should be considered whenever rules are being reviewed, amended, or created.[49] SIFMA highlighted the extensive process required in rulemaking and noted that because rules are amended so infrequently, this is a lost opportunity especially in light of the MSRB's recent practice of including, within a rule itself, supplemental material that was historically issued in the form of interpretive guidance.[50]

The MSRB stated that not all rulemaking activity requires consideration of substantive changes and the MSRB has discretion to define the scope of its individual rulemaking initiatives.[51] The MSRB determined that the objective of this initiative was to codify, not substantively change, the existing fair-pricing requirements.[52] The MSRB noted that the limited purpose of the proposed rule change is to improve the ability to locate, understand and comply with fair-pricing standards.[53] The MSRB further stated that the request for comment, accordingly, apprised commenters of the limited

[25] Supplementary Material .05 is derived from interpretive guidance that was previously filed with the Commission and recently approved by the Commission to be generally codified in Rule G–48 based on its relevance to SMMPs. *See Restated Interpretive Notice Regarding the Application of MSRB Rules to Transactions with Sophisticated Municipal Market Professionals* (Jul. 9, 2012) and Securities Exchange Act Release No. 71655 (Mar. 7, 2014), 79 FR 14321 (Mar. 10, 2014). New MSRB Rule G–48 will become effective July 5, 2014.

[26] *See supra* notes 4 and 5.

[27] *See* SIFMA Letter at 1.

[28] *See* SIFMA Letter at 1, 3.

[29] *See Request for Comment on Draft Best-Execution Rule, Including Exception for Transactions with Sophisticated Municipal Market Professionals,* MSRB Notice 2014–02 (Feb. 19, 2014).

[30] *See* SIFMA Letter at 1, 3.

[31] *Id.*

[32] *See* MSRB Response Letter at 4.

[33] *Id.*

[34] *Id.*

[35] *Id.*

[36] *See* SIFMA Letter at 2.

[37] *See* SIFMA Letter at 2–3.

[38] *See* SIFMA Letter at 2.

[39] *See* SIFMA Letter at 3.

[40] *See* MSRB Response Letter at 2.

[41] *Id.*

[42] *Id.*

[43] *See supra* note 6.

[44] *See* MSRB Response Letter at 2.

[45] *Id.*

[46] *Id.*

[47] *Id.*

[48] *Id.*

[49] *See* SIFMA Letter at 3.

[50] *Id.*

[51] *See* MSRB Response Letter at 3.

[52] *Id.*

[53] *Id.*

scope of the initiative.[54] The MSRB also stated that, in another recent rulemaking initiative within the MSRB's same overall plan to streamline its Rule Book, the SEC approved the proposed rule change, which also had a limited scope.[55] In such proposed rule change, the SEC believed that the MSRB, through its response, addressed commenters' concerns, other than those the MSRB determined were outside the scope of the proposal.[56] The MSRB further stated that it values all comments that may be relevant to its statutory charge to improve its rules and the municipal securities market, and will take all of SIFMA's additional, substantive suggestions under advisement for future rulemaking initiatives.[57]

2. Individual Investor Letter

As noted above, the Commission received a comment letter from an individual investor on the proposed rule change. The individual investor expressed concerns about the pricing of municipal bonds by dealers and the mark-ups observed in municipal securities transactions.[58] The individual investor described the mark-ups as inappropriate and abusive.[59] The individual investor inquired about the possibility of establishing a centralized electronic trading platform for municipal securities.[60]

The MSRB stated that it appreciates input from individual investors and the commenter's letter touches on areas that the MSRB is monitoring.[61] The MSRB noted that these comments, however, are outside the scope of the current rulemaking initiative to streamline the Rule Book by non-substantively codifying existing fair-pricing standards.[62] The MSRB stated that it will take these comments under advisement for future rulemaking initiatives.[63]

IV. Discussion and Commission Findings

The Commission has carefully considered the proposed rule change, as modified by Amendment No. 1, as well as the two comment letters received and the MSRB's response. The Commission finds that the proposed rule change, as amended, is consistent with the requirements of the Act and the rules and regulations thereunder applicable to the MSRB. In particular, the proposed rule change is consistent with Section 15B(b)(2)(C) of the Act, which provides that the MSRB's rules shall be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in municipal securities and municipal financial products, to remove impediments to and perfect the mechanism of a free and open market in municipal securities and municipal financial products, and, in general, to protect investors, municipal entities, obligated persons, and the public interest.[64]

The Commission believes that the proposed rule change is consistent with Section 15B(b)(2)(C) of the Act because it protects investors by preserving the substance of the current requirement that dealers must exercise diligence in establishing the market value of a security and the reasonableness of the compensation received on a transaction. The Commission also believes the proposed rule change will remove impediments to and perfect the mechanism of a free and open market by easing burdens on dealers and clarifying existing dealer obligations.

In approving the proposed rule change, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation.[65] The Commission believes that the proposed rule change includes accommodations that help promote efficiency and legal certainty. Specifically, the MSRB's retention of its interpretative guidance and the continuing applicability of such guidance to the extent it does not conflict with any MSRB rules or interpretations provide continuity to dealers. Furthermore, the Commission does not believe that the proposed rule change would impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. The proposed rule change makes no substantive change to existing dealer obligations and, therefore, does not add any burden on competition. Moreover, the Commission believes that the proposed rule change will, by contrast, ease burdens on dealers by clarifying existing dealer obligations.

As noted above, the Commission received two comment letters on the filing. While commenters suggested means to improve the filing or opposed certain aspects of the proposal, the Commission notes that no commenters argued that the proposed rule change was inconsistent with the applicable provisions of the Act.

For the reasons noted above, including those discussed in the MSRB Response Letter and MSRB Amendment Letter, the Commission believes that the proposed rule change, as amended by Amendment No. 1, is consistent with the Act.

V. Solicitation of Comments on Amendment No. 1

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether Amendment No. 1 to the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form *http://www.sec.gov/rules/sro.shtml;* or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–MSRB–2014–01 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549.

All submissions should refer to File Number SR–MSRB–2014–01. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549 on official business days between the hours of

[54] *Id.*

[55] *Id.*

[56] *See* Exchange Act Release No. 71665 (Mar. 7, 2014), 79 FR 14321 (Mar. 13, 2014).

[57] *See* MSRB Response Letter at 4.

[58] *See* Individual Investor Letter.

[59] *Id.*

[60] *Id.*

[61] *See* MSRB Response Letter at 4.

[62] *Id.*

[63] *Id.*

[64] 15 U.S.C. 78o–4(b)(2)(C).

[65] 15 U.S.C. 78c(f).

10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the MSRB. All comments received will be posted without change; 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–MSRB–2014–01 and should be submitted on or before June 4, 2014.

VI. Accelerated Approval of Proposed Rule Change as Modified by Amendment No. 1

The Commission finds good cause for approving the proposed rule change, as amended by Amendment No. 1, prior to the 30th day after the date of publication of notice in the Federal Register. As discussed above, Amendment No. 1 amends the proposed rule change by: (i) Revising Supplemental Material .05 of Rule G–30 to reference MSRB Rule G–48 (Transactions with Sophisticated Municipal Market Professionals) rather than MSRB Rule G–17; (ii) amending the text of MSRB Rule G–48(b) to reference MSRB Rule G–30 rather than Rule G–18; (iii) preserving rule number G–18 for possible future rulemaking; and (iv) inserting a clarifying clause into Supplementary Material .02(b) of Rule G–30.[66] The MSRB also requested that the proposed rule change be made effective 60 days after Commission approval.[67]

The MSRB has proposed the revisions included in items (i) and (ii) because, since the filing of the proposed rule change, other amendments to MSRB rules are being implemented that will make these existing references in Rules G–30 and G–48 no longer accurate.[68] The MSRB has proposed item (iii) to preserve rule number G–18 for possible future rulemaking activities after its text is deleted by the proposed rule change.[69] The MSRB has proposed item (iv) to clarify that the list of fair-pricing factors in Supplementary Material .02(b) of Rule G–30 is a non-exhaustive list of factors.[70] Lastly, the MSRB requested that the proposed rule change be made effective 60 days after Commission approval because the original proposed rule change did not propose a specific effective date.

The Commission believes that Amendment No. 1 does not alter the substance of the original proposed rule change and clarifies the original proposed rule change to more accurately reflect existing MSRB rules and interpretive guidance. Accordingly, the Commission finds good cause for approving the proposed rule change, as modified by Amendment No. 1, on an accelerated basis, pursuant to Section 19(b)(2) of the Act.

VII. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[71] that the proposed rule change (SR–MSRB–2014–01), as modified by Amendment No. 1, be, and hereby is, approved on an accelerated basis.

For the Commission, pursuant to delegated authority.[72]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2014–11033 Filed 5–13–14; 8:45 am]

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[66] *See* MSRB Amendment Letter.

[67] *Id.*

[68] *Id.*

[69] *Id.*

[70] *Id.*

[71] 15 U.S.C. 78s(b)(2).

[72] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–72128; File No. SR–BATS–2014–017]

Self-Regulatory Organizations; BATS Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Related to Fees for Use of BATS Exchange, Inc.

May 8, 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, BATS Exchange, Inc. (the ''Exchange'' or ''BATS'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II and III below, which Items have been prepared by the Exchange. The Exchange has designated the proposed rule change as one establishing or changing a member due, fee, or other charge imposed by the Exchange under Section 19(b)(3)(A)(ii) of the Act[3] and Rule 19b–4(f)(2) thereunder,[4] which renders the proposed rule change effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of the Substance of the Proposed Rule Change

Exchange filed a proposal to amend the fee schedule applicable to Members[5] and non-members of the Exchange pursuant to BATS Rules 15.1(a) and (c). Changes to the fee schedule pursuant to this proposal are effective upon filing.

The text of the proposed rule change is available at the Exchange's Web site at *http://www.batstrading.com*, at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to modify its fee schedule applicable to use of the Exchange in order to: (i) Introduce ''Step-Up Tiers'' and a corresponding definition of ''Step-Up Add TCV'' on the Exchange's equities trading platform (''BATS Equities''); (ii) introduce a ''Cross-Asset Step-Up Tier'' and a corresponding definition of ''Options Step-Up Add TCV'' for the purposes of BATS Equities pricing; (iii) introduce a new tier for Customer[6] orders that add liquidity to the Exchange's options platform (''BATS Options'') in options classes subject to the penny pilot program as described below (''Penny Pilot Securities'')[7] and add a

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A)(ii).

[4] 17 CFR 240.19b–4(f)(2).

[5] A Member is defined as ''any registered broker or dealer that has been admitted to membership in the Exchange.'' *See* Exchange Rule 1.5(n).

[6] As defined on the Exchange's fee schedule, a ''Customer'' order is any transaction identified by a Member for clearing in the Customer range at the Options Clearing Corporation (''OCC''), except for those designated as ''Professional.''

[7] The Exchange currently charges different fees and provides different rebates depending on whether an options class is an options class that qualifies as a Penny Pilot Security pursuant to Exchange Rule 21.5, Interpretation and Policy .01 or is a non-penny options class.

corresponding definition of ''ADAV'' for purposes of BATS Options pricing; and (iv) make a change to clarify that Enhanced Rebates will continue to only apply to Members that qualify for Volume Tier 2.

Background

Currently, with respect to BATS Equities, the Exchange determines the liquidity adding rebate that it will provide to Members using the Exchange's tiered pricing structure, which is based on the Member meeting certain volume tiers based on their ADAV [8] as a percentage of TCV [9] or ADV [10] as a percentage of TCV. Under such pricing structure, a Member will receive an adding rebate of anywhere between $0.0020 and $0.0032 per share executed, depending on the volume tier for which such Member qualifies.

The Exchange proposes to add two new types of tiers in addition to the volume tiers described above: Step-Up Tiers and a Cross-Asset Step-Up tier. The existing volume tiers will remain the same and both the Step-Up Tiers and Cross-Asset Step Up Tier will provide Members with additional ways to qualify for enhanced rebates. As proposed, a Member will receive the higher of the volume rebates, step-up rebates, or cross-asset step-up rebates for which they qualify.

Step-Up Tier 1 and Step-Up Tier 2

The Exchange proposes to add two tiers to its fee schedule: Step-Up Tier 1 and Step-Up Tier 2, both of which are similar to step-up tiers currently employed by NYSE Arca, Inc. (''Arca'').[11] The Exchange also proposes to add a corresponding definition of ''Step-Up Add TCV.'' Step-Up Tier 1 and Step-Up Tier 2 are designed to incentivize Members to increase their participation on the Exchange in terms of their ADAV compared to their January 2014 ADAV.

For purposes of BATS Equities pricing, the Exchange also proposes to define the term, ''Step-Up Add TCV'' within the definition of ADAV. As described more fully below, Step-Up Add TCV would be defined as ''a percentage of TCV in January 2014 subtracted from current ADAV as a percentage of TCV.'' Proposed Step-Up Tier 1 would provide a rebate of $0.0029 per share where the Member's Step-Up Add TCV is equal to or greater than 0.10% and Step-Up Tier 2 would provide a rebate of $0.0030 where the Member's Step-Up Add TCV is equal to or greater than 0.15%. A Member's Step-Up Add TCV is calculated as the increase in the Member's current ADAV as a percentage of TCV (''Current ADAV'') over the Member's ADAV as a percentage of TCV from January 2014 (''Baseline ADAV''). Where a Member's Current ADAV is at least 0.10% (0.15%) greater than its Baseline ADAV, the Member will qualify for Step-Up Tier 1 (Step-Up Tier 2). By way of example, where a Member's Baseline ADAV is 0.09%, the Member would qualify for Step-Up Tier 1 if the Member's Current ADAV is at least 0.19% and Step-Up Tier 2 if the Member's Current ADAV is at least 0.24%.

Cross-Asset Step-Up Tier

The Exchange also proposes to add a single Cross-Asset Step-Up Tier, which is designed to incentivize Members to both increase their participation on the Exchange in terms of their ADAV and their ADAV on BATS Options (''Options ADAV'') compared to their January 2014 ADAV and Options ADAV. The Cross-Asset Step-Up Tier is also similar to a cross asset tier employed by Arca.[12]

The Exchange also proposes to add corresponding definitions of ''ADAV'' for BATS Options pricing and ''Options Step-Up Add TCV'' for BATS Equities pricing. First, for purposes of BATS Options pricing, the Exchange proposes to define ''ADAV'' within in the definition of ADV for as the ''average daily added volume calculated as the number of contracts added.'' The Exchange also proposes to clarify that ADAV is calculated on a monthly basis and that neither routed shares nor shares added on any day that the Exchange experiences an Exchange System Disruption and the Russell Reconstitution Day are included in ADAV calculation. The Exchange notes that its proposed definition of ADAV for BATS Options pricing mirrors the definition of ADAV under BATS Equities pricing. Second, for purposes of BATS Equities pricing, the Exchange proposes to define ''Options Step-Up Add TCV'' within the definition of ADV and ADAV as ''ADAV as a percentage of TCV in January 2014 subtracted from current ADAV as a percentage of TCV, using the definitions of ADAV and TCV as provided under Options Pricing.''

The proposed Cross-Asset Step-Up Tier would provide a rebate of $0.0032 per share where the Member's Step-Up Add TCV is equal to or greater than 0.30% and the Member's Options Step-Up Add TCV is greater than 0.40%. A Member's Options Step-Up Add TCV is calculated as the increase in the Member's current Options ADAV as a percentage of options TCV (''Options TCV'') [13] (''Current Options ADAV'') over the Member's Options ADAV as a percentage of Options TCV from January 2014 (''Baseline Options ADAV''). By way of example, where a Member's Baseline ADAV is 0.09% and the Member's Baseline Options ADAV is 0.04%, the Member would need to achieve a Current ADAV of 0.39% and a Current Options ADAV of 0.44% in order to qualify for the Cross-Asset Step-Up Tier and its $0.0032 per share rebate.

Additional Cross-Asset Tier

The Exchange also proposes to add an additional cross-asset tier for Customer orders that add liquidity on BATS Options in Penny Pilot Securities, which is also similar to a cross-asset tier employed by Arca.[14] The proposed cross-asset tier would provide an additional way for Members to receive a $0.50 per contract rebate, which is the highest rebate available in Customer orders in Penny Pilot Securities. Currently, in order to receive a $0.50 rebate for Customer orders that add liquidity in Penny Pilot Securities, the

[8] As provided in the fee schedule, for purposes of BATS Equities pricing, ''ADAV'' means average daily added volume calculated as the number of shares added per day on a monthly basis; neither routed shares nor shares added on any day that the Exchange's system experiences a disruption that lasts for more than 60 minutes during regular trading hours (''Exchange System Disruption'') and on the last Friday in June (the ''Russell Reconstitution Day'') are included in ADAV calculation.

[9] As provided in the fee schedule, for purposes of BATS Equities pricing, ''TCV'' means total consolidated volume calculated as the volume reported by all exchanges and trade reporting facilities to a consolidated transaction reporting plan for the month for which the fees apply, excluding volume on any day that the Exchange experiences an Exchange System Disruption or the Russell Reconstitution Day.

[10] As provided in the fee schedule, for purposes of BATS Equities pricing, ''ADV'' means average daily volume calculated as the number of shares added or removed, combined, per day on a monthly basis; neither routed shares nor shares added or removed on any day that the Exchange experiences an Exchange System Disruption and the Russell Reconstitution Day are included in ADV calculation.

[11] *See* Exchange Act Release No. 64820 (July 12 [sic], 2011), 76 FR 40974 (July 6 [sic], 2011) (SR–NYSEArca–2011–41).

[12] *See* Exchange Act Release No. 67424 (July 18 [sic], 2012), 77 FR 42347 (July 12 [sic], 2012) (SR–NYSEArca–2012–70).

[13] As provided in the fee schedule, for purposes of BATS Options pricing, ''TCV'' means total consolidated volume calculated as the volume reported by all exchanges to the consolidated transaction reporting plan for the month for which the fees apply, excluding volume on any day that the Exchange experiences an Exchange System Disruption.

[14] *See* Exchange Act Release No. 67020 (May 24 [sic], 2012), 77 FR 31050 (May 18 [sic], 2012) (SR–NYSEArca–2012–41).

Member must have an ADV [15] equal to or greater than 1.00% of average TCV. The Exchange now proposes to create an additional cross-asset tier, which is designed to incentivize Members to achieve certain levels of participation in both BATS Options and BATS Equities. As proposed, the cross-asset tier would provide a rebate of $0.0050 per contract for Customer orders that add liquidity on BATS Options in Penny Pilot Securities where such Member has an ADV equal to or greater than 0.90% of average TCV on BATS Options and has on BATS Equities and ADAV equal to or greater than 0.25% of average TCV, as defined on the fee schedule under Equities Pricing. Such a tier would provide Members with an additional means to reaching the $0.0050 per contract rebate for Customer orders in Penny Pilot Securities.

Clarifying Change

Finally, the Exchange proposes to make one non-substantive change to the fee schedule by adding the word ''Volume'' in front of ''Tier 2'' under Additional Rebates. The Exchange believes this change further clarifies that the Additional Rebates will continue to apply only to Members that qualify for Volume Tier 2.

Implementation Date

The Exchange proposes to implement these amendments to its fee schedule on May 1, 2014.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder that are applicable to a national securities exchange, and, in particular, with the requirements of Section 6 of the Act.[16] Specifically, the Exchange believes that the proposed rule change is consistent with Section 6(b)(4) of the Act,[17] in that it provides for the equitable allocation of reasonable dues, fees and other charges among members and other persons using any facility or system which the Exchange operates or controls. The Exchange notes that it operates in a highly competitive market in which market participants can readily direct order flow to competing venues if they deem fee levels at a particular venue to be excessive.

Step-Up and Cross-Asset Tiers

The Exchange believes that providing additional financial incentives to Members that demonstrate an increase over their Baseline ADAV through the Step-Up Tiers and the cross-asset step up tier offers an additional, flexible way to achieve financial incentives from the Exchange and encourages Members to add increasing amounts of liquidity to both BATS Equities and BATS Options as compared to January 2014. Similarly, the Exchange cross-asset tier provides an additional incentive for Members to reach certain thresholds on both BATS Equities and BATS Options, which will also encourage members to add liquidity on BATS Equities and BATS Options. The increased liquidity from each of these proposals also benefits all investors by deepening the BATS Equities and BATS Options liquidity pools, offering additional flexibility for all investors to enjoy cost savings, supporting the quality of price discovery, promoting market transparency and improving investor protection. Such pricing programs thereby reward a Member's growth pattern and such increased volume increases potential revenue to the Exchange, and will allow the Exchange to continue to provide and potentially expand the incentive programs operated by the Exchange. These pricing programs are also fair and equitable in that they are available to all Members and will result in Members receiving either the same or an increased rebate than they would currently receive. The Exchange also notes that the proposed step-up and cross-asset tiers are similar to pricing tiers currently available on Arca.[18]

Volume-based rebates and fees such as the ones maintained on both BATS Equities and BATS Options as well as the Step-Up Tiers, the cross-asset step-up tier, and the cross-asset tier proposed herein, have been widely adopted in the cash equities markets and are equitable because they are open to all Members on an equal basis and provide additional benefits or discounts that are reasonably related to the value to an exchange's market quality associated with higher levels of market activity, such as higher levels of liquidity provision and/or growth patterns, and introduction of higher volumes of orders into the price and volume discovery processes. Further, the Exchange believes that the cross-asset step-up tier and cross-asset tier will provide such enhancements in market quality on both BATS Equities and BATS Options by incentivizing increased participation on both platforms. The Exchange notes that it is not proposing to modify any existing tiers, but rather to add new tiers that will provide Members with additional ways to receive higher rebates, meaning that under the proposal, a Member will receive either the same or a higher rebate than they would receive today. Accordingly, the Exchange believes that the proposed additions to the Exchange's tiered pricing structure and incentives are not unfairly discriminatory because they will apply uniformly to all Members and are consistent with the overall goals of enhancing market quality on both BATS Equities and BATS Options.

Clarifying Change

Finally, the Exchange believes that the clarifying change that adds the word ''Volume'' in front of ''Tier 2'' under Additional Rebates is reasonable as it will help to avoid confusion for those that review the Exchange's fee schedule. The Exchange notes that the proposed change is not designed to amend any fee or rebate, nor alter the manner in which it assesses fees or calculates rebates. The Exchange believes that the proposed amendment is intended to make the fee schedule clearer and less confusing for investors and eliminate potential investor confusion, thereby removing impediments to and perfecting the mechanism of a free and open market and a national market system, and, in general, protecting investors and the public interest.

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. With respect to the proposed new tiered rebates, the Exchange does not believe that any such changes burden competition, but instead, enhance competition, as they are intended to increase the competitiveness of and draw additional volume to both BATS Equities and BATS Options. The Exchange also believes the proposed step-up and cross-asset tiers would enhance competition because they are similar to pricing tiers currently available on Arca.[19] As stated above, the Exchange notes that it operates in a highly competitive market in which market participants can readily direct order flow to competing venues if the

[15] As provided in the fee schedule, for purposes of BATS Options pricing, ''ADV'' means average daily volume calculated as the number of contracts added or removed, combined, per day on a monthly basis; neither routed shares nor shares added or removed on any day that the Exchange experiences an Exchange System Disruption and the Russell Reconstitution Day are included in ADV calculation.

[16] 15 U.S.C. 78f.

[17] 15 U.S.C. 78f(b)(4).

[18] *See supra* notes 9, 10, and 12.

[19] *See supra* notes 9, 10, and 12.

deem fee structures to be unreasonable or excessive. The proposed changes are generally intended to enhance the rebates for liquidity added to the Exchange, which is intended to draw additional liquidity to the Exchange. In addition, the Exchange believes that the proposed non-substantive change to add the word ''Volume'' in front of ''Tier 2'' under Additional Rebates would not affect intermarket nor intramarket competition because the change does not alter the criteria necessary to achieve the tiers nor the rates offered by the tiers. As such, the proposal is a competitive proposal that is intended to add additional liquidity to the Exchange, which will, in turn, benefit the Exchange and all Exchange participants.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange has not solicited, and does not intend to solicit, comments on this proposed rule change. The Exchange has not received any written comments from members or other interested parties.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act [20] and paragraph (f) of Rule 19b–4 thereunder.[21] At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–BATS–2014–017 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–BATS–2014–017. 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 at 100 F Street NE., Washington, DC 20549–1090 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 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–BATS–2014–017, and should be submitted on or before June 4, 2014.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[22]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2014–11032 Filed 5–13–14; 8:45 am]

BILLING CODE 8011–01–P

[20] 15 U.S.C. 78s(b)(3)(A).

[21] 17 CFR 240.19b–4(f).

[22] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–72124; File No. SR–ICC–2014–06]

Self-Regulatory Organizations; ICE Clear Credit LLC; Notice of Filing of Proposed Rule Change To Provide for the Clearance of Additional Non-Investment Grade Instruments on Standard North American Corporate Single Name Reference Entities

May 8, 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 25, 2014, ICE Clear Credit LLC (''ICC'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared primarily by ICC. 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

ICC proposes expanding its product offering to provide for the clearance of additional non-investment grade instruments on Standard North American Corporate Single Name reference entities. The addition of this product does not require any changes to the ICC Rules.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, ICC included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. ICC has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of these statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

ICC proposes to expand its product offering to provide for the clearance of additional non-investment grade instruments on Standard North American Corporate Single Name

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

reference entities. Non-investment grade refers to those Standard North American Corporate Single Names which reference an entity that has been assigned a debt rating of below ''BBB-'' by Moody's, below ''Baa3'' by S&P, or is not rated. The risk profiles (as related to underlying debt rating) of these additional non-investment grade instruments on Standard North American Corporate Single Name reference entities are similar to certain Standard North American Corporate Single Name and Standard Emerging Sovereign Single Name CDS contracts currently cleared at ICC with similar debt ratings to the proposed non-investment grade instruments. Specifically, ICC clears investment grade instruments on Standard North American Corporate Single Name reference entities. The debt ratings of the entities that these contracts reference may change over time, resulting in an investment grade single name becoming a non-investment grade single name. As a result of these described changes, ICC currently clears eleven non-investment grade instruments on Standard North American Corporate Single Name reference entities. ICC also clears certain Standard Emerging Sovereign Single Name CDS contracts, which reference countries with debt ratings similar to the additional non-investment grade instruments on Standard North American Corporate Single Name reference entities that ICC is proposing to clear.

The additional non-investment grade instruments on Standard North American Corporate Single Name reference entities have terms consistent with the Standard North American Corporate Single Names currently cleared by ICC and governed by Section 26B of the ICC Rules.

Section 17A(b)(3)(F) of the Act [3] requires, among other things, that the rules of a clearing agency be designed to promote the prompt and accurate clearance and settlement of securities transactions and, to the extent applicable, derivative agreements, contracts, and transactions. The proposed rule change will provide for clearing of additional CDS contracts on non-investment grade reference entities. These contracts are substantially similar to the Standard North American Corporate Single Name contracts currently cleared by ICC, and the new contracts will be cleared pursuant to ICC's existing clearing arrangements and related financial safeguards, protections and risk management procedures. In ICC's view, acceptance of the new contracts, on the terms and conditions set out in the ICC rules, is consistent with the prompt and accurate clearance of and settlement of securities transactions and derivative agreements, contracts and transactions cleared by ICC, the safeguarding of securities and funds in the custody or control of ICC and the protection of investors and the public interest, within the meaning of Section 17A(b)(3)(F) of the Act.[4]

Clearing of the additional non-investment grade instruments on Standard North American Corporate Single Name reference entities will also satisfy the requirements of Rule 17Ad–22.[5] In particular, in terms of financial resources, ICC will apply its existing margin methodology to the additional contracts. ICC believes that this model will provide sufficient margin to cover its credit exposure to its clearing members from clearing such contracts, consistent with the requirements of Rule 17Ad–22(b)(2) [6] and Rule 17Ad–22(d)(14).[7] In addition, ICC believes its Guaranty Fund, under its existing methodology, will, together with the required margin, provide sufficient financial resources to support the clearing of the additional contracts consistent with the requirements of Rule 17Ad–22(b)(3).[8] ICC also believes that its existing operational and managerial resources will be sufficient for clearing of the additional contracts, consistent with the requirements of Rule 17Ad–22(d)(4),[9] as the new contracts are substantially the same from an operational perspective as existing contracts. Similarly, ICC will use its existing settlement procedures and account structures for the new contracts, consistent with the requirements of Rule 17Ad–22(d)(5), (12) and (15) [10] as to the finality and accuracy of its daily settlement process and avoidance of the risk to ICC of settlement failures. Finally, ICC will apply its existing default management policies and procedures for the new contracts. ICC believes that these procedures allow for it to take timely action to contain losses and liquidity pressures and to continue meeting its obligations in the event of clearing member insolvencies or defaults in respect of the additional single names, in accordance with Rule 17Ad–22(d)(11).[11]

B. Self-Regulatory Organization's Statement on Burden on Competition

The additional non-investment grade instruments on Standard North American Corporate Single Name reference entities will be available to all ICC Participants for clearing. The clearing of additional non-investment grade instruments on Standard North American Corporate Single Name reference entities by ICC does not preclude the offering of these instruments for clearing by other market participants. Therefore, ICC does not believe the proposed product offering would have any impact, or impose any burden, on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

Written comments relating to the proposed rule change have not been solicited or received. ICC will notify the Commission of any written comments received by ICC.

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 self-regulatory organization consents, the Commission will:

(A) by order approve or disapprove the 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–ICC–2014–06 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.

[3] 15 U.S.C. 78q–1(b)(3)(F).

[4] 15 U.S.C. 78q–1(b)(3)(F).

[5] 17 CFR 240.17Ad–22.

[6] 17 CFR 240.17Ad–22(b)(2).

[7] 17 CFR 240.17Ad–22(d)(14).

[8] 17 CFR 240.17Ad–22(b)(3).

[9] 17 CFR 240.17Ad–22(d)(4).

[10] 17 CFR 240.17Ad–22(d)(5), (12) and (15).

[11] 17 CFR 240.17Ad–22(d)(11).

All submissions should refer to File Number SR–ICC–2014–06. 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 filings will also be available for inspection and copying at the principal office of ICE Clear Credit and on ICE Clear Credit's Web site at *https://www.theice.com/notices/Notices.shtml?regulatoryFilings.*

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–ICC–2014–06 and should be submitted on or before June 4, 2014.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[12]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2014–11028 Filed 5–13–14; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–72126; File No. SR–NASDAQ–2014–047]

Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Modify Fees Set Forth in Rule 7015(e) Governing WebLink ACT and the ACT Workstation

May 8, 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 May 2, 2014, The NASDAQ Stock Market LLC (''NASDAQ'' or the ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') a 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

NASDAQ is proposing to modify fees set forth in Rule 7015(e) governing WebLink ACT and the ACT Workstation. The text of the proposed rule change is below; proposed new language is italicized; proposed deletions are in brackets.

* * * * *

7015. Access Services

The following charges are assessed by Nasdaq for connectivity to systems operated by NASDAQ, including the Nasdaq Market Center, the FINRA/NASDAQ Trade Reporting Facility, and FINRA's OTCBB Service. The following fees are not applicable to the NASDAQ Options Market LLC. For related options fees for Access Services refer to Chapter XV, Section 3 of the Options Rules.

(a)–(d) No change.

(e) Specialized Services Related to FINRA/NASDAQ Trade Reporting Facility

WebLink ACT or Nasdaq Workstation Post Trade.	$525/month (full functionality) or $275/month (up to an average of twenty transactions per day each month) (For the purposes of this service only, a transaction is defined as an original trade entry, either on trade date or as-of transactions per month.) A subscription includes: the Trade Reporting File Upload service, which allows members to upload multiple trade reports in batches to ACT; and the ACT Reject Scan service, which provides a list of all of a member's rejected ACT trade entries and a copy of each rejected trade report form submitted to ACT. *$225 per month for the ACT Trade History service which provides searchable access to a member's trades that are older than six months dating back to 2009.*
ACT Workstation	$525/logon/month. *$225 per month for the ACT Trade History service which provides searchable access to a member's trades that are older than six months dating back to 2009.*

(f)–(h) No change.

* * * * *

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposed rule change is to amend Rule 7015 relating to the ACT Workstation (''Workstation'') and WebLink ACT (''WebLink'') subscription. WebLink, also referred to as NASDAQ Workstation Post Trade, is a web-based application used for submission of trade reports. WebLink provides basic front-end access to the Trade Reporting Facility (''TRF'') operated by NASDAQ and the Financial Industry Regulatory Authority, Inc. (''FINRA''),[3] FINRA's OTC Reporting Facility, as well as access to ACT functionality still offered by NASDAQ under authority delegated by FINRA.

Currently, in Rule 7015(e), the Exchange assesses a fee for subscription to the Workstation of $525 per logon per

[12] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] NASDAQ notes that most FINRA members seeking access to the TRF use a proprietary front-end system developed by the broker-dealer or a product offered by a service bureau. WebLink is designed as a basic front-end system for low volume users.

month, and to WebLink of $525 per user per month for full functionality and $275 per user, per month for a transaction-limited subscription. Each such subscription includes access to a member's historical trades executed and reported via ACT during the prior six months. These services and fees will remain unchanged.

The Exchange is proposing to amend Rules 7015(e) [sic] to offer members a new service called the ACT Trade History service that members can choose to add to their existing Weblink or ACT Workstation subscriptions for a monthly fee of $225. The new service will provide access to members' historical trades that are more than six months old dating back to 2009. The optional service will provide an easy-to-use application that allows members to access a searchable database containing their own trade information. Members can search using a date range, stock symbol or CUSIP number, side of trade, trade capacity, price, or Market Participant Identifier. The service will also allow firms to reconcile the treatment of trades over time, including trade reversals, step-outs, and as-of trades. The service will offer multiple standardized report formats as well as an option to configure personalized reports that best serve that firm's business or regulatory needs. Members that determine not to purchase the new optional service for $225 can continue to operate their existing Weblink or ACT Workstation services with no change in service or fees.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act [4] in general, and furthers the objectives of Section 6(b)(5) of the Act [5] in particular, in that the proposal is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general to protect investors and the public interest. The proposed ACT Trade History service will permit members to perform various functions that serve to promote these stated policies. For example, users can search trade history to fulfill compliance functions, to assess execution quality, and to evaluate trading practices. The new service will assist with these and many other functions that will allow members to better protect investors and the public interest.

NASDAQ also believes that the proposed rule change is consistent with the provisions of Section 6(b)(4) of the Act,[6] because it provides for the equitable allocation of reasonable dues, fees and other charges among members and issuers and other persons using any facility or system that NASDAQ operates or controls, and it does not unfairly discriminate between customers, issuers, brokers or dealers. The proposed fee for the new optional service for the ACT Workstation and WebLink fees is reasonable because it reflects the added value that subscribing members receive from the voluntary purchase of the ACT Trade History package. Each member will evaluate the potential benefits available via the optional package and weight [sic] those benefits against the cost of the monthly subscription. There is no minimum subscription commitment, meaning members can evaluate its performance for a single month and then terminate the package with no continuing obligation. NASDAQ also believes that the proposed fee for such subscribers to the Workstation and WebLink is not discriminatory because each member that chooses the optional service will pay the same fee.

ACT Workstation and WebLink subscribers that determine that the enhancements do not provide sufficient benefit to warrant the cost of the subscriptions may choose to subscribe to alternatively [sic] third party front end systems or develop front end applications of their own to perform the same function.

B. Self-Regulatory Organization's Statement on Burden on Competition

NASDAQ 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, NASDAQ's proposal is a response to competition from other vendors and front-end services that process members' trade reports. NASDAQ's desire to improve the functionality offered to users of the FINRA/NASDAQ TRF reflects a healthy, competitive market which leads to enhanced products and services. The proposed service and fee are pro-competitive in that subscribers will opt for NASDAQ's service only it [sic] they recognize sufficient value and derive sufficient benefit from the enhancements to warrant paying the proposed monthly fee.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act [7] and subparagraph (f)(6) of Rule 19b–4 thereunder.[8]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is: (i) Necessary or appropriate in the public interest; (ii) for the protection of investors; or (iii) otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include File Number SR–NASDAQ–2014–047 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NASDAQ–2014–047. 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

[4] 15 U.S.C. 78f(b).

[5] 15 U.S.C. 78f(b)(5).

[6] 15 U.S.C. 78f(b)(4).

[7] 15 U.S.C. 78s(b)(3)(a).

[8] 17 CFR 240.19b–4(f)(6).

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 offices of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NASDAQ–2014–047, and should be submitted on or beforeJune 4, 2014.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[9]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2014–11030 Filed 5–13–14; 8:45 am]

BILLING CODE 8011–01–P

[9] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–72130; File No. SR–ISE–2014–28]

Self-Regulatory Organizations; International Securities Exchange, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to the Quarterly Options Series Program

May 8, 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 May 5, 2014, the International Securities Exchange, LLC (the ''Exchange'' or the ''ISE'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend Supplementary Material .03 to Rule 504 to expand the Quarterly Options Series Program with respect to options on exchange traded funds. The text of the proposed rule change is available on the Exchange's Internet Web site at *http://www.ise.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in Sections A, B and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange is proposing to amend Supplementary Material .03 to Rule 504 related to the Quarterly Option Series (''QOS'')[3] Program to eliminate the cap on the number of additional series that may be listed per expiration month for each QOS in exchange traded fund (''ETF'') options, consistent with recent filings by other options exchanges.[4] As set out in Supplementary Material .03, the Exchange may list QOS for up to five currently listed options classes that are either index options or options on ETFs. The Exchange may also list QOS on any option classes that are selected by other securities exchanges that employ a similar program under their respective rules. Currently, for each QOS in ETF options that has been initially listed on the ISE, the Exchange may list up to 60 additional series per expiration month.

The Exchange is proposing to amend Supplementary Material .03(d) to make the treatment of QOS in ETF options consistent with the treatment of QOS on other options exchanges,[5] and with the treatment of QOS in index options on the ISE.[6] Options on ETFs are similar to index options because ETFs hold securities based on an index or portfolio of securities. The requirements and conditions of the QOS Program in index options, moreover, parallel those of the QOS Program in ETF options. For example, like the QOS Program in ETF options, the QOS Program in index options permits QOS in up to five currently-listed options classes; requires the listing of series that expire at the end of the next (as of the listing date) consecutive four quarters, as well as the fourth quarter of the next calendar year; requires the strike price of each QOS to be fixed at a price per share; and establishes parameters for the number of strike prices above and below the underlying index. The QOS Program in index options, however, does not place a cap on the number of additional series that the Exchange may list per expiration month for each QOS in index options. Elimination of the cap set out in Supplementary Material .03(d) to Rule 504, therefore, would result in similar regulatory treatment of similar options products.

The Exchange believes that the proposed revision to the QOS Program would provide market participants with the ability to better tailor their trading to meet their investment objectives, including hedging securities positions, by permitting the Exchange to list additional QOS in ETF options that meet such objectives. In addition, elimination of the cap would further allow the Exchange to react to moving markets as it gives the Exchange the ability to add more strike prices closer to the underlying security. Finally, the proposed changes will align the

[3] A Quarterly Option Series is a series of an option class that is approved for listing and trading on the Exchange in which the series is opened for trading on any business day, and that expires at the close of business on the last business day of a calendar quarter. The Exchange lists series that expire at the end of the next consecutive four (4) calendar quarters, as well as the fourth quarter of the next calendar year. *See* ISE Rules 100(a)(41) and Supplementary Material .03(a) to Rule 504.

[4] *See* Securities Exchange Act Release Nos. 70855 (November 13, 2013), 78 FR 69493 (November 19, 2013) (SR–NYSEArca-2013–120); 70854 (November 13, 2013), 78 FR 69465 (November 19, 2103) (SR–NYSEMKT–2013–90); 70991 (December 5, 2013), 78 FR 75420 (December 11, 2013) (SR–BOX–2013–57); 71080 (December 16, 2013), 78 FR 77191 (December 20, 2013) (SR–CBOE–2013–125); 71310 (January 15, 2014), 79 FR 3655 (January 22, 2014) (SR–MIAX–2014–01).

[5] *Id.*

[6] *See* Supplementary Material .02 to ISE Rule 2009 which governs the QOS Program in index options.

Exchange's QOS rules with the rules of other options exchanges.[7]

In addition, the Exchange believes the elimination of the cap would also help market participants meet their investment objectives by providing expanded opportunities to roll ETF options into later quarters. Because of the current cap the Exchange may not be able to list the appropriate series for market participants to roll their positions in ETF options. Elimination of the cap, however, would allow the Exchange to meet the investment needs of market participants.

With regard to the impact of this proposal on system capacity, the Exchange represents that it and the Options Price Reporting Authority (''OPRA'') have the necessary systems capacity to handle any potential additional traffic associated with this amendment to the QOS Program. The Exchange believes that its members will not have a capacity issue as a result of this proposal. The Exchange also represents that it does not believe this expansion will cause fragmentation to liquidity.

To help ensure that only active options series are listed, the Exchange has in place procedures to delist inactive series. Supplementary Material .03(g)(i) to Rule 504 requires the Exchange to review, on a monthly basis, the series that are outside of a range of five (5) strikes above and five (5) strikes below the current price of the underlying ETF, and delist series with no open interest in both the put and the call series having a: (i) Strike higher than the highest strike price with open interest in the put and/or call series for a given expiration month; and (ii) strike lower than the lowest strike price with open interest in the put and/or call series for a given expiration month.[8] The Exchange believes this provision helps to maintain capacity to handle quote traffic.

Finally, the Exchange is proposing to delete Supplementary Material .03(h) to Rule 504. That rule temporarily increased the number of additional QOS in ETF options that could be added by the Exchange from 60 to 100. Now that the pilot program has expired, there is no need for the continued inclusion of this paragraph.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the provisions of Section 6 of the Securities Exchange Act of 1934 (the ''Act''),[9] in general, and with Section 6(b)(5) of the Act,[10] in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest.

In particular, the Exchange believes that the proposed rule change is designed to remove impediments to and perfect the mechanism of a free and open market because it will expand the investment options available to investors and will allow for more efficient risk management. The Exchange believes that removing the cap on the number of QOS in ETF options permitted to be listed on the Exchange will result in a continuing benefit to investors by giving them more flexibility to closely tailor their investment and hedging decisions to their needs, and therefore, the proposal is designed to protect investors and the public interest. In addition, the elimination of the cap will make the treatment of QOS in ETF options consistent with the treatment of QOS in index options, thus resulting in similar regulatory treatment for similar option products.

Furthermore, the Exchange believes it is appropriate to eliminate obsolete or out-of-date rule text from the rule book. Specifically, the elimination of Supplementary Material .03(h) to Rule 504 is appropriate as this will reduce investor confusion by deleting rules that no longer are applicable.

As the Exchange has already stated, with regard to the impact of this proposal on system capacity, the Exchange represents that it and OPRA have the necessary systems capacity to handle any potential additional traffic associated with this amendment to the QOS Program. The Exchange believes that its members will not have a capacity issue as a result of this proposal. The Exchange also represents that it does not believe this expansion will cause fragmentation to liquidity.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. To the contrary, the Exchange believes the proposal is pro-competitive. The proposed rule change is a competitive response to recent filings by other options exchanges,[11] which the ISE believes is necessary to permit fair competition among the options exchanges with respect to QOS Programs. Moreover, the Exchange believes that the elimination of the cap on series in the QOS Program will benefit investors by providing more flexibility to more closely tailor their investment and hedging decisions.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange has not solicited, and does not intend to solicit, comments on this proposed rule change. The Exchange has not received any unsolicited written comments from members or other interested parties.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the proposed rule change does not (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act[12] and Rule 19b-4(f)(6) thereunder.[13]

The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative immediately upon filing. The Exchange stated that waiver of this requirement will ensure fair competition among exchanges by allowing the ISE to treat QOS in ETF options consistent with the treatment of QOS in index options in the same manner as other exchanges. The Exchange also stated that the proposal would allow the Exchange to meet investor demand for an expanded number of QOS in ETF options, allowing investors to meet investment objectives, including hedging securities positions, currently unavailable because

[7] *See* supra note 4.

[8] *See* Supplementary Material .03(g)(i) to Rule 504.

[9] 15 U.S.C. 78f.

[10] 15 U.S.C. 78f(b)(5).

[11] *See* supra note 4.

[12] 15 U.S.C. 78s(b)(3)(A).

[13] 17 CFR 240.19b–4(f)(6). As required under Rule 19b–4(f)(6)(iii), the Exchange provided the Commission with written notice of its intent to file the proposed rule change, along with a brief description and the text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission.

of the limited number of QOS in ETF options available. For these reasons, the Commission believes that the proposed rule change presents no novel issues and that waiver of the 30-day operative delay is consistent with the protection of investors and the public interest; and will allow the Exchange to remain competitive with other exchanges. Therefore, the Commission designates the proposed rule change to be operative upon filing.[14]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–ISE–2014–28 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–ISE–2014–28. 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–ISE–2014–28 and should be submitted on or before June 4, 2014.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[15]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2014–11034 Filed 5–13–14; 8:45 am]

BILLING CODE 8011–01–P

[14] For purposes only of waiving the 30-day operative delay, the Commission has also considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[15] 17 CFR 200.30–3(a)(12).

DEPARTMENT OF STATE

[Public Notice 8731; No. 2014–7]

Determination Under the Foreign Missions Act

Pursuant to the authority vested in the Secretary of State by the laws of the United States, including the Foreign Missions Act (codified at 22 U.S.C. 4301 *et seq.*) and delegated by the Secretary to me in accordance with the Department of State's Delegation of Authority No. 198, dated September 16, 1992, I hereby determine that the representative offices in the United States of the National Coalition of Syrian Revolution and Opposition Forces (commonly known as the Syrian Opposition Coalition or ''SOC''), including their real property and personnel, are a ''foreign mission'' within the meaning of 22 U.S.C. 4302(a)(3).

Furthermore, I hereby determine it to be reasonably necessary to protect the interests of the United States to require the SOC's representative offices in the United States, and their agents or employees acting on their behalf, to comply with the terms and conditions specified by the Director of the Office of Foreign Missions relating to the entities' operations in the United States.

Dated: May 5, 2014.

Patrick F. Kennedy,

Under Secretary for Management.

[FR Doc. 2014–11124 Filed 5–13–14; 8:45 am]

BILLING CODE 4710–05–P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

[Docket No. DOT–OST—2014–0011]

National Freight Advisory Committee: Notice of Public Webinar Meeting

AGENCY: Office of the Secretary, DOT.

ACTION: Notice of public meeting.

SUMMARY: The U.S. Department of Transportation (Department or DOT) announces a public meeting of its National Freight Advisory Committee (NFAC) to finalize recommendations for the Department to consider in its development of the National Freight Strategic Plan (Plan). This meeting is a continuation of the conversation from the meeting held on *March 25–26 in Washington, DC* and the public webinar meeting held on *April 29, 2014.*

DATES: The meeting will take place online, as a webinar, on Thursday, May 29, 2014, from 1 p.m. to 5 p.m., Eastern Standard Time.

FOR FURTHER INFORMATION CONTACT: Tretha Chromey, Designated Federal Officer at (202) 366–1999 or *freight@dot.gov* or visit the NFAC Web site at *www.dot.gov/nfac.*

SUPPLEMENTARY INFORMATION:

Background: The NFAC was established to provides advice and recommendations to the Secretary on matters related to freight transportation in the United States, including (1) implementation of the freight transportation requirements of the Moving Ahead for Progress in the 21st Century Act (MAP–21; Pub. L. 112–141); (2) establishment of the National Freight Network; (3) development of the Plan; (4) development of strategies to help States implement State Freight Advisory Committees and State Freight Plans; (5) development of measures of conditions and performance in freight transportation; (6) development of freight transportation investment, data, and planning tools; and (7) legislative recommendations. The NFAC operates as a discretionary committee under the authority of the DOT, established in accordance with the provisions of the Federal Advisory Committee Act (FACA), as amended, 5 U.S.C. App. 2. See DOT's NFAC Web site for additional information about the committee's activities at *www.dot.gov/nfac.*

MAP–21 directs the DOT to develop the Plan in consultation with State department of transportations and other appropriate stakeholders. The Plan must include:

(A) An assessment of the condition and performance of the national freight network.

(B) An identification of highway bottlenecks on the national freight network that create significant freight congestion problems, based on a quantitative methodology developed by the Secretary, which shall, at a minimum, include—

(i) information from the Freight Analysis Network of the Federal Highway Administration; and

(ii) to the maximum extent practicable, an estimate of the cost of addressing each bottleneck and any operational improvements that could be implemented.

(C) Forecasts of freight volumes for the 20-year period beginning in the year during which the Plan is issued.

(D) An identification of major trade gateways and national freight corridors that connect major population centers, trade gateways, and other major freight generators for current and forecasted traffic and freight volumes, the identification of which shall be revised, as appropriate, in subsequent plans.

(E) An assessment of statutory, regulatory, technological, institutional, financial, and other barriers to improved freight transportation performance (including opportunities for overcoming the barriers).

(F) An identification of routes providing access to energy exploration, development, installation, or production areas.

(G) Best practices for improving the performance of the national freight network.

(H) Best practices to mitigate the impacts of freight movement on communities.

(I) A process for addressing multistate projects and encouraging jurisdictions to collaborate.

(J) Strategies to improve freight intermodal connectivity.

The Plan serves as a document to outline a long-term strategy to implement the National freight policy. The goals of the National freight policy are related to economic competitiveness and efficiency; congestion; productivity; safety, security, and resilience of freight movement; infrastructure condition; use of advanced technology; performance, innovation, competition, and accountability in the operation and maintenance of the network; and environmental impacts. [23 U.S.C. 167]

On March 25–26, 2014 the NFAC members met to discuss proposed recommendations to the DOT on the following elements of the Plan:

- An assessment of statutory, regulatory, technological, institutional, financial, and other barriers to improved freight transportation performance (including opportunities for overcoming the barriers);
- Best practices for improving the performance of the national freight network; and
- Best practices to mitigate the impacts of freight movement on communities.

The NFAC members discussed approximately seventy (70) of the nearly ninety (90) proposed recommendations. At the conclusion of this meeting, it was agreed that each of the six subcommittees would revise their proposed recommendations, resubmit to the DFO who would compile and redistribute to the NFAC members, and the NFAC members would reconvene at the end of the month to finalize the recommendations.

On April 29, 2014 the NFAC members met and finalized recommendations on the assessment of statutory, regulatory, technological, institutional, financial, and other barriers to improved freight transportation performance (including opportunities for overcoming the barriers).

During this meeting, members will discuss and finalize recommendations related to: 1) Best practices for improving the performance of the national freight network; and 2) Best practices to mitigate the impacts of freight movement on communities.

Agenda: The agenda will include: (1) welcome and introductions; (2) overview of the meeting format; (3) remarks from the NFAC Chair and Vice Chair; (4) NFAC members discussion on final recommendations; and (5) adjournment.

Public Participation: To view the webinar meeting, members of the public must pre-register online at: *https://connectdot.connectsolutions.com/NFAC052914/event/registration.html* no later than May 28, 2014. Upon registration, information will be sent to you at the email address you provide to enable you to connect to the webinar. Should problems arise with webinar registration, contact Kirse Kelly at *ntchost@dot.gov* or 703–235–1324. [This is not a toll-free telephone number.] Note: Members of the public will be able to listen to and view the webinar as observers.

Written comments: As the May 29, 2014 meeting is being conducted as a webinar and is a continuation of the conversation from the meeting held on March 25–26 where public comment was taken, the Chair has determined that public comment will be accepted in writing only. Members of the public who wish to submit written comments for consideration by the Committee at this meeting must email *freight@dot.gov* or send them to Ms. Tretha Chromey, Designated Federal Officer, National Freight Advisory Committee, 1200 New Jersey Avenue SE., W82–320, Washington, DC 20590 by May 21, 2014 to provide sufficient time for review. All other comments may be received at any time before or after the meeting.

Dated: May 9, 2014.

Tretha Chromey,

Designated Federal Officer.

[FR Doc. 2014–11205 Filed 5–13–14; 8:45 am]

BILLING CODE 4910–9X–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Notice of Funding Availability for the Tribal Transportation Program Safety Funds

AGENCY: Federal Highway Administration (FHWA), Department of Transportation (DOT).

ACTION: Notice of funding availability.

SUMMARY: This notice announces the availability of funding and requests grant applications for FHWA's Tribal Transportation Program Safety Funds (TTPSF). In addition, this notice identifies selection criteria, application requirements, and technical assistance during the grant solicitation period for the TTPSF.

The TTPSF is authorized within the Tribal Transportation Program (TTP) under the Moving Ahead for Progress in the 21st Century Act (MAP–21). The FHWA will distribute these funds as described in this notice on a competitive basis in a manner consistent with the selection criteria.

DATES: Applications must be submitted through *ttpsf@dot.gov* no later than 5 p.m., e.t. on June 30, 2014 (the ''application deadline''). Applicants are encouraged to submit applications in advance of the application deadline; however, applications will not be evaluated, and awards will not be made until after the application deadline.

The FHWA plans to conduct outreach regarding the TTPSF in the form of a Webinar on May 20, 2014 at 2:00 p.m., e.t. To join the Webinar, please click this link then enter the room as a guest: *https://connectdot.connectsolutions.com/*

tribaltrans/. The audio portion of the Webinar can be accessed from this teleconference line: TOLL FREE 1–888–251–2909; ACCESS CODE 4442306. The Webinar will be recorded and posted on FHWA's Web site at: *http://www.flh.fhwa.dot.gov/programs/ttp/safety/*. A TDD is available for individuals who are deaf or hard of hearing at 202–366–3993.

ADDRESSES: Applications must be submitted electronically to *ttpsf@dot.gov.*

FOR FURTHER INFORMATION CONTACT: For further information concerning this notice please contact Russell Garcia, TTPSF Program Manager, via email at *russell.garcia@dot.gov;* by telephone at 202–366–9815; or by mail at Federal Highway Administration, 1200 New Jersey Avenue SE., Washington, DC 20590. Office hours are from 8:00 a.m. to 4:30 p.m. e.t., Monday through Friday, except Federal holidays. For legal questions, please contact Ms. Vivian Philbin, Office of the Chief Counsel, by telephone at (720) 963–3445; by email at *vivian.philbin@dot.gov;* or by mail at Federal Highway Administration, Central Federal Lands Highway Division, 12300 West Dakota Avenue, Lakewood, CO 80228. Office hours are from 7:30 a.m. to 4:00 p.m. m.t., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION: On August 5, 2013, FHWA published the first notice of funding availability for the TTPSF (78 FR 47480). On November 13, 2013, FHWA awarded 183 tribes a total of $8.6 million for 193 projects to improve transportation safety on tribal lands. The FHWA is publishing this notice to announce the availability of an additional round of funding and request grant applications.

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I. Background

On July 6, 2012, President Obama signed into law MAP–21 (Pub. L. 112–141), which authorizes TTPSF as a set aside of not more than 2 percent of the funds made available under the TTP for each of Fiscal Years (FY) 2013 and 2014. Section 202(e) of title 23, United States Code (U.S.C.), provides that the funds are to be allocated based on an identification and analysis of highway safety issues and opportunities on tribal lands, as determined by the Secretary, on application of the Indian tribal governments for eligible projects described in 23 U.S.C. 148(a)(4). Eligible projects described in section 148(a)(4) include strategies, activities, and projects on a public road that are consistent with a State strategic highway safety plan and correct or improve a hazardous road location or feature, or address a highway safety problem.

Section 202(e) further specifies that in applying for TTPSF, an Indian tribal government, in cooperation with the Secretary of the Interior and, as appropriate, with a State, local government, or metropolitan planning organization, shall select projects from the transportation improvement program (TIP), subject to the approval of the Secretary of Transportation and the Secretary of the Interior.

II. Eligibility

A. Entities Eligible To Apply for Funding

Section 202(e) specifies that TTPSF are to be made available to Indian tribal governments. Accordingly, consistent with other FHWA funding provided to tribes, any federally recognized tribe identified on the list of ''Indian Entities Recognized and Eligible to Receive Services from the Bureau of Indian Affairs'' (published at 77 FR 47868) is eligible to apply for TTPSF.

B. Eligible Uses of Funds

Under section 202(e), projects for which Indian tribal governments may apply are highway safety improvement projects eligible under the Highway Safety Improvement Program as described in 23 U.S.C. 148(a)(4). Projects eligible for funding may include strategies, activities, or projects on a public road that are included in a State Strategic Highway Safety Plan (SHSP) and correct or improve a hazardous road location or feature, or address a highway safety problem.[1] This includes infrastructure and non-infrastructure strategies, activities or projects including education activities. For purposes of the TTPSF, for a project to be consistent with a State's SHSP, it must be data-driven or address a priority in an applicable tribal transportation safety plan that considers the priorities and strategies addressed in the State SHSP. To be considered eligible for TTPSF, roadway or transportation facilities improvement projects also must be: (1) included in the tribe's official National Tribal Transportation Facility Inventory, as identified in 23 U.S.C. 202(b)(1), and (2) listed in the TIP.

III. Selection Criteria and Policy Considerations

The FHWA will award TTPSF funds based on the selection criteria and policy considerations as outlined below.

The FHWA shall give priority consideration to eligible projects under 23 U.S.C. 148(a)(4) that fall within one of the following four categories:

(1) safety plans and safety planning activities;

(2) engineering improvements;

(3) enforcement and emergency services improvements; and

(4) education programs.

The priority categories were determined in consultation with the Tribal Transportation Program Coordinating Committee (TTPCC)[2] and are intended to strengthen safety plans and safety planning activities in tribal transportation while also directing resources to needed safety improvements. The categories are also consistent with the FHWA SHSP for Indian Lands which has as its mission to, ''Implement effective transportation safety programs to save lives while respecting Native American culture and tradition by fostering communication, coordination, collaboration, and cooperation.''[3] These categories are also consistent with the Tribal Safety Management Implementation Plan (TSMIP). The TSMIP recognizes that, ''tribal safety plans are an essential component and an effective planning

[1] Examples of eligible HSIP projects include but are not limited to the projects set for in 23 U.S.C. 148(a)(4)(B).

[2] The TTPCC is a committee established in 25 CFR Part 170 and is charged with providing input and recommendations to the Bureau of Indian Affairs (BIA) and FHWA in developing TTP policies and procedures. Its members are appointed by the Secretary of the Interior and represent all 12 BIA Regions. Tribal consultation is described further in Section VIII of this notice.

[3] The Strategic Safety Plan of Indian Lands is available at: *http://flh.fhwa.dot.gov/programs/ttp/safety/documents/strategic-hsp.pdf.*

tool for prioritizing and implementing safety solutions.'' [4] The TSMIP also states that ''reducing highway fatalities and serious injuries with any sustained success requires that all four elements (4Es) of highway safety be addressed—engineering, enforcement, education, and emergency services. A Tribal Safety Program, whether large or small, should work to address the 4Es, and its foundation, data.''

The FHWA will allocate the TTPSF among the four categories as follows: (1) Safety plans and safety planning activities (40 percent); (2) engineering improvements (30 percent); (3) enforcement and emergency services improvements (20 percent); and (4) education programs (10 percent). These funding goals were established with the TTPCC and will be reviewed annually and may be adjusted to reflect current tribal transportation safety priorities and needs. These proposed allocation amounts provide substantial funding for tribal safety plans to reflect the strong need that has been identified in this area and to ensure that all tribes have an opportunity to assess their safety needs and prioritize safety projects. The remaining proposed allocation amounts were established based on the significant need for transportation related capital improvement projects, while still allowing for applications that would cover all 4Es of safety.

A. Safety Plans and Safety Planning Activities (Funding Goal 40 Percent of TTPSF)

The development of a tribal safety plan that is data driven, identifies transportation safety issues, prioritizes activities, is coordinated with the State SHSP and promotes a comprehensive approach to addressing safety needs by including all 4Es is a critical step in improving highway safety. Additional information on developing a tribal safety plan can be found at: *http://flh.fhwa.dot.gov/programs/ttp/safety/.*

Accordingly, FHWA will award TTPSF for developing and updating tribal safety plans, and other safety planning activities. Eligible uses of funds are described in Section II of this notice and example projects are listed in 23 U.S.C. 148(a)(4), which can be found at: *http://www.fhwa.dot.gov/map21/docs/title23usc.pdf.*

The FHWA will use the following criteria in the evaluation of TTPSF funding requests for tribal safety plans: (1) development of a tribal safety plan where none currently exists; and (2) age or status of an existing tribal safety plan.

The FHWA will use the following criteria in the evaluation of TTPSF funding requests for safety planning activities: (1) Inclusion of the activity in a completed State SHSP or tribal transportation safety plan that is no more than 5 years old; (2) submission of supporting data that demonstrates the need for the activity; (3) leveraging of private or other public funding; (4) or the project is part of a comprehensive approach to safety which includes other safety efforts.

Examples of eligible safety planning activities include, but are not limited to:

- Collection, analysis, and improvement of safety data; and
- Road safety assessments.

B. Engineering Improvements (Funding Goal 30 Percent of TTPSF)

Eligible uses of funds are described in Section II of this notice and example projects are listed in 23 U.S.C. 148(a)(4), which can be found at: *http://www.fhwa.dot.gov/map21/docs/title23usc.pdf.*

The FHWA will use the following criteria in the evaluation of funding requests for engineering improvements: (1) Inclusion of the activity in a completed State SHSP or tribal transportation safety plan that is no more than 5 years old; (2) inclusion of the activity in a completed road safety audit, engineering study, impact assessment or other engineering document; (3) submission of supporting data that demonstrates the need for the project; (4) ownership of the facility; (5) leveraging of private or other public funding; (6) years since the tribe has last received funding for an TTPSF engineering improvement project; (7) or the project is part of a comprehensive approach to safety which includes other safety efforts.

Examples of eligible engineering improvement projects include, but are not limited to:

- Intersection safety improvements;
- Pavement and shoulder widening (including addition of a passing lane to remedy an unsafe condition);
- Installation of rumble strips or another warning device, if the rumble strips or other warning devices do not adversely affect the safety or mobility of bicyclists and pedestrians, including persons with disabilities;
- Installation of a skid-resistant surface at an intersection or other location with a high frequency of crashes;
- Improvements for pedestrian or bicyclist safety or safety of persons with disabilities;
- Construction and improvement of railway-highway grade crossing safety feature;
- Installation of protective devices;
- Construction of a traffic calming feature;
- Elimination of a roadside hazard;
- Installation, replacement, and other improvement of highway signage and pavement markings, or a project to maintain minimum levels of retro reflectivity that addresses a highway safety;
- Installation of a traffic control or other warning device at a location with high crash potential;
- Installation of guardrails, barriers (including barriers between construction work zones and traffic lanes for the safety of road users and workers), and crash attenuators;
- The addition or retrofitting of structures or other measures to eliminate or reduce crashes involving vehicles and wildlife;
- Installation of yellow-green signs and signals at pedestrian and bicycle crossings and in school zones;
- Construction and operational improvements on high risk rural roads;
- Geometric improvements to a road for safety purposes that improve safety;
- Roadway safety infrastructure improvements consistent with the recommendations included in the publication of the FHWA entitled ''Highway Design Handbook for Older Drivers and Pedestrians'';
- Truck parking facilities eligible for funding under section 1401 of the MAP–21;
- Systemic safety improvements; and
- Transportation-related safety projects for modes such as trails, docks, boardwalks, ice roads, and others that are eligible for TTP funds.

C. Enforcement and Emergency Services Improvements (Funding Goal 20 Percent of TTPSF)

Eligible uses of funds are described in Section II of this notice and example projects are listed in 23 U.S.C. 148(a)(4), which can be found at: *http://www.fhwa.dot.gov/map21/docs/title23usc.pdf.*

The FHWA will use the following criteria in the evaluation of funding requests for enforcement and emergency services improvements: (1) Inclusion of the activity in a completed State SHSP or tribal transportation safety plan that is no more than 5 years old; (2) submission of supporting data that demonstrates the need for the project; (3) leveraging of private or other public funding; (4) or the project is part of a comprehensive approach to safety which includes other safety efforts.

[4] The SMS Implementation Plan is available at: *http://flh.fhwa.dot.gov/programs/ttp/safety/documents/sms-implementation.pdf.*

Examples of eligible enforcement and emergency services improvement activities include, but are not limited to:

- The conduct of a model traffic enforcement activity at a railway-highway crossing;
- Installation of a priority control system for emergency vehicles at signalized intersections; and
- Planning integrated interoperable emergency communications equipment, operational activities, or traffic enforcement activities (including police assistance) relating to work zone safety.

D. Education Programs (Funding Goal 10 Percent of TTPSF)

Eligible uses of funds are described in Section II of this notice and example projects are listed in 23 U.S.C. 148(a)(4), which can be found at: *http://www.fhwa.dot.gov/map21/docs/title23usc.pdf.*

The FHWA will use the following criteria in the evaluation of funding requests for education projects: (1) Inclusion of the activity in a completed State SHSP or tribal transportation safety plan that is no more than 5 years old; (2) submission of supporting data that demonstrates the need for the project; (3) leveraging of private or other public funding; (4) or the project is part of a comprehensive approach to safety which includes other safety efforts.

Examples of eligible education activities include, but are not limited to:

- Safety Management System Implementation Plan activities;
- Public service announcements; and
- Programs implemented to inform the public or address behaviors that affect transportation safety.

IV. Evaluation Process

The TTPSF grant applications will be evaluated in accordance with the below discussed evaluation process. The FHWA will establish an evaluation team to review each application received by FHWA prior to the application deadline. The evaluation team will be led by FHWA and will include members from the Bureau of Indian Affairs (BIA). The team will include technical and professional staff with relevant experience and expertise. The evaluation teams will be responsible for evaluating and rating all of the projects.

All applications will be evaluated and assigned a rating of ''Highly Qualified,'' ''Qualified,'' or ''Not Qualified.'' The ratings, as defined below, are proposed within each priority funding category as follows:

1. Safety Plans and Safety Planning Activities

A. Development of Tribal Safety Plans

a. *Highly Qualified:* requests (up to a maximum of $12,500) for development of new tribal safety plans or to update incomplete tribal safety plans; and requests (up to a maximum of $7,500.00) to update existing tribal safety plans that are more than 3 years old.

b. *Not Qualified:* projects that do not meet the eligibility requirements; any request to update an existing tribal safety plan that is less than 3 years old.

B. Other Safety Planning Activities

a. *Highly Qualified:* requests for other safety planning activities that are in a current State SHSP or tribal safety plan that is not more than 5 years old; submission of data that demonstrates the need for the activities; significant leveraging of private or public funding; and are part of a comprehensive approach to safety which includes other safety efforts.

If the number of applications rated as ''highly qualified'' exceeds the amount of available funding, FHWA will give priority funding consideration to selecting one or more components of a project but only to the extent that the components have independent utility. Priority consideration will also be given the level of the commitment of other funding sources to complement the TTPSF funding request, and where the applicants demonstrate the capacity to successfully implement the proposed project in a timely manner.

b. *Qualified:* requests for other safety planning activities that are in a current State SHSP or tribal safety plan that is more than 5 years old; submission of some data that demonstrates the need for the activity; some leveraging of private or public funding; and are part of a comprehensive approach to safety which includes other safety efforts.

If the number of applications rated as ''qualified'' exceeds the amount of available funding, FHWA will give priority funding consideration to selecting one or more components of a project but only to the extent that the components have independent utility. Priority consideration will also be given the level of the commitment of other funding sources to complement the TTPSF funding request, and where the applicants demonstrate the capacity to successfully implement the proposed project in a timely manner.

c. *Not Qualified:* projects that do not meet the eligibility requirements; projects that are not included in a State SHSP or tribal safety plan.

2. Engineering Improvements

a. *Highly Qualified:* efforts that are in a current State SHSP or tribal safety plan that is less than 5 years old; data included in the application that directly supports the project; project is in a current road safety audit, impact assessment, or other safety engineering study; projects located on a BIA or tribal facility; significant leverage with other funding; the tribe has not received funding for a TTPSF transportation safety construction project in more than 10 years or the project is part of a comprehensive approach to safety which includes three or more other safety efforts.

If the number of applications rated as ''highly qualified'' exceeds the amount of available funding, FHWA will give priority funding consideration to selecting one or more components of a project but only to the extent that the components have independent utility. Priority consideration will also be given to the level of the commitment of other funding sources to complement the TTPSF funding request, and where the applicants demonstrate the capacity to successfully implement the proposed project in a timely manner.

b. *Qualified:* efforts that are in a current State SHSP or tribal safety plan, but the plan is more than 5 years old; some data included in the application that supports the project; project is in a road safety audit, impact assessment, or other safety engineering study that is more than 5 years old; project is located on a transportation facility not owned by a tribe or BIA; some leveraging with other funding; the tribe has not received funding for a TTPSF transportation safety construction project in the last 2 to 10 years or the projects is part of a coordinated approach with one to two other safety efforts.

If the number of applications rated as ''qualified'' exceeds the amount of available funding, FHWA will give priority funding consideration to selecting one or more components of a project but only to the extent that the components have independent utility. Priority consideration will also be given to the level of the commitment of other funding sources to complement the TTPSF funding request, and where the applicants demonstrate the capacity to successfully implement the proposed project in a timely manner.

c. *Not Qualified:* projects that do not meet the eligibility requirements; are not included in a State SHSP or tribal safety plan; no data provided in the application to support the request; are not included in a road safety audit, impact assessment, or other safety

engineering study; have received funding for a TTPSF transportation safety construction project within the last 2 years or do not have a comprehensive approach to safety with other partners.

3. Enforcement and Emergency Services

a. *Highly Qualified:* efforts that are in a current State SHSP or tribal safety plan that is less than 5 years old; data included in the application that directly supports the requested project, significant leverage with other funding or are part of a comprehensive approach to safety, including three or more other safety efforts.

If the number of applications rated as ''highly qualified'' exceeds the amount of available funding, FHWA will give priority funding consideration to selecting one or more components of a project but only to the extent that the components have independent utility. Priority consideration will also be given to the level of the commitment of other funding sources to complement the TTPSF funding request, and where the applicants demonstrate the capacity to successfully implement the proposed project in a timely manner.

a. *Qualified:* efforts that are in a current State SHSP or tribal safety plan but the plan is more than 5 years old; some data included in the application that supports the project; some leveraging with other funding or are coordinated with one to two other safety efforts.

If the number of applications rated as ''qualified'' exceeds the amount of available funding, FHWA will give priority funding consideration to selecting one or more components of a project but only to the extent that the components have independent utility. Priority consideration will also be given to the level of the commitment of other funding sources to complement the TTPSF funding request, and where the applicants demonstrate the capacity to successfully implement the proposed project in a timely manner.

c. *Not Qualified:* projects that do not meet the eligibility requirements; are not included in a State SHSP or tribal safety plan; no data provided in the application that supports the project does not have a comprehensive approach to safety with other partners.

4. Education Programs

a. *Highly Qualified:* efforts that are in a current State SHSP or tribal safety plan that is less than 5 years old; data included in the application that directly supports the requested project; significant leverage with other funding or are part of a comprehensive approach to safety including three or more other safety efforts.

If the number of applications rated as ''highly qualified'' exceeds the amount of available funding, FHWA will give priority funding consideration to selecting one or more components of a project but only to the extent that the components have independent utility. Priority consideration will also be given to the level of the commitment of other funding sources to complement the TTPSF funding request, and where the applicants demonstrate the capacity to successfully implement the proposed project in a timely manner.

b. *Qualified:* efforts that are in a current State SHSP or tribal safety plan but the plan is more than 5 years old; some data included in the application that supports the project; some leveraging with other funding or are coordinated with one to two other safety efforts.

If the number of applications rated as ''qualified'' exceeds the amount of available funding, FHWA will give priority funding consideration to selecting one or more components of a project but only to the extent that the components have independent utility. Priority consideration will also be given to the level of the commitment of other funding sources to complement the TTPSF funding request, and where the applicants demonstrate the capacity to successfully implement the proposed project in a timely manner.

c. *Not Qualified:* projects that do not meet the eligibility requirements; are not included in a State SHSP or tribal safety plan; no data provided in the application that supports the project does not have a comprehensive approach to safety with other partners.

V. Application Process

A. Contents of Applications

The applicants must include all of the information requested below in their applications. The FHWA may request any applicant to supplement the data in its application, but encourages applicants to submit the most relevant and complete information the applicant could provide. The FHWA also encourages applicants, to the extent practicable, to provide data and evidence of project merits in a form that is publicly available or verifiable.

B. Standard Form 424, Applications for Federal Assistance

A complete application must consist of: (1) The Standard Form 424 (SF 424) available at *http://flh.fhwa.dot.gov/programs/ttp/safety*.

C. Narrative (Attachment to SF 424)

Applicants must attach a supplemental narrative to their submission through *ttpsf@dot.gov* to successfully complete the application process. The applicant must include the supplemental narrative in the attachments section of the SF 424 mandatory form.

The applicant must identify in the project narrative the eligibility category under which the project identified in the application fits. The applicant also should respond to the application requirements below. The FHWA recommends that the application be prepared with standard formatting preferences (e.g. a single-spaced document, using a standard 12-point font, such as Times New Roman, with 1-inch margins).

An application must include any information needed to verify that the project meets the statutory eligibility criteria as well as other information required for FHWA to assess each of the criteria specified in Section III (*Selection Criteria).* Applicants are required to demonstrate the responsiveness of their proposal to any pertinent selection criteria with the most relevant information that applicants can provide, regardless of whether such information is specifically requested, or identified, in the final notice. Applicants should provide evidence of project milestones, financial capacity, and commitment in order to support project readiness.

Consistent with the requirements for an eligible highway safety improvement project under 23 U.S.C. 148(a)(4), applicants must describe clearly how the project would correct or improve a hazardous road location or feature, or would address a highway safety problem. The application must include supporting data.

For ease of review, FHWA recommends that the project narrative generally adhere to the following basic outline, and include a table of contents, project abstract, maps, and graphics:

1. *Project Abstract:* Describe project work that would be completed under the project, the hazardous road location or feature or the highway safety problem that the project would address, and whether the project is a complete project or part of a larger project with prior investment (maximum five sentences). The project abstract must succinctly describe how this specific request for TTPSF would be used to complete the project.

2. *Project Description:* (including information on the expected users of the project, a description of the hazardous

road location or feature or the highway safety problem that the project would address, and how the project would address these challenges);

3. Applicant information and coordination with other entities (identification of the Indian tribal government applying for TTPSF, description of cooperation with other entities in selecting projects from the TIP as required under 23 U.S.C. 202(e)(2), information regarding any other entities involved in the project);

4. Grant Funds and Sources/Uses of Project Funds (information about the amount of grant funding requested for the project, availability/commitment of funds sources and uses of all project funds, total project costs, percentage of project costs that would be paid for with the TTPSF, and the identity and percentage shares of all parties providing funds for the project (including Federal funds provided under other programs);

5. A description of how the proposal meets the Selection Criteria identified in Section III (*Selection Criteria and Policy Considerations*) and the statutory eligibility criteria as described in Section II (*Eligibility*).

D. Contact Information

The applicant must include contact information requested as part of the SF–424. The FHWA will use this information if additional application information is needed or to inform parties of FHWA's decision regarding selection of projects. Contact information should be provided for a direct employee of the lead applicant. Contact information for a contractor, agent, or consultant of the lead applicant is insufficient for FHWA's purposes.

VI. Program Funding and Award

Section 1101 of MAP–21 authorized $450,000,000 for the TTP for each of FY 2013 and 2014. Section 1119 of MAP–21 amends 23 U.S.C. 202(e) to provide that not more than 2 percent of such funds made available for the TTP may be allocated for TTPSF. Accordingly, FHWA expects that a maximum of $9,000,000 could be made available in 2014 for TTPSF. The FHWA anticipates high demand for this limited amount of funding and encourages applications with scalable requests that allow more tribes to receive funding; and for requests that identify a commitment of other funding sources to complement the TTPSF funding request. Applicants should show the capacity to successfully implement the proposed request in a timely manner, and ensure that cost estimates and timelines to complete deliverables are included in their application to be given full consideration.

VII. Consultation Process

The DOT issued Order 5301.1, ''Department of Transportation Programs, Policies, and Procedures Affecting American Indians, Alaska Natives, and Tribes'' on November 16, 1999. This Order affirmed the DOT's and its Modal Administrations' unique legal relationship with Indian tribes, established DOT's consultation and coordination process with Indian tribes for any action that may significantly or uniquely affect them, and listed goals for Modal Administrations to meet when carrying out policies, programs, and activities affecting American Indians, Alaska Natives, and tribes. The Department affirms its commitment to these principles, and those set forth in Executive Order 13175 and the President's November 5, 2009, memorandum in establishing the DOT Consultation Plan dated March 4, 2010, and found at: *http://www.dot.gov/sites/dot.dev/files/docs/Tribal%20Consultation%20Plan.pdf.*

Authority: Section 1119 of Pub. L. 112–141; 23 U.S.C. 202(e).

Dated: May 7, 2014.

Gregory Nadeau,

Deputy Administrator.

[FR Doc. 2014–11074 Filed 5–13–14; 8:45 am]

BILLING CODE 4910–22–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2014–0005]

Qualification of Drivers; Exemption Applications; Vision

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of applications for exemptions; request for comments.

SUMMARY: FMCSA announces receipt of applications from 26 individuals for exemption from the vision requirement in the Federal Motor Carrier Safety Regulations. They are unable to meet the vision requirement in one eye for various reasons. The exemptions will enable these individuals to operate commercial motor vehicles (CMVs) in interstate commerce without meeting the prescribed vision requirement in one eye. If granted, the exemptions would enable these individuals to qualify as drivers of commercial motor vehicles (CMVs) in interstate commerce.

DATES: Comments must be received on or before June 13, 2014.

ADDRESSES: You may submit comments bearing the Federal Docket Management System (FDMS) Docket No. FMCSA–2014–0005 using any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Follow the on-line instructions for submitting comments.
- *Mail:* Docket Management Facility; U.S. Department of Transportation, 1200 New Jersey Avenue SE., West Building Ground Floor, Room W12–140, Washington, DC 20590–0001.
- *Hand Delivery:* West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.
- *Fax:* 1–202–493–2251.

Instructions: Each submission must include the Agency name and the docket numbers for this notice. Note that all comments received will be posted without change to *http://www.regulations.gov,* including any personal information provided. Please see the Privacy Act heading below for further information.

Docket: For access to the docket to read background documents or comments, go to *http://www.regulations.gov* at any time or Room W12–140 on the ground level of the West Building, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The FDMS is available 24 hours each day, 365 days each year. If you want acknowledgment that we received your comments, please include a self-addressed, stamped envelope or postcard or print the acknowledgement page that appears after submitting comments on-line.

Privacy Act: 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 grant an exemption from the Federal Motor Carrier Safety Regulations for a 2-year period if it finds ''such exemption would likely achieve a level of safety that is equivalent to or greater than the level that would be achieved absent such exemption.'' FMCSA can renew exemptions at the end of each 2-year period. The 26 individuals listed in this notice have each requested such an exemption from the vision requirement in 49 CFR 391.41(b)(10), which applies to drivers of CMVs in interstate commerce. Accordingly, the Agency will evaluate the qualifications of each applicant to determine whether granting an exemption will achieve the required level of safety mandated by statute.

Qualifications of Applicants

Lyle R. Bell

Mr. Bell, 64, has a prosthetic right eye due to a traumatic incident in 1994. The visual acuity in his right eye is no light perception, and in his left eye, 20/20. Following an examination in 2014, his optometrist stated, ''At this point, Lyle has the same vision left eye that he has been driving with for the past 10 years. He is used to seeing with monocular vision and has learned to compensate for his lack of depth perception by using other visual clues [*sic*]. He has sufficient vision in his left eye to perform driving tasks of a commercial vehicle, but there is no binocular vision due to only having one eye.'' Mr. Bell reported that he has driven straight trucks for 48 years, accumulating 2.4 million miles, and tractor-trailer combinations for 30 years, accumulating 3 million miles. He holds a Class A CDL from Nebraska. His driving record for the last 3 years shows no crashes and one conviction for a moving violation in a CMV; he failed to yield to a traffic signal.

Tracy L. Bowers

Mr. Bowers, 51, has had a retinal detachment in his right eye since 2010. The visual acuity in his right eye is 20/80, and in his left eye, 20/16. Following an examination in 2014, his optometrist stated, ''Based on these findings, I feel Tracy L. Bowers has the visual abilities to continue operating a commercial motor vehicle in interstate commerce because the visual loss in his right eye occurred more than 3 years ago and has been stable since that time.'' Mr. Bowers reported that he has driven straight trucks for 5 years, accumulating 225,000 miles, and tractor-trailer combinations for 6 years, accumulating 36,000 miles. He holds a Class A CDL from Iowa. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Bradley E. Buzzell

Mr. Buzzell, 51, has had amblyopia in his left eye since 1993. The visual acuity in his right eye is 20/20, and in his left eye, 20/200. Following an examination in 2014, his optometrist stated, ''I certify that Bradley Buzzell has sufficient vision to perform driving tasks required to operate a commercial vehicle.'' Mr. Buzzell reported that he has driven straight trucks for 30 years, accumulating 540,000 miles. He holds a Class BMC CDL from New Hampshire. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

William C. Christy

Mr. Christy, 69, has had acute zonal occult outer retinopathy with central scotoma in his right eye since 2005. The visual acuity in his right eye is 20/200, and in his left eye, 20/20. Following an examination in 2014, his ophthalmologist stated, ''It is my opinion based on my exam of Mr. Christy, his visual field testing and his driving history that he is safe to drive a commercial vehicle without restriction.'' Mr. Christy reported that he has driven straight trucks for 48 years, accumulating 48,000 miles, and tractor-trailer combinations for 48 years, accumulating 576,000 miles. He holds a Class A CDL from Florida. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Gerard J. Cormier

Mr. Cormier, 51, has had amblyopia in his left eye since childhood. The visual acuity in his right eye is 20/20, and in his left eye, 20/400. Following an examination in 2013, his optometrist stated, ''By this standard, he meets Massachusetts's standard for a Class D license and can be certified to drive the commercial vehicle both in and out of Massachusetts without restriction.'' Mr. Cormier reported that he has driven straight trucks for 33 years, accumulating 264,000 miles. He holds an operator's license from Massachusetts. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Joe T. Gage

Mr. Gage, 65, has a prosthetic left eye due to a traumatic incident during childhood. The visual acuity in his right eye is 20/20, and in his left eye, no light perception. Following an examination in 2014, his optometrist stated, ''In my opinion, Mr. Gage has shown over the years that he has sufficient vision to perform the task required to operate a commercial motor vehicle.'' Mr. Gage reported that he has driven straight trucks for 47 years, accumulating 14,100 miles, and tractor-trailer combinations for 47 years, accumulating 3.05 million miles. He holds a Class A CDL from Arkansas. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Hector A. Hernandez

Mr. Hernandez, 42, has had a corneal transplant in his left eye since 2010. The visual acuity in his right eye is 20/20, and in his left eye, 20/80. Following an examination in 2014, his ophthalmologist stated, ''He has a mild degree of visual impairment which should not interfere with his ability to safely operate/drive a commercial vehicle.'' Mr. Hernandez reported that he has driven straight trucks for 15 years, accumulating 68,250 miles. He holds an operator's license from Maryland. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Rex G. Holladay

Mr. Holladay, 60, has retina damage in his left eye due to a traumatic incident in 1982. The visual acuity in his right eye is 20/20, and in his left eye, 20/400. Following an examination in 2013, his optometrist stated, ''I consider Mr. Holladay visually well adapted, and has adequate visual function to operate a commercial vehicle.'' Mr. Holladay reported that he has driven straight trucks for 35 years, accumulating 140,000 miles, and tractor-trailer combinations for 16 years, accumulating 1.04 million miles. He holds a Class A CDL from Arkansas. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Chester E. Jaycox

Mr. Jaycox, 58, has had a corneal scar in his right eye since 1989. The visual acuity in his right eye is 20/100, and in his left eye, 20/20. Following an examination in 2014, his optometrist stated, ''In my medical opinion I feel that Chester Jaycox is able to perform driving tasks to operate a commercial

vehicle.'' Mr. Jaycox reported that he has driven straight trucks for 33 years, accumulating 1.16 million miles, and tractor-trailer combinations for 21 years, accumulating 735,000 miles. He holds a Class AM CDL from New York. His driving record for the last 3 years shows 1 crash, for which he was not cited, and no convictions for moving violations in a CMV.

Danny J. Johnson

Mr. Johnson, 51, has had a prosthetic left eye due to a traumatic incident in 1988. The visual acuity in his right eye is 20/20, and in his left eye, no light perception. Following an examination in 2013, his optometrist stated, ''In my opinion Dan has sufficient vision to operate a commercial vehicle if it is equipped with adequate mirrors.'' Mr. Johnson reported that he has driven straight trucks for 32 years, accumulating 320,000 miles, and tractor-trailer combinations for 32 years, accumulating 160,000 miles. He holds a Class A CDL from Minnesota. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Glenn K. Johnson, Jr.

Mr. Johnson, 65, has had amblyopia, exotropia, strabismus, and cataracts in his left eye since childhood. The visual acuity in his right eye is 20/30, and in his left eye, 20/400. Following an examination in 2014, his optometrist stated, ''In my medical opinion, Mr. Johnson has sufficient vision to perform the driving tasks required to operate a commercial vehicle with his current vision.'' Mr. Johnson reported that he has driven tractor-trailer combinations for 45 years, accumulating 4.95 million miles. He holds a Class A CDL from North Carolina. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Terry A. Legates

Mr. Legates, 27, has optic nerve disorder in his left eye due to a traumatic incident during childhood. The visual acuity in his right eye is 20/20, and in his left eye, no light perception. Following an examination in 2014, his optometrist stated that, in his medical opinion, Mr. Legates does have sufficient vision to operate a commercial motor vehicle. Mr. Legates reported that he has driven straight trucks for 3.5 years, accumulating 45,500 miles. He holds an operator's license from Oklahoma. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Charles E. Meis

Mr. Meis, 66, has had macular degeneration in his right eye since 2009. The visual acuity in his right eye is 20/250, and in his left eye, 20/20. Following an examination in 2013, his ophthalmologist stated, ''In my medical opinion, Charles Meis has sufficient vision to perform the driving tasks required to operate a commercial vehicle . . .'' Mr. Meis reported that he has driven straight trucks for 30 years, accumulating 1.8 million miles. He holds an operator's license from Texas. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Ronald B. Mohr

Mr. Mohr, 57, has retinal scarring in his left eye due to a traumatic incident in 1979. The visual acuity in his right eye is 20/20, and in his left eye, 20/200. Following an examination in 2014, his optometrist stated, ''It is my medical opinion that Ronald Mohr has sufficient vision to perform the driving tasks required to operate a commercial vehicle.'' Mr. Mohr reported that he has driven straight trucks for 40 years, accumulating 20,000 miles, and tractor-trailer combinations for 30 years, accumulating 600,000 miles. He holds a Class A CDL from Iowa. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Hassan Ourahou

Mr. Ourahou, 25, has had amblyopia in his left eye since childhood. The visual acuity in his right eye is 20/20, and in his left eye, 20/200. Following an examination in 2014, his optometrist stated, ''The patient has significant vision to perform the driving tasks required to operate a commercial vehicle.'' Mr. Ourahou reported that he has driven tractor-trailer combinations for 2 years, accumulating 250,700 miles. He holds a Class A CDL from Kentucky. His driving record for the last 3 years shows no crashes and 2 convictions for moving violations in a CMV; in one instance he exceeded the speed limit by 13 MPH; in another instance, he failed to obey a traffic control device.

Jesus Penuelas

Mr. Penuelas, 39, has had a macular scar in his right eye since birth. The visual acuity in his right eye is hand motion, and in his left eye, 20/20. Following an examination in 2013, his optometrist stated, ''Mr. Penuelas has sufficient vision to perform the driving tasks required to operate a commercial vehicle.'' Mr. Penuelas reported that he has driven straight trucks for 13 years, accumulating 975,000 miles. He holds an operator's license from Arizona. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Enoc Ramos III

Mr. Ramos, 43, has had a retinal detachment in his right eye since 2001. The visual acuity in his right eye is 20/100, and in his left eye, 20/20. Following an examination in 2013, his optometrist stated, ''I don't foresee a major problem with his operating [*sic*] commercial vehicle from a visual perspective.'' Mr. Ramos reported that he has driven tractor-trailer combinations for 13 years, accumulating 910,000 miles. He holds a Class A CDL from Texas. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

James T. Rohr

Mr. Rohr, 73, has had hereditary macular dystrophy in his left eye since birth. The visual acuity in his right eye is 20/40, and in his left eye, 20/150. Following an examination in 2013, his optometrist stated, ''In my professional opinion Mr. Rohr can safely perform the driving tasks required to operate a private motor vehicle as well as a commercial motor vehicle.'' Mr. Rohr reported that he has driven straight trucks for 5 years, accumulating 40,000 miles, and tractor-trailer combinations for 40 years, accumulating 3.8 million miles. He holds a Class A CDL from Minnesota. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

DelRay V. Ryckman

Mr. Ryckman, 47, has retinal scarring in his left eye due to a traumatic incident in 1985. The visual acuity in his right eye is 20/20, and in his left eye, hand motion. Following an examination in 2014, his optometrist stated, ''In my medical opinion, DelRay does have sufficient vision to perform the driving tasks required to operate a commercial vehicle.'' Mr. Ryckman reported that he has driven straight trucks for 27 years, accumulating 540,000 miles. He holds a Class A3 CDL from South Dakota. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Joe Sanchez

Mr. Sanchez, 56, has a prosthetic right eye due to a traumatic incident in 1983. The visual acuity in his right eye is no light perception, and in his left eye, 20/30. Following an examination in 2013,

his optometrist stated, ''He has sufficient vision vision [*sic*] to operate a commercial vehicle.'' Mr. Sanchez reported that he has driven straight trucks for 19 years, accumulating 728,000 miles, and tractor-trailer combinations for 16 years, accumulating 1.46 million miles. He holds a Class A CDL from Texas. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

James S. Seeno

Mr. Seeno, 38, has had a retinal detachment in his right eye since 1996. The visual acuity in his right eye is 20/80, and in his left eye, 20/20. Following an examination in 2014, his optometrist stated, ''Mr. Seeno does have sufficient vision to perform the driving tasks required to operate a commercial vehicle.'' Mr. Seeno reported that he has driven straight trucks for 9 years, accumulating 90,000 miles, and buses for 7 years, accumulating 350,000 miles. He holds a Class B CDL from Nevada. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

George W. Thomas

Mr. Thomas, 40, has had complete loss of vision in his left eye since 2007. The visual acuity in his right eye is 20/15, and in his left eye, no light perception. Following an examination in 2014, his ophthalmologist stated, ''I do not have the knowledge of the vision requirements for a commercial drivers' [*sic*] license but I am of the opinion that he has sufficient vision in his right eye to drive and can receive this licensce [*sic*] if it is legal for a monocular patient to have a CDL.'' Mr. Thomas reported that he has driven straight trucks for 12 years, accumulating 480,000 miles, and tractor-trailer combinations for 3 years, accumulating 150,000 miles. He holds a Class A Commercial Beginner Permit from South Carolina. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Thomas L. Tveit

Mr. Tveit, 61, has had degenerative myopia in his right eye since birth. The visual acuity in his right eye is 20/400, and in his left eye, 20/20. Following an examination in 2014, his optometrist stated, ''In my opinion, Mr. Tveit has adequate vision to operate a commercial vehicle.'' Mr. Tveit reported that he has driven straight trucks for 47 years, accumulating 70,500 miles, and tractor-trailer combinations for 26 years, accumulating 598,000 miles. He holds a Class A3 CDL from South Dakota. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Bart M. Valiante

Mr. Valiante, 56, has had a central vein occlusion in his left eye since 2002. The visual acuity in his right eye is 20/20, and in his left eye, 20/400. Following an examination in 2013, his ophthalmologist stated, ''In my medical opinion, Mr. Valiante has sufficient vision to perform driving tasks to operate a commercial vehicle.'' Mr. Valiante reported that he has driven straight trucks for 35 years, accumulating 875,000 miles, and tractor-trailer combinations for 35 years, accumulating 875,000 miles. He holds a Class A CDL from Connecticut. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

James W. VanRyswyk

Mr. VanRyswyk, 69, has had amblyopia in his right eye since childhood. The visual acuity in his right eye is 20/125, and in his left eye, 20/20. Following an examination in 2013, his optometrist stated, ''It is my opinion that Mr. Van Ryswyk [*sic*] is visually competent to operate a commercial vehicle.'' Mr. VanRyswyk reported that he has driven straight trucks for 52 years, accumulating 2.6 million miles. He holds a Class A CDL from Iowa. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Drake M. Vendsel

Mr. Vendsel, 21, has had amblyopia in his left eye since childhood. The visual acuity in his right eye is 20/15, and in his left eye, 20/60. Following an examination in 2014, his optometrist stated, ''Given that [Mr. Vendsel has] been driving a ''farm plated'' semi truck [*sic*] incident free since the time [Mr. Vendsel was] working for [his] father on [his father's] farm since [his] early teen years, I would say [Mr. Vendsel has] sufficient vision to perform the driving tasks required to operate a commercial vehicle.'' Mr. Vendsel reported that he has driven straight trucks for 7 years, accumulating 42,000 miles, and tractor-trailer combinations for 3 years, accumulating 18,000 miles. He holds an operator's license from North Dakota. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Request for Comments

In accordance with 49 U.S.C. 31136(e) and 31315, FMCSA requests public comment from all interested persons on the exemption petitions described in this notice. The Agency will consider all comments received before the close of business June 13, 2014. Comments will be available for examination in the docket at the location listed under the **ADDRESSES** section of this notice. The Agency will file comments received after the comment closing date in the public docket, and will consider them to the extent practicable.

In addition to late comments, FMCSA will also continue to file, in the public docket, relevant information that becomes available after the comment closing date. Interested persons should monitor the public docket for new material.

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–2014–0005 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–2014–0005 and click ''Search.'' Next, click ''Open Docket Folder'' and you will find all documents and comments related to the proposed rulemaking.

Issued on: May 8, 2014.

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2014–11086 Filed 5–13–14; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[FMCSA Docket No. FMCSA–2014–0012]

Qualification of Drivers; Exemption Applications; Diabetes Mellitus

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of final disposition.

SUMMARY: FMCSA announces its decision to exempt 50 individuals from its rule prohibiting persons with insulin-treated diabetes mellitus (ITDM) from operating commercial motor vehicles (CMVs) in interstate commerce. The exemptions will enable these individuals to operate CMVs in interstate commerce.

DATES: The exemptions are effective May 14, 2014. The exemptions expire on May 16, 2016.

FOR FURTHER INFORMATION CONTACT: Elaine M. Papp, Chief, Medical Programs Division, (202) 366–4001, *fmcsamedical@dot.gov,* FMCSA, Room W64–224, 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:

Electronic Access

You may see all the comments online through the Federal Document Management System (FDMS) at: *http://www.regulations.gov.*

Docket: For access to the docket to read background documents or comments, go to *http://www.regulations.gov and/*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.

Privacy Act: Anyone may search the electronic form of all comments received into any of DOT's 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, or other entity). 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).

Background

On February 25, 2013, FMCSA published a notice of receipt of Federal diabetes exemption applications from 50 individuals and requested comments from the public (79 FR 10612). The public comment period closed on March 27, 2014 and two comments were received.

FMCSA has evaluated the eligibility of the 50 applicants and determined that granting the exemptions to these individuals would achieve a level of safety equivalent to or greater than the level that would be achieved by complying with the current regulation 49 CFR 391.41(b)(3).

Diabetes Mellitus and Driving Experience of the Applicants

The Agency established the current requirement for diabetes in 1970 because several risk studies indicated that drivers with diabetes had a higher rate of crash involvement than the general population. The diabetes rule provides that ''A person is physically qualified to drive a commercial motor vehicle if that person has no established medical history or clinical diagnosis of diabetes mellitus currently requiring insulin for control'' (49 CFR 391.41(b)(3)).

FMCSA established its diabetes exemption program, based on the Agency's July 2000 study entitled ''A Report to Congress on the Feasibility of a Program to Qualify Individuals with Insulin-Treated Diabetes Mellitus to Operate in Interstate Commerce as Directed by the Transportation Act for the 21st Century.'' The report concluded that a safe and practicable protocol to allow some drivers with ITDM to operate CMVs is feasible. The September 3, 2003 (68 FR 52441), **Federal Register** notice in conjunction with the November 8, 2005 (70 FR 67777), **Federal Register** notice provides the current protocol for allowing such drivers to operate CMVs in interstate commerce.

These 50 applicants have had ITDM over a range of 1 to 36 years. These applicants report no severe hypoglycemic reactions resulting in loss of consciousness or seizure, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning symptoms, in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the past 5 years. In each case, an endocrinologist verified that the driver has demonstrated a willingness to properly monitor and manage his/her diabetes mellitus, received education related to diabetes management, and is on a stable insulin regimen. These drivers report no other disqualifying conditions, including diabetes-related complications. Each meets the vision requirement at 49 CFR 391.41(b)(10).

The qualifications and medical condition of each applicant were stated and discussed in detail in the February 25, 2014, **Federal Register** notice and they will not be repeated in this notice.

Discussion of Comments

FMCSA received two comments in this proceeding. The comments are discussed below.

John Navarro is in favor of granting all drivers exemptions.

Jason Runyon corrected the spelling of his name from ''James'', as it appeared in FMCSA–2014–0012–0001 (79 FR 10612). The spelling has been corrected below.

Basis for Exemption Determination

Under 49 U.S.C. 31136(e) and 31315, FMCSA may grant an exemption from the diabetes requirement in 49 CFR 391.41(b)(3) if the exemption is likely to achieve an equivalent or greater level of safety than would be achieved without the exemption. The exemption allows the applicants to operate CMVs in interstate commerce.

To evaluate the effect of these exemptions on safety, FMCSA considered medical reports about the applicants' ITDM and vision, and reviewed the treating endocrinologists' medical opinion related to the ability of the driver to safely operate a CMV while using insulin.

Consequently, FMCSA finds that in each case exempting these applicants from the diabetes requirement in 49 CFR 391.41(b)(3) is likely to achieve a level of safety equal to that existing without the exemption.

Conditions and Requirements

The terms and conditions of the exemption will be provided to the applicants in the exemption document and they include the following: (1) That each individual submit a quarterly monitoring checklist completed by the treating endocrinologist as well as an annual checklist with a comprehensive medical evaluation; (2) that each individual reports within 2 business days of occurrence, all episodes of severe hypoglycemia, significant complications, or inability to manage diabetes; also, any involvement in an accident or any other adverse event in a CMV or personal vehicle, whether or not it is related to an episode of

hypoglycemia; (3) that each individual provide a copy of the ophthalmologist's or optometrist's report to the medical examiner at the time of the annual medical examination; and (4) that each individual provide a copy of the annual medical certification to the employer for retention in the driver's qualification file, or keep a copy in his/her driver's qualification file if he/she is self-employed. The driver must also have a copy of the certification when driving, for presentation to a duly authorized Federal, State, or local enforcement official.

Conclusion

Based upon its evaluation of the 50 exemption applications, FMCSA exempts Franklin D. Bailey (GA), Tony T. Bakkala (WA), RobRoy Barney (MT), Aaron C. Bogle (OH), Todd L. Brandt (IL), Dean G. Brekhus (ND), Kenneth L. Brooks, Jr. (NC), Angie M. Carrington (MO), David A. Cavan (MA), David A. Charles (OH), Philip M. Clardy (MI), James A. David (IL), Samuel J. Desmond (RI), David A. Doeling (ND), Mark C. Durler (KS), Nathaniel Edwards, Sr. (TN), John F. Fedorchak, Jr. (PA), Roger A. Felix (IN), Derek W. Frazier (IA), Harry M. Gallagher (WA), Michael G. Haugen (WI), Richard E. Hazek (OH), Timothy S. Hinkhouse (NE), Gregg W. Isherwood (ME), William L. Ivey (WA), Chad D. Johansen (UT), Kevin Krummenacker (NY), James A. Lagunas (AZ), Douglas R. Lane (NY), Jonathon W. Luebke (WI), Brion T. Maguire (PA), Christopher P. Martin (NH), Jacob R. Martin (MO), John C. May (NE), Daryl J. Millard (WA), Angel F. Morales (CO), Neil J. Morrison (IL), Peter Odo (IL), Slobodan Pavlovich (WA), Darryl W. Peppers (IN), Bradley S. Pletcher (PA), Michael G. Pollard (IA), Hank D. Rose, Jr. (NC), Jason M. Runyon (OK), Michael J. Schroeder (WI), Mary E. Schultz (WI), David H. Sopko (UT), David G. Stookey (WA), Thomas P. Verdon (PA), and Joshua R. Wiery (OH) from the ITDM requirement in 49 CFR 391.41(b)(3), subject to the conditions listed under ''Conditions and Requirements'' above.

In accordance with 49 U.S.C. 31136(e) and 31315 each exemption will be valid for two years unless revoked earlier by FMCSA. The exemption will be revoked if the following occurs: (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. If the exemption is still effective at the end of the 2-year period, the person may apply to FMCSA for a renewal under procedures in effect at that time.

Issued on: April 28, 2014.

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2014–11082 Filed 5–13–14; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

May 8, 2014.

The Department of the Treasury will submit the following information collection request to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995, Public Law 104–13, on or after the date of publication of this notice.

DATES: Comments should be received on or before June 13, 2014 to be assured of consideration.

ADDRESSES: Send comments regarding the burden estimate, or any other aspect of the information collection, including suggestion for reducing the burden, to (1) Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for Treasury, New Executive Office Building, Room 10235, Washington, DC 20503, or email at *OIRA_Submission@OMB.EOP.GOV* and (2) Treasury PRA Clearance Officer, 1750 Pennsylvania Ave. NW., Suite 8140, Washington, DC 20220, or email at *PRA@treasury.gov.*

FOR FURTHER INFORMATION CONTACT: Copies of the submission(s) may be obtained by calling (202) 927–5331, email at *PRA@treasury.gov,* or the entire information collection request maybe found at *www.reginfo.gov.*

Internal Revenue Service (IRS)

OMB Number: 1545–2212.

Type of Review: Revision.

Title: IRS Taxpayer Burden Surveys

Abstract: The IRS is developing improved methods for measuring, estimating, and modeling taxpayer burden. The data collected from this survey of individual taxpayers will be used as an input to a micro-simulation model that estimates taxpayer burden. The IRS will also publish the relevant updated burden estimates in tax form instructions to inform taxpayers. Three types of questions will be asked: questions framing the activities to be measured, burden measurement questions, and questions to better inform taxpayer needs related to their compliance burden.

Each year, individual taxpayers in the United States submit more than 140 million tax returns to the Internal Revenue Service (IRS). The IRS uses the information in these returns, recorded on roughly one hundred distinct forms and supporting schedules, to administer a tax system whose rules span thousands of pages. Managing such a complex and broad-based tax system is costly but represents only a fraction of the total burden of the tax system. Equally, if not more burdensome, is the time and out-of-pocket expenses that citizens spend in order to comply with tax laws and regulations.

The IRS has conducted prior surveys of individual taxpayers in 1984, 1999, 2000, 2007. Changes in tax regulations, tax administration, tax preparation methods, and taxpayer behavior continue to alter the amount and distribution of taxpayer burden. To update our understanding of this burden, the IRS contracted Westat to survey individual taxpayers regarding the time and money taxpayers spend in response to their federal income tax obligations. We intend to conduct an updated survey to better reflect the current tax rules and regulations, the increased usage of tax preparation software, increased efficiency of such software, changes in tax preparation regulations, the increased use of electronic filing, the behavioral response of taxpayers to the tax system, the changing use of services, both IRS and external, and related information collection needs.

The purpose of the IRS entity surveys is to provide Congress and the President with accurate estimates of the costs incurred by corporations, partnerships, limited liability companies, tax-exempt organizations, and government entities in complying with federal rules and regulations.

The critical items on the survey concern respondents' time and cost burden estimates for complying with tax filing regulations. Additional items on the survey will serve as contextualizing variables for interpretation of the burden items. These items include information regarding tax preparation methods and activities, tax-related recordkeeping, gathering materials, learning about tax law, using IRS and/or non-IRS taxpayer services, and tax form completion.

The creation of these new surveys will result in a total estimated burden increase of 6,871 hours and 36,810 annual responses.

Estimated Total Burden Hours: 23,696.

Robert Dahl,

Treasury PRA Clearance Officer.

[FR Doc. 2014–11077 Filed 5–13–14; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

Additional Designations, Foreign Narcotics Kingpin Designation Act

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Notice.

SUMMARY: The U.S. Department of the Treasury's Office of Foreign Assets Control (''OFAC'') is publishing the names of four individuals and four entities whose property and interests in property have been blocked pursuant to the Foreign Narcotics Kingpin Designation Act (''Kingpin Act'') (21 U.S.C. 1901–1908, 8 U.S.C. 1182).

DATES: The designation by the Acting Director of OFAC of the four individuals and four entities identified in this notice pursuant to section 805(b) of the Kingpin Act is effective on May 7, 2014.

FOR FURTHER INFORMATION CONTACT: Assistant Director, Sanctions Compliance & Evaluation, Office of Foreign Assets Control, U.S. Department of the Treasury, Washington, DC 20220, Tel: (202) 622–2490.

SUPPLEMENTARY INFORMATION:

Electronic and Facsimile Availability

This document and additional information concerning OFAC are available on OFAC's Web site at *http://www.treasury.gov/ofac* or via facsimile through a 24-hour fax-on-demand service at (202) 622–0077.

Background

The Kingpin Act became law on December 3, 1999. The Kingpin Act establishes a program targeting the activities of significant foreign narcotics traffickers and their organizations on a worldwide basis. It provides a statutory framework for the imposition of sanctions against significant foreign narcotics traffickers and their organizations on a worldwide basis, with the objective of denying their businesses and agents access to the U.S. financial system and the benefits of trade and transactions involving U.S. companies and individuals.

The Kingpin Act blocks all property and interests in property, subject to U.S. jurisdiction, owned or controlled by significant foreign narcotics traffickers as identified by the President. In addition, the Secretary of the Treasury, in consultation with the Attorney General, the Director of the Central Intelligence Agency, the Director of the Federal Bureau of Investigation, the Administrator of the Drug Enforcement Administration, the Secretary of Defense, the Secretary of State, and the Secretary of Homeland Security may designate and block the property and interests in property, subject to U.S. jurisdiction, of persons who are found to be: (1) Materially assisting in, or providing financial or technological support for or to, or providing goods or services in support of, the international narcotics trafficking activities of a person designated pursuant to the Kingpin Act; (2) owned, controlled, or directed by, or acting for or on behalf of, a person designated pursuant to the Kingpin Act; or (3) playing a significant role in international narcotics trafficking.

On May 7, 2014, the Acting Director of OFAC designated the following four individuals and four entities whose property and interests in property are blocked pursuant to section 805(b) of the Kingpin Act.

Individuals

1. LOUIE, Daniel Maurice; DOB 23 Dec 1955; POB Kapuskasing, Ontario, Canada; nationality Canada; Passport QH005189 (Canada); Driver's License No. L6802–15365–51223 (Canada); Pilot License Number PL00825 (Barbados) (individual) [SDNTK] (Linked To: LEADING EDGE SOURCING CORPORATION; Linked To: RESEARCH FX CONSULTANTS LIMITED; Linked To: SOURCE1HERBS).
2. LOUIE, Kevin Gim; DOB 01 May 1976; POB Canada; citizen Canada; Passport QA762643 (Canada) (individual) [SDNTK] (Linked To: LEADING EDGE SOURCING CORPORATION; Linked To: RESEARCH FX CONSULTANTS LIMITED; Linked To: SOURCE1HERBS).
3. LOUIE, Francine Denise (a.k.a. LOUIE, Francine Denise Marie; a.k.a. SAWYER, Francine Denise); DOB 17 Sep 1958; POB Ontario, Canada; citizen Canada; Passport QD872059 (Canada) (individual) [SDNTK].
4. PRIMUS, Tramayne John; DOB 22 Dec 1986; POB Bridgetown, Barbados; citizen Barbados; Passport 0592043 (Barbados); alt. Passport R212475 (Barbados) (individual) [SDNTK] (Linked To: LEADING EDGE SOURCING CORPORATION).

Entities

1. BOYLE CHEMICAL CO., LTD. (a.k.a. SHANGHAI BOYLE CHEMICAL CO., LTD.), Rm. 402, No.12, Lane 429, Pudong New Area, Shanghai, China; Building 12, No. 3802 ShenGang Road, Xinfei Corporation Home, SongJiang District, Shanghai 201611, China; Block C11, Xinfei Enterprises Home, No. 3, Shanghai 201611, China; Room 520–522, No. 135, Dongfang Road, Pudong New District, Shanghai 200120, China; Web site *http://www.boylechem.com*; alt. Web site *http://annaboylechem.globalimporter.net*; Registration ID 310106000205236 (China) [SDNTK].
2. LEADING EDGE SOURCING CORPORATION (a.k.a. SOURCE1WELLNESS), Plaza 2000 Building, 10th Floor, Calle 50, Panama City 0834–1987, Panama; P.O. Box 831, 34 Hudson Bay Avenue, Kirkland Lake, Ontario P2N 1Z3, Canada; Web site *http://lescpanama.com*; alt. Web site *http://www.sourceonewellness.com*; RUC # 22565211782546 (Panama) [SDNTK].
3. RESEARCH FX CONSULTANTS LIMITED, 3076 Rosegrove Road, Swastika, Ontario P0K 1T0, Canada; 34 Hudson Bay Avenue, Kirkland Lake, Ontario P2N 2H9, Canada; Box 831, Kirkland Lake, Ontario P2N 3K4, Canada; Tax ID No. 002235933 (Canada) [SDNTK].
4. SOURCE1HERBS, 3076 Rosegrove Road, Swastika, Ontario P0K 1T0, Canada; 34 Hudson Bay Street, Kirkland Lake, Ontario P2N 2H9, Canada; P.O. Box 3067, Holetown, St. James, Barbados; 14 Satjay Bridgetown Center, Victoria Street, Bridgetown, Barbados; 301 Palm Beach Condominiums, Hastings, Christ Church, Barbados; Web site *http://www.source1herbs.com*; Tax ID No. 180300642 (Canada); alt. Tax ID No. 200363331 (Canada) [SDNTK].

Dated: May 7, 2014.

Barbara C. Hammerle,

Acting Director, Office of Foreign Assets Control.

[FR Doc. 2014–11110 Filed 5–13–14; 8:45 am]

BILLING CODE 4811–AL–P

FEDERAL REGISTER

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No. 93 May 14, 2014

Part II

Environmental Protection Agency

40 CFR Part 60

Performance Specification 18—Specifications and Test Procedures for Gaseous HCl Continuous Emission Monitoring Systems at Stationary Sources; Proposed Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 60

[EPA–HQ–OAR–2013–0696; FRL–9909–79–OAR]

RIN 2060–5689

Performance Specification 18—Specifications and Test Procedures for Gaseous HCl Continuous Emission Monitoring Systems at Stationary Sources

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing performance specifications and test procedures for hydrogen chloride continuous emission monitoring systems to provide sources and regulatory agencies with criteria and test procedures for evaluating the acceptability of hydrogen chloride continuous emission monitoring systems. The proposed specification (Performance Specification 18) includes requirements for initial acceptance including instrument accuracy and stability assessments. This action also proposes quality assurance procedures for hydrogen chloride continuous emission monitoring systems used for compliance determination at stationary sources. The quality assurance procedures (Procedure 6) specify the minimum quality assurance requirements necessary for the control and assessment of the quality of continuous emission monitoring systems data submitted to the EPA.

This action would establish consistent requirements for ensuring and assessing the quality of data measured by hydrogen chloride continuous emission monitoring systems. The affected systems are those used for determining compliance with emission standards for hydrogen chloride on a continuous basis as specified in an applicable permit or regulation. The affected industries and their North American Industry Classification System codes are listed in the **SUPPLEMENTARY INFORMATION** section of this preamble.

DATES: *Comments.* Comments must be received on or before June 13, 2014.

Public Hearing. The EPA will hold a public hearing on this rule if requested. Requests for a hearing must be made by May 27, 2014. Requests for a hearing should be made to Ms. Candace Sorrell via email at *sorrell.candace@epa.gov* or by phone at (919) 541–1064. If a hearing is requested, it will be held on May 28, 2014 at the EPA facility in Research Triangle Park, NC.

ADDRESSES: *Comments.* Submit your comments, identified by Docket ID No. EPA–HQ–OAR–2013–0696, by one of the following methods:

- *http://www.regulations.gov:* Follow the online instructions for submitting comments.
- *Email: a-and-r-docket@epa.gov,* Attention Docket ID Number EPA–HQ–OAR–2013–0696.
- *Fax:* (202) 566–9744, Attention Docket ID No. EPA–HQ–OAR–2013–0696.
- *Mail:* U.S. Postal Service, send comments to: EPA Docket Center, William J. Clinton (WJC) West Building, Attention Docket ID Number EPA–HQ–OAR–2013–0696, U.S. Environmental Protection Agency, Mail code: 28221T, 1200 Pennsylvania Ave. NW., Washington, DC 20460. Please include a total of two copies.
- *Hand Delivery:* U.S. Environmental Protection Agency, WJC West Building (Air Docket), Room 3334, 1301 Constitution Ave. NW., Washington, DC, 20004, Attention Docket ID Number EPA–HQ–OAR–2013–0696. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions. Direct your comments to Docket ID Number EPA–HQ–OAR–2013–0696. The 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 whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *http://www.regulations.gov* or email. The *http://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 *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, the 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 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 not include special characters or 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.*

Docket: The EPA has established a docket for this rulemaking under Docket ID Number EPA–HQ–OAR–2013–0696. All documents in the docket are listed in the 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, is not placed on the Internet and will be publicly available only in hard copy. Publicly available docket materials are available either electronically in regulations.gov or in hard copy at the EPA Docket Center, WJC West Building, Room 3334, 1301 Constitution Ave. NW., Washington, DC 20004. 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 EPA Docket Center is (202) 566–1742.

FOR FURTHER INFORMATION CONTACT: For questions about this proposed action, contact Ms. Candace Sorrell, Office of Air Quality Planning and Standards, Air Quality Assessment Division (AQAD), Measurement Technology Group, U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27709; telephone number: (919) 541–1064; fax number: (919) 541–0516; email address: *sorrell.candace@epa.gov.*

SUPPLEMENTARY INFORMATION:

Organization of this Document. The information in this preamble is organized as follows:

I. General Information
  A. Does this action apply to me?
  B. Where can I get a copy of this document and other related information?
  C. What should I consider as I prepare my comments for the EPA?
II. Background
III. Summary of Proposed Performance Specification 18
  A. What is the purpose of PS–18?
  B. Who must comply with PS–18?
  C. When must I comply with PS–18?
  D. What are the basic requirements of PS–18?
  E. What are the reporting and recordkeeping requirements for PS–18?
IV. Summary of Proposed Procedure 6
  A. What is the purpose of Procedure 6?
  B. Who must comply with Procedure 6?
  C. When must I comply with Procedure 6?
  D. What are the basic requirements of Procedure 6?

E. What are the reporting and recordkeeping requirements for Procedure 6?
V. Rationale for Selecting the Proposed Requirements of Performance Specification 18 and Procedure 6
A. What information did we use to develop PS–18 and Procedure 6?
B. How did we select the requirements for PS–18 and Procedure 6?
C. Solicitation for Comment
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 Risks 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

I. General Information

A. Does this action apply to me?

The major entities that would potentially be affected by the proposed performance specification 18 (PS–18) and the quality assurance (QA) requirements of Procedure 6 for gaseous hydrogen chloride (HCl) continuous emission monitoring systems (CEMS) are those entities that are required to install a new CEMS, relocate an existing CEMS, or replace an existing CEMS under any applicable subpart of 40 CFR parts 60, 61 or 63. Table 1 of this preamble lists the current federal rules by subpart and the corresponding source categories to which the proposed PS–18 and Procedure 6 potentially would apply.

TABLE 1—SOURCE CATEGORIES THAT WOULD BE SUBJECT TO PS–18 AND PROCEDURE 6

Subpart(s)	Source category
40 CFR part 60	
Subpart F	Portland Cement Plants.
Subpart Da	Fossil Fuel-Fired Electric Utility, Industrial-Commercial-Institutional, and Small Industrial-Commercial-Institutional Steam Generating Units.
40 CFR part 63	
Subpart LLL	Portland Cement Manufacturing Industry.
Subpart UUUUU	Coal- and Oil-fired Electric Utility Steam Generating Units.

The requirements of the proposed PS–18 and Procedure 6 may also apply to stationary sources located in a state, district, reservation or territory that adopts PS–18 or Procedure 6 in its implementation plan.

Should PS–18 and Procedure 6 ultimately be finalized, we plan to amend 40 CFR part 63 subpart UUUUU, National Emission Standards for Hazardous Air Pollutants: Coal- and Oil-fired Electric Utility Steam Generating Units to offer PS–18 and Procedure 6 as an alternative to PS–15 for continuous monitoring of HCl. Note, however, that the alternative test method approval process of 63.7(f) is already available, even without any regulatory amendment, as a way for affected facilities to request approval to use PS–18/Procedure 6 in lieu of PS–15.

With regard to 40 CFR part 63, Subpart LLL which affects Portland cement manufacturing facilities and includes HCl monitoring requirements, should PS–18 and Procedure 6 be finalized, no amendments will be needed as Subpart LLL already allows for use of any promulgated performance specification for HCl CEMS in 40 CFR part 60, Appendix B.

Table 2 lists the corresponding North American Industry Classification System (NAICS) codes for the source categories listed in Table 1 of this preamble.

TABLE 2—NAICS FOR POTENTIALLY REGULATED ENTITIES

Industry	NAICS Codes
Fossil Fuel-Fired Electric Utility Steam Generating Units	327310 [a] 921150
Portland Cement Manufacturing Plants	327310

[a] Industry in Indian Country.

Tables 1 and 2 are not intended to be exhaustive, but rather they provide a guide for readers regarding entities potentially affected by this action. If you have any questions regarding the potential applicability of the proposed PS–18 and test procedures (Procedure 6) to a particular entity, consult the person listed in the **FOR FURTHER INFORMATION CONTACT** section.

B. 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 action is available on the Internet through the EPA's Technology Transfer Network (TTN) Web site, a forum for information and technology exchange in various areas of air pollution control. Following signature by the EPA Administrator, the EPA will post a copy of this proposed action on the TTN's policy and guidance page for newly proposed or promulgated rules at: *http://www.epa.gov/ttn/oarpg/t3pfpr.html.* Following publication in the **Federal Register**, the EPA will post the signed proposal and key technical documents

on the project Web site: *http://www.epa.gov/ttn/emc/proposed.html.*

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

1. Submitting CBI

Do not submit information containing CBI to the EPA through *http://www.regulations.gov* or email. Clearly mark the part or all of the information that you claim to be CBI. For CBI information on a disk or CD–ROM that you will 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 comments that includes information claimed as CBI, you must submit a copy of the comments that does not contain the information claimed as CBI for inclusion in the public docket. If you submit a CD–ROM or disk that does not contain CBI, mark the outside of the disk or CD–ROM clearly that it does not contain CBI. Information not marked as CBI will be included in the public docket and the EPA's electronic public docket without prior notice. Information marked as CBI will not be disclosed except in accordance with procedures set forth in 40 Code of Federal Regulations (CFR) part 2. Send or deliver information identified as CBI only to the following address: Roberto Morales, OAQPS Document Control Officer (C404–02), OAQPS, U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, Attention Docket ID Number EPA–HQ–OAR–2013–0696.

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. Respond to specific questions and organize comments by a 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 or character assassination.
- Make sure to submit your comments by the comment period deadline.

II. Background

The EPA recently promulgated the Portland Cement Maximum Achievable Control Technology (MACT) rule (75 FR 54970, September 9, 2010; 78 FR 10006, February 12, 2013) and the Mercury and Air Toxics Standards (MATS) rule (77 FR 9303, February 16, 2012; 78 FR 24075, April 24, 2013). Both rules specify the use of extractive Fourier Transform Infrared Spectroscopy (FTIR) and PS–15 when affected facilities opt or are required to continuously measure HCl emissions. To facilitate use of alternative technologies to FTIR and aid in measuring the low levels of HCl specified in those rules the EPA has developed and is proposing these new specifications and quality control (QC) procedures (PS–18 and Procedure 6) for HCl CEMS as an alternative to the use of PS–15.

Multiple technologies are available for HCl emissions monitoring. The goals of the proposed PS–18 and Procedure 6 are (1) to allow for the use of different HCl CEMS sampling and analytical technologies as long as the required performance criteria set out in the performance specification (PS) are met; and (2) to establish consistent requirements for ensuring and assessing the quality of data measured by HCl CEMS.

III. Summary of Proposed Performance Specification 18

A. What is the purpose of PS–18?

Proposed PS–18 establishes the criteria to evaluate acceptable performance of HCl CEMS at the time of installation or soon after and when regulations require reevaluation of HCl CEMS performance.

B. Who must comply with PS–18?

You may comply with PS–18 as an alternative to other HCl CEMS performance specifications (*e.g.,* PS–15) allowed under an applicable subpart if you use CEMS to monitor HCl emissions from controlled and uncontrolled emission sources subject to HCl CEMS requirements under a part 60, 61 or 63 regulation.

C. When must I comply with PS–18?

If you are the owner or operator of existing facilities required to install HCl CEMS in compliance with an associated rule, regulation or permit, you must comply with PS–18 if you choose and have these specifications approved as an alternative to other PS required under an applicable subpart [*e.g.,* PS–15]. Equipment and supplies for HCl CEMS will vary depending on the measurement technology and equipment vendors. If you are the owner or operator of affected HCl CEMS at new stationary sources, you must comply with either the HCl CEMS PS [*e.g.,* PS–15] required by the associated rule or permit or PS–18 as an approved alternative when you install and place into operation the affected HCl CEMS.

D. What are the basic requirements of PS–18?

The proposed PS–18 would require owners and operators subject to HCl CEMS requirements to: (1) Select an HCl CEMS that satisfies basic equipment control criteria; (2) install your HCl CEMS according to the manufacturer's specifications and the requirements set out in PS–18; (3) verify that the instrument is functioning properly; (4) calibrate and standardize your equipment; and (5) perform PS–18 procedures that demonstrate initial performance requirements for the HCl CEMS. A summary of the basic requirements is presented below.

1. HCl CEMS Equipment Selection

As noted in section III.C, PS–18 equipment and supplies for HCl CEMS can and will vary depending on the measurement technology and equipment vendors you select. The proposed PS–18 describes the typical key equipment and supply components found in one or more types of HCl CEMS. Extractive HCl CEMS typically include a sample extraction system, sample conditioning module, HCl analyzer, diluent analyzer, system controller, data recorder, reference gas system and moisture measurement system. Hydrogen chloride integrated path-CEMS (HCl IP–CEMS) typically include source temperature and pressure monitors and an optical transmitter and receiver with or without optics to generate longer measurement paths in the emission stream.

The proposed PS–18 defines the differing HCl CEMS equipment components and specifies design/operation basic criteria for the differing equipment components. For example, (1) for reference gas systems, PS–18 specifies that, for extractive CEMS, the system must be designed to be able to introduce reference gas flow sufficient to flood the sampling probe and prevent entry of gas from the effluent stream; and (2) for sample conditioning that, you must operate the module in such a way as to keep the particle-free gas sample above the modules, PS–18

specifies dew point temperature of its components. For HCl IP–CEMS, you must operate and qualify equipment to measure source gas temperature and pressure.

2. CEMS Measurement Location Specifications and Pretest Preparation

After you have selected the appropriate HCl CEMS for your operations, the proposed PS–18 requires that you install the system according to the manufacturer's specifications and as specified under section 8.0 of PS–18. The proposed PS–18 requires that you install the CEMS at an accessible location where the pollutant concentration or emission rate measurements are directly representative of the HCl emissions or can be corrected to be representative of the emissions from the affected facility.

With regards to HCl CEMS emissions measurement location, the proposed PS–18 specifies that it should be (1) at least two equivalent diameters downstream of the nearest control device, point of pollution generation or other point at which a change of pollutant concentration may occur; and (2) at least half an equivalent diameter (calculated according to Method 1 in Appendix A–1 to part 60) upstream from the effluent exhaust. We are soliciting comment on alternative measurement location requirements in this preamble (see section V.C of this preamble).

3. HCl CEMS Measurement Range

After installation, the proposed PS–18 recommends that you check, record and document the continuous emissions measurement range of the HCl CEMS to verify that the instrument is functioning correctly. Performance Specification 18 requires that the data collection device output range include zero and the upper limit of the measurement range.

4. HCl CEMS Performance Requirements and Procedures

After you have installed, set up, verified, and calibrated your HCl CEMS, the proposed PS–18 requires that you follow specified performance tests and procedures for the initial demonstration of your HCl CEMS and subsequent performance evaluations of your HCl CEMS. In general, the proposed PS–18 requires that: (1) Technology used to measure gaseous HCl provides a distinct response (DR) and addresses any appropriate interference correction(s); (2) the relative accuracy (RA) be established against a reference method (RM); and (3) dynamic spiking (DS) into the CEMS using a National Institute of Standards and Technology (NIST) traceable standard may be required to demonstrate initial performance at sources with emissions near the detection level of the CEMS and for ongoing QA tests. Specific proposed PS–18 test procedures are outlined below.

- *Interference Test.* You must test to detect analyzer responses to interferences not adequately accounted for in the calibration procedure that may cause measurement bias. The combined interference response for the analyzer used for the test must not be greater than ± 3.0 percent of the equivalent HCl concentration used for the interference test.
- *Beam Intensity Test for Integrated Patch CEMS (IP–CEMS).* For IP–CEMS, you must establish the light attenuation tolerance of your system and demonstrate that the HCl response is independent of the beam intensity. The percent difference during the attenuated light calibration check must not be more than ± 3.0 percent of the measured concentration with no attenuation used for the test.
- *Temperature Measurement Verification Procedure for IP–CEMS.* You must perform a temperature verification test as part of initial installation and verification procedures for an IP–CEMS. Temperature measurement must agree with a NIST traceable calibrated temperature measuring device within 2.8 °C (5.0 °F).
- *Pressure Measurement Verification Test for IP–CEMS.* You must conduct a pressure measurement verification test if you have an IP–CEMS. Your pressure monitor must agree with a NIST traceable calibrated measurement device within ± 5 percent or ≤ 0.12 kilopascals (0.5 inches of water column), whichever is greater. For stack pressure verification, you should select a gauge or monitor that conforms to the design requirements of American Society of Mechanical Engineers (ASME) standard B40.100–2010, ''Pressure Gauges and Gauge Attachments'' (incorporated by reference, *see* § 60.17).
- *Level of Detection (LOD) Determination.* You must determine the minimum amount of HCl that can be detected above the background in an HCl-free representative gas matrix (the LOD). If you choose to perform the LOD determination test in a controlled environment, you must verify the LOD during the initial field certification test using the DS test procedure (included in Appendix A of the PS). You must make three independent DS measurements at no more than five times the LOD for the detection level verification. If you cannot detect the DS HCl at the estimated LOD, you must increase the spike concentration incrementally until you establish a field verified detection level where the HCl measurement is a minimum of three times the noise for zero HCL concentration. The field verified detection level would replace the controlled environment LOD and would become the site- or installation-specific LOD.
- *Response Time (RT) Determination.* You must determine the average upscale and downscale response time as the response time for the system (the RT). This is the time it takes for the measurement system, while operating normally, to respond to a known step change in gas concentration (from a low- or zero-level to high-level gas concentration or vice versa). Stable RT measurements are made when measured HCl concentration is within five percent of the spike gas concentration (*i.e.,* the measurements must meet the ± 5 percent calibration error requirement; see below).
- *Calibration Error (CE) Test.* The CE test is the mean difference between the HCl calibration gas value and the CEMS response at each calibration point expressed as a percentage of the span. The CE of your HCl CEMS must be less than five percent.
- *Seven-Day Calibration Drift (CD) Test.* Prior to conducting an RA test on your HCl CEMS, you must perform a 7-day CD test. The purpose of the 7-day CD test is to verify the ability of the CEMS to maintain calibration for each of seven, 24-hour periods. The zero-level and high-level drift for each day must be less than five percent of the span value. You must pass each day's drift checks for seven days to meet this requirement and each drift check must be recorded and reported for the 7-day drift check test.
- *RA Test.* You must determine the RA for your HCl CEMS. As noted above, the RA must be established against an RM. The RA is the absolute mean difference between the gas concentration determined by the CEMS and the value determined by the RM, plus the 2.5 percent error confidence coefficient of a series of tests divided by the average of the RM or the applicable emission standard.

E. What are the reporting and recordkeeping requirements for PS–18?

The proposed PS–18 specifies requirements to record and report supporting data for test procedures and calculations set out in PS–18. For example, for systems that use a gas blender and/or liquid evaporative calibrator to deliver HCl gas standards, PS–18 requires that you record and report supporting data for these devices,

including liquid feed calibrations, liquid standard(s) concentration, feed rate and gas flow calibrations for all diluent and HCl gas flows. The proposed PS–18 also requires that you record and report summaries (in tabular form) of the results of CD tests, linearity tests, RT tests, CE tests, RA tests and optional spike recovery procedures. Additionally, the proposed PS–18 requires that you record and report supporting dilution system data and LOD and system limitation verification data for installed HCl CEMS.

IV. Summary of Proposed Procedure 6

A. What is the purpose of Procedure 6?

This proposed procedure specifies the minimum QA requirements necessary for the control and assessment of the quality of CEMS data submitted to the EPA. The proposed Procedure 6 would have two distinct and important purposes. First, the procedure would assess the quality of the HCl CEMS data produced by estimating accuracy. Second, the procedure would assist in the control and improvement of the quality of the CEMS data by implementing QC policies and corrective actions. Both of these purposes work together to ensure that data quality is acceptable.

B. Who must comply with Procedure 6?

Under the proposed Procedure 6, if you are responsible for one or more CEMS used for HCl compliance monitoring, you would be required to meet the minimum requirements of Procedure 6 and are encouraged to develop and implement a more extensive QA program or to continue such programs where they already exist. The proposed Procedure 6 would apply to any HCl CEMS that is subject to PS–18. That is, if you are required under an applicable subpart to parts 60, 61, or 63 to install and operate an HCl CEMS and you choose to comply with PS–18, you would be subject to both PS–18 and Procedure 6.

C. When must I comply with Procedure 6?

If you are the owner or operator of an affected HCl CEMS, you must comply with Procedure 6 when you install and place into operation an HCl CEMS that is subject to PS–18 or when an existing HCl CEMS becomes subject to PS–18.

D. What are the basic requirements of Procedure 6?

Requirements are based on proposed PS–18. Procedure 6 includes requirements for: (1) QC plan; (2) daily quality, calibration and measurement standardization procedures; and (3) data accuracy assessment. A summary of the proposed basic requirements is presented below.

1. *Quality Control Plan*

The proposed Procedure 6 requires that you develop and implement a QC plan that includes written procedures and manufacturer's information describing in detail complete, step-by-step measures that ensure quality data. The QC plan must cover procedures and operations for specified activities (*e.g.,* CD checks of HCl CEMS, HCl IP–CEMS emission source temperature and pressure accuracy). Records of these written procedures must be maintained and available for inspection by enforcement agencies. The proposed Procedure 6 requires either revising the QC plan or modifying or replacing the CEMS when quality control failures occur for two consecutive quarters.

2. *Daily Quality Requirements, Calibration and Measurement Procedures*

- *CD Assessment.* You are required to check, record and quantify the CD at two concentration values at least once daily in accordance with the method prescribed by the manufacturer. The HCl CEMS calibration must, at a minimum, be adjusted whenever the daily zero (or low-level) CD or daily high-level CD exceeds two times the drift limits of the applicable performance specification (*e.g.,* PS–18).
- *Beam Intensity Requirement for HCl IP–CEMS.* You must check, record and quantify the beam intensity of your IP–CEMS at least once daily according to manufacturer's specifications and procedures. If the HCl CEMS is out-of-control (the beam intensity falls outside of the operation range determined by section 11.2 of the proposed PS–18 of part 60), you must take the necessary corrective action and verify that the issue has been corrected (*i.e.,* by documenting and reporting the results of the quality control check procedure following corrective action showing the CEMS to be operating within specifications).
- *CEMS Data Status During Out-of-Control Period.* Procedure 6 requires that CEMS data obtained during out-of-control periods not be used when calculating compliance with an emissions limit or counted toward meeting minimum data availability requirements under an applicable regulation or permit.

3. *Data Accuracy Assessment*

Procedure 6 requires a weekly ''above span linearity'' challenge of the monitoring system with a certified calibration value greater than your highest expected hourly concentration. The ''above span'' reference gas must be introduced to the measurement system at the probe. You must record and report the results of this procedure as you would for a daily calibration. The ''above span linearity'' challenge must fall within 10 percent of the certified value of the reference gas.

- *Temperature and Pressure Accuracy Assessment.* Procedure 6 requires temperature and pressure accuracy verification for HCl IP–CEMS. The accuracy of the temperature and pressure measurement systems in each HCl IP–CEMS and stack pressure readings used with IP–CEMS data need to be verified and recorded at least once each calendar quarter (according to procedures in section 11.3 of the proposed PS–18). Procedure 6 also requires that measurement instruments or devices used to conduct verification of temperature or pressure measurement have an accuracy that is traceable to NIST. If the temperature and pressure verification exceeds criteria specified in the procedure that indicates that the HCl IP–CEMS is out-of-control, you need to take the necessary corrective action to eliminate the problem and verify that it has been corrected by repeating the failed verification (*i.e.,* by documenting and reporting the results of the audit following corrective action showing the CEMS to be operating within specifications).
- *Concentration Accuracy Auditing Requirements.* Procedure 6 requires that the accuracy of each HCl CEMS be audited at least once each calendar quarter by a relative accuracy test audit (RATA), DS audit (DSA), a cylinder gas audit (CGA) or other acceptable alternative approved by the Administrator. Hydrogen chloride audit gases are required to be NIST certified or NIST-traceable. Procedure 6 also requires a RATA to be conducted at least once every four calendar quarters unless the affected facility is off-line. Procedure 6 would require the analysis of RM audit samples, if they are available, concurrently with RM tests as specified in the general provisions of the applicable part (*i.e.,* based on the part [*i.e.,* part 60, 61, or 63] that contains the subpart that requires the owner or operator to install and operate an HCl CEMS).
- *Excessive Audit Inaccuracy.* Procedure 6 requires corrective actions to eliminate problem(s) when the CEMS is out-of-control. The procedure also requires that you verify that you have eliminated the problem(s) by documenting and reporting the results of the audit following corrective action

showing the CEMS to be operating within specifications. For purposes of excessive audit inaccuracy, a CEMS is considered out-of-control when (1) RA is greater than 20 percent of the RM when RMavg is used in the denominator to determine RA or greater than 15 percent when the equivalent emission standard value in parts per million by volume wet (ppmvw) is used in the denominator to determine RA; (2) the RA of the DSA is greater than 15 percent if the average spike value is used to determine RA or greater than 20 percent of the applicable emission standard if the emission standard is used to determine RA; or (3) the error determined by the CGA is greater than five percent of span. Procedure 6 proposes that CEMS data collected during out-of-control periods not be used in calculating compliance with emission limits nor be counted towards meeting minimum data availability requirements under an applicable regulation or permit.

- *Criteria for Acceptable QC Procedures.* In situations where a CEMS experiences excessive audit inaccuracies for two consecutive quarters, the proposed procedure requires that you revise your QC procedures, or modify or replace your CEMS.
- *Criteria for Optional QA Test Frequency.* The proposed Procedure 6 specifies that, if a CEMS is determined to be in-control for eight consecutive quarters that include a minimum of two RATA, you may revise your auditing procedures to use CGA or DSA each quarter for eight subsequent quarters. Under this scenario, you would only be required to perform a RATA that meets the acceptance criteria once every two years. If a CEMS fails a RATA, CGA, or DSA, you would need to revert to the original auditing schedule until the audit results meet in-control criteria to start re-qualifying for the optional QA test frequency again.
- *Calculations for CEMS Data Accuracy.* The proposed Procedure 6 specifies RA, CGA accuracy and DSA accuracy calculation requirements.

E. What are the reporting and recordkeeping requirements for Procedure 6?

The proposed Procedure 6 would require that if you own or operate an affected HCl CEMS, you must report for each CEMS the accuracy and CD assessment results as a Data Assessment Report (DAR) (an example of a DAR format is provided in Procedure 6; section 9.0, Figure 1). At a minimum, the DAR must contain source owner and operator information; identification and location of monitors in the CEMS; manufacturer and model number of each monitor in the CEMS; assessment of CEMS data accuracy; and date of assessment. The DAR is required to be submitted with the report of emissions required under the applicable regulation or permit that requires continuous emission monitoring.

V. Rationale for Selecting the Proposed Requirements of Performance Specification 18 and Procedure 6

A. What information did we use to develop PS–18 and Procedure 6?

To develop proposed PS–18 and Procedure 6, we considered the requirements of emission standards promulgated under 40 CFR parts 60, 61 and 63; state agency requirements for CEMS; manufacturer and vendor recommendations; and current operational and design practices in the industry. As part of this consideration, the EPA's Office of Air Quality Planning and Standards (OAQPS) gathered information from instrument and gas vendors, affected facilities, testers and regulatory bodies with experience performing continuous measurements of HCl from stationary sources.

Concurrent with the EPA's OAQPS' information gathering efforts, the EPA's Office of Research and Development (ORD) conducted research to establish additional data to support the new performance specification and QA test procedures. As part of the EPA's ORD's research efforts, they evaluated commercial HCl CEMS under controlled and representative emission environments, the suitability of candidate RMs and the status and quality of available gas standards. The ORD focused their testing research on interference tests, LOD tests, 7-day drift, linearity, RATAs and DS.

B. How did we select the requirements for PS–18 and Procedure 6?

Generally, the basic requirements proposed under PS–18 and Procedure 6 for calibration error, calibration drift, RATA, and cylinder gas audit agreement are consistent with other CEMS performance specifications. The proposed LOD requirements are based on an adequate safety margin so that equipment can measure quantitatively at the compliance limit. The proposed DS requirements are consistent with other RM recovery requirements (*e.g.,* EPA Method 320, EPA Method 18). The above-span calibration and linearity requirements proposed are based on the PS–12 precedent used for mercury CEMS.

During the development of the proposed PS–18 and Procedure 6, we evaluated all options and attempted to develop the most appropriate performance specifications and procedures based on available information, testing and feedback from vendors and industry regarding the use of HCl CEMS. Although we believe this proposal includes the most appropriate HCl CEMS performance specifications and procedures (for use as an alternative to PS–15 for HCl CEMS), we are soliciting comment on several issues provided in paragraph V.C of this preamble.

C. Solicitation for Comment

1. Performance Specification 18 Topics

a. Integrated Path (IP–CEMS) Line Strength Factor

Calibration error procedures proposed for IP–CEMS in PS–18 require correcting for calibration cell path length, temperature, pressure, line strength factor (LSM) and, if necessary, the native source gas HCl concentration when you calculate the stack equivalent concentration of the HCl gas measured in your calibration cell. The proposed specification allows the use of the line LSM provided by the instrument manufacturer or an instrument-specific LSM experimentally determined using a heated gas cell at effective gas concentrations equivalent to between 50 and 150 percent of the emission limit. We are soliciting comment on approaches used by IP instrument vendors to determine LSM and data showing the effect of LSM on the accuracy of the stack equivalent concentration calculation.

b. Optical Measurement Path Length Determination

An IP–CEMS measures the gas concentration along an open optical path across the stack or duct cross section. Specifically, for IP–CEMS, measurement path is the distance of the optical path that passes through the source gas in the stack or duct correcting for ports, standoffs, and extensions or CEM-specific optical path length alterations. The optical measurement path length must be measured and not based on engineering diagrams. We are requesting information on procedures currently available to measure the optical path length for IP monitors that will result in an accuracy of at least ± 1 percent. (*See* PS–1 of Appendix B to Part 60 (Specifications and Test Procedures for Continuous Opacity Monitoring Systems in Stationary Sources); section 8.1.)

c. Alternative CEMS Probe Placement Locations

Section 8.3 of the proposed PS–18 specifies HCl measurement location requirements downstream of the control device, point of pollution generation or other point at which a change of pollutant concentration may occur and upstream of the exhaust. We are seeking comment and supporting data on alternative probe placement locations such as in the breeching of the stack (*i.e.,* in the exhaust duct or pipe that leads from the stack) that pass the RATA requirements.

2. Appendix F Procedure 6 Topics

a. Effect of Temperature and Pressure on HCl Concentration Determination During DS Measurements

We provided options in Appendix F Procedure 6 for initial and ongoing quality control using DS for IP–CEMS. The procedure to perform DS is described in Appendix A of PS–18. For IP–CEMS, dynamic spiking is a standard addition procedure where you spike a known concentration of HCl gas into a calibration cell. You are required to assess the accurate recovery of HCl introduced into the measurement system in the presence of potential interference from the flue gas sample matrix. The measurement involves recording the combined optical signal from HCl in the calibration cell at ambient temperature and HCl in the stack at elevated temperature. The combination of HCl absorbance at two different temperatures would create hybrid spectra features of both temperatures. Based on our evaluation, we understand there can be as much as a 10 percent difference line shape/area used for IP measurements between instrument operating temperature near 20°C and typical stack temperatures up to 250°C. We are requesting comment on procedures that can be used to determine the concentration when IP calibration cells contain HCl at ambient temperature (approximately 20°C) or the need to heat the calibration cell to a specific temperature during DS measurements that include absorbance for both stack gas (HCl) at elevated temperature and ambient temperature calibration cell HCl.

b. Use of Dynamic Spiking

The proposed PS–18 and Procedure 6 require that you audit the accuracy of each HCl CEMS at least once each calendar quarter (except the quarter the RATA is conducted) by a DSA, a CGA or other acceptable alternative. Appendix A to the proposed PS–18 describes the procedure and performance requirements for DS as a quality check for HCl CEMS. We are proposing this option as one of three alternatives to a RATA in three of the four quarterly QA checks required in Procedure 6. We are soliciting comment on our proposal and data on the use of periodic DS as an alternative to the use of a CGA.

c. Alternative QA for Low Level RM RATA Measurements

We are proposing a mandatory RATA with the appropriate RM during initial demonstration and periodically thereafter. We are also soliciting comment and data on alternative or additional QA that should be performed when the stack HCl concentration is below the RM quantitation limit.

d. Long-Term Quality Control Under Procedure 6

The proposed Appendix F to part 60 (Quality Assurance Procedure 6) requires a RATA at least once every four calendar quarters, except in the case where the affected facility is off-line (does not operate in the fourth calendar quarter since the quarter of the previous RATA). Section 5.5 of the procedure specifies that if the CEMS is in-control for eight consecutive quarters that include a minimum of two RATA, you may revise your auditing procedures to use CGA or DSA each quarter for eight subsequent quarters, but you must perform at least one RATA and demonstrate that the source meets the acceptance criteria every 2 years. We are requesting comments and data on alternative grace periods allowed between required RATAs when your audits demonstrate that the source has been in-control long-term under Procedure 6.

e. Method 205 to Generate Cylinder Gas Audit Concentrations for Quarterly Audits

Section 7.3 (Reagents and Standards) of the proposed PS–18 allows the use of diluted high concentration HCl standards to achieve the HCl gas concentrations required in PS–18 as long as you follow Method 205 or other procedures approved by the Administrator. We are soliciting comment and data comparing the uncertainty of gases generated by dilution using Method 205 to the tolerance allowed for cylinder gas audits in section 5.2.2.3 of Procedure 6 proposed for 40 CFR part 60, Appendix F.

f. Direct Instrument Cell Calibration Checks

As noted previously, for extractive CEMS, DS involves adding a known concentration of HCl gas at a known flow rate into the probe sample gas stream to assess the ability of the measurement system to recover and accurately measure HCl in the presence of potential interference from the flue gas matrix. We are considering an alternative that includes instrument calibration checks for extractive CEMS and request comment and supporting data on two topics related to calibration check procedures: (1) What is the feasibility of achieving DS accuracy to 95 percent of the theoretical spike at the span concentration? and (2) If calibration checks are performed at the instrument for extractive CEMS, what is the accuracy of dynamic spike recovery?

g. Using DS and Associated Acceptance Criteria as an Alternative to Daily Calibration Check for Quality Assurance Procedure 6

Calibration drift is a quantitative assessment of whether your HCl CEMS measurements are in control. Checking calibration also allows the facility to reset the calibration and improve the consistency and quality of HCl CEMS data. We are considering using dynamic spiking as an alternative to direct cylinder gas assessment of calibration drift as a measure of QC for HCl CEMS. We are taking comment and data on the quantitative comparison of dynamic spike recovery results compared to CD results to determine if there are comparable criteria for DS to qualify as an alternative for CD tests.

h. Moisture Measurements To Correct HCl Results

Section 6.8 (Moisture Measurement System) of the proposed PS–18 stipulates that, if correction of the measured HCl emissions for moisture is required, either Method 4 in Appendix A–3 of part 60 or other moisture measurement methods approved by the Administrator will be needed to measure stack gas moisture content. We are requesting comment/data on conditions or situations where continuous moisture measurements should be required to correct HCl results to the units of the standard, and where periodic Method 4 tests or equivalent is good enough on a periodic basis to define moisture for the entire duration between Method 4 tests.

i. Other Initial or On-Going Procedures for IP–CEMS

We are soliciting comment/data on other initial or on-going procedures for

IP–CEMS not included in the proposal that are commonly performed and necessary to ensure data are of known and acceptable quality to demonstrate compliance.

VI. Statutory and Executive Order Reviews

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

This action is not a ''significant regulatory action'' under the terms of Executive Order 12866 (58 FR 51735, October 4, 1993) and is therefore not subject to review under Executive Orders 12866 and 13563 (76 FR 3821, January 21, 2011).

B. Paperwork Reduction Act

This action does not impose an information collection burden under the provisions of the *Paperwork Reduction Act,* 44 U.S.C. 3501 *et seq.* Burden is defined at 5 CFR 1320.3(b). This action provides performance criteria and QA test procedures for assessing the acceptability of HCl CEMS performance and data quality. These criteria and QA test procedures do not add information collection requirements beyond those currently required under the applicable regulation.

C. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) generally requires an agency to prepare a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements under the Administrative Procedure Act 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. Small entities include small businesses, small organizations, and small governmental jurisdictions.

For purposes of assessing the impacts of this rule on small entities, small entity is defined as: (1) A small business as defined by the Small Business Administration's 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 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 on small entities. 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 mandates under the provisions of Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), 2 U.S.C. 1531–1538, for state, local or tribal governments or the public 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 sections 202 or 205 of 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. This rule will not apply to such governments and will not impose any obligations upon them.

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. Thus, Executive Order 13132 does not apply to this action.

In the spirit of Executive Order 13132 and consistent with EPA policy to promote communications between the EPA and state and local governments, the EPA specifically solicits comment on this proposed rule from state and local officials.

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

This action does not have tribal implications, as specified in Executive Order 13175 (65 FR 67249, November 9, 2000). This action proposes performance specifications that can be used as an additional option to PS–15 for HCl continuous emissions monitoring. Thus, Executive Order 13175 does not apply to this action. The EPA solicits additional comment on this proposed action from tribal officials.

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

The EPA interprets Executive Order 13045 (62 FR 19885, April 23, 1997) as applying only to regulatory actions that are based on health or safety risks, such that the analysis required under section 5–501 of the Executive Order has the potential to influence the regulation. This action is not subject to Executive Order 13045 because it does not establish an environmental standard intended to mitigate health or safety risks.

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

This action is not subject to Executive Order 13211 (66 FR 28355 (May 22, 2001)), because it is not a significant regulatory action under Executive Order 12866.

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, 12(d) (15 U.S.C. 272 note) directs the EPA to use voluntary consensus standards (VCS) 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 VCS bodies. The NTTAA directs the EPA to provide Congress, through OMB, explanations when the agency decides not to use available and applicable VCS. This proposed rule 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 12898 (59 FR 7629, February 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. This proposed rule will help to ensure that emission control devices are operated properly and maintained as needed, thereby helping to ensure compliance with emission standards, which would benefit all affected populations.

Performance Specification 18—Specifications and Test Procedures for Gaseous HCl Continuous Emission Monitoring Systems at Stationary Sources

List of Subjects in 40 CFR Part 60

Environmental protection, Administrative practice and procedure, Air pollution control, Continuous emission monitoring systems, Hydrogen chloride, Performance specifications, Test methods and procedures.

Dated: April 30, 2014.

Gina McCarthy,

Administrator.

For the reasons stated in the preamble, the Environmental Protection Agency proposes to amend title 40, chapter 1 of the Code of Federal Regulations as follows:

■ 1. The authority citation for part 60 continues to read as follows:

Authority: 42 U.S.C., 7401–7671q.

■ 2. Appendix B is amended by adding Performance Specification 18 and Appendix A to Performance Specification 18 to read as follows:

Appendix B to Part 60—Performance Specifications

* * * * *

PERFORMANCE SPECIFICATION 18—PERFORMANCE SPECIFICATIONS AND TEST PROCEDURES FOR GASEOUS HYDROGEN CHLORIDE (HCl) CONTINUOUS EMISSION MONITORING SYSTEMS AT STATIONARY SOURCES

1.0 *Scope and Application.*

1.1 Analyte. This performance specification (PS) is applicable for measuring gaseous concentrations of hydrogen chloride (HCl), CAS: 7647–01–0, on a continuous basis in the units of the applicable standard or in units that can be converted to units of the applicable standard(s).

1.2 Applicability.

1.2.1 This specification is used to evaluate the acceptability of HCl continuous emission monitoring systems (CEMS) at the time of installation or soon after and when regulations require reevaluation of HCl CEMS performance. The specification includes requirements for initial acceptance including instrument accuracy and stability assessments.

1.2.2 The Administrator may require the operator under section 114 of the Clean Air Act (CAA), to conduct CEMS performance evaluations at other times besides the initial test to evaluate the CEMS performance. See 40 CFR part 60, § 60.13(c) and § 63.8(e)(1).

1.2.3 A source that demonstrates their CEMS meets the criteria of this PS may use the system to continuously monitor gaseous HCl. If your HCl CEMS is capable of reporting the HCl concentration in the units of the existing standard, no additional CEMS components are necessary. If your HCl CEMS does not report concentrations in the units of the existing standard, then other CEMS components (*e.g.,* oxygen (O_2), temperature, stack gas flow, moisture and pressure) are necessary to convert the units reported by your HCl CEMS to the units of the standard.

1.2.4 These specification test results are intended to be valid for the life of the system. As a result, the HCl measurement system must be tested and operated in a configuration consistent with the configuration that will be used for ongoing continuous emissions monitoring.

1.2.5 Substantive changes to the system configuration require retesting according to this PS. Examples of such conditions include, but are not limited to: major changes in dilution ratio (for dilution based systems); changes in catalyst materials, if used; changes in sample conditioning, if used, such as filtering device design or materials; changes in probe design or configuration; light source or detector substitution; and changes in materials of construction.

1.2.6 This specification is not designed to evaluate the ongoing CEMS performance nor does it identify specific calibration techniques and auxiliary procedures to assess CEMS performance over an extended period of time. The source owner or operator is responsible to calibrate, maintain, and operate the CEMS properly.

2.0 *Summary of Performance Specification.*

2.1 This specification covers the procedures that each HCl CEMS must meet during the performance evaluation test. Installation and measurement location specifications, data reduction procedures and performance criteria are included.

2.2 The technology used to measure gaseous HCl must provide a distinct response and address any appropriate interference correction(s). It must accurately measure gaseous HCl in a representative sample (path or point sampling) of stack effluent.

2.3 The relative accuracy (RA) must be established against a reference method (RM) (*e.g.,* Method 26A, Method 320, ASTM International (ASTM) D6348–12, including mandatory annexes, or Method 321, as appropriate for the source concentration and category).

2.4 Dynamic spiking (DS) into the CEMS using a National Institute of Standards and Technology (NIST) traceable standard may be required to demonstrate performance at sources with emissions near the detection level of the CEMS and for ongoing quality assurance tests.

3.0 *Definitions.*

3.1 *Calibration Cell* means a gas containment cell used with cross stack or integrated path (IP) monitors to perform precision and calibration checks. The cell may be a removable sealed cell or an evacuated and/or purged cell capable of exchanging calibration and zero gases. When charged, it contains a known concentration of HCl calibration gas. The calibration cell is filled with zero gas or removed from the optical path during stack gas measurement.

3.2 *Calibration Drift (CD)* means the absolute value of the difference between the CEMS output response and an upscale reference or a zero-level reference, expressed as a percentage of the span value, when the CEMS is challenged after a stated period of operation during which no unscheduled maintenance or repair took place. A separate CD determination must be performed for pollutant and diluent analyzers.

3.3 *Calibration Error (CE)* means the mean difference between the concentration measured by the CEMS and the known concentration from a calibration standard, divided by the span, when the entire CEMS, including the sampling interface, is challenged.

3.4 *Calibration Range Above Span (CRAS)* means the upper limit of the measurement range. The calibration range must accommodate the DS procedure if that option is selected. The CRAS should be a conservatively high estimate of the range of HCl measurements expected from the source category. The CRAS value defines the calibration and quality assurance at the upper limit of HCl concentration measurement. The CRAS may require a calibration standard above span.

3.5 *Centroidal Area* means a central area that is geometrically identical to the stack or duct cross section and is no greater than ten percent of the stack or duct cross-sectional area.

3.6 *Continuous Emission Monitoring System (CEMS)* means the total equipment required to measure the pollutant concentration or emission rate continuously.

3.7 *Continuous Operation* means the time between periodic maintenance when an instrument and sampling system operates without user intervention, continuously samples flue gas, analyzes the sample gas for HCl and related parameters (*e.g.,* gas flow, diluent), records measurement data, and saves the results to a computer file. User intervention is permitted for initial set-up of sampling system, initial calibrations, periodic calibration corrections, periodic maintenance and periodic quality assurance audits.

3.8 *Data Recorder* means the portion of the CEMS that provides a permanent record of analyzer output. The data recorder may record other pertinent data such as effluent flow rates, various instrument temperatures or abnormal CEMS operation. The data recorder may also include automatic data reduction capabilities and CEMS control capabilities.

3.9 *Dynamic Spiking (DS)* means the procedure where a known concentration of HCl gas is injected into the probe sample gas stream for extractive CEMS at a known flow rate, or used to fill a calibration cell for *in situ* IP–CEMS, in order to assess the accuracy of the measurement system in the presence of potential interference from the flue gas sample matrix.

3.10 *Independent Measurement(s)* means the series of CEMS data values taken during

sample gas analysis separated by two times the response time (RT) of the CEMS.

3.11 *Integrated Path CEMS (IP–CEMS)* means a CEMS that measures the gas concentration along an optical path in the stack or duct cross section.

3.12 *Interference* means a compound or material in the sample matrix other than HCl whose characteristics may bias the CEMS measurement (positively or negatively). The interference may not prevent the sample measurement, but could increase the analytical uncertainty in the measured HCl concentration through reaction with HCl or by changing the electronic signal generated during HCl measurement.

3.13 *Interference Test* means the test to detect analyzer responses to interferences that are not adequately accounted for in the calibration procedure and may cause measurement bias.

3.14 *Level of Detection (LOD)* means the lowest level of pollutant the CEMS can detect with 99 percent confidence in the presence of typical source gas matrix interferents.

3.15 *Liquid Evaporative Standard* means a reference gas produced by vaporizing NIST traceable liquid standards of known HCl concentration and quantitatively mixing the resultant vapor with a diluent carrier gas.

3.16 *Optical Path* means the route light travels from the light source to the receiver used to make an optical CEMS sample measurement.

3.17 *Path Length* means, for extractive optical CEMS, the distance in meters of the optical path within a gas measurement cell. For IP–CEMS, path length is the distance in meters of the optical path that passes through the source gas in the stack or duct.

3.18 *Point CEMS* means a CEMS that measures the source gas concentration, either at a single point at the sampling probe tip or over an optical path less than 10 percent of the equivalent diameter of the stack or duct cross section.

3.19 *Relative Accuracy (RA)* means the absolute mean difference between the gas concentration determined by the CEMS and the value determined by the RM, plus the 2.5 percent error confidence coefficient of a series of tests divided by the average of the RM or the applicable emission standard.

3.20 *Response Time (RT)* means the time it takes for the measurement system, while operating normally at its target sample flow rate, dilution ratio, or data collection rate to respond to a known step change in gas concentration, either from a low- or zero-level to a high-level gas concentration or from a high level to a low or zero level, and to read within five percent of the stable gas response.

3.21 *Sample Interface* means the portion of the CEMS used for one or more of the following: Sample acquisition, sample transport, sample conditioning, optical measurement path, or protection of the analyzer from the effects of stack gas.

3.22 *Span Value* means the value established by the relevant regulatory requirement or is equal to twice the emission limit if not otherwise specified.

3.23 *Stratification* means the identification of when a measurement taken at a single point in a duct or emission stack is different from measurements taken at multiple points that traverse the duct or stack.

3.24 *Zero gas* means a calibration gas or liquid evaporative spike with an HCl concentration that is below the LOD of the measurement system.

4.0 *Interferences.*

Sample gas interferences will vary depending on the instrument or technology used to make the measurement. Interferences must be evaluated through the interference test in this performance specification. Several compounds including carbon dioxide (CO_2), carbon monoxide (CO), formaldehyde (CH_2O), methane (CH_4), and water (H_2O) are potential optical interferences with certain types of HCl monitoring technology. Ammonia is a potential chemical interference with HCl.

5.0 *Safety.*

The procedures required under this PS may involve hazardous materials, operations, and equipment. This PS may not address all of the safety issues associated with these procedures. It is the user's responsibility to establish appropriate safety and health practices and determine the applicable regulatory limitations prior to performing these procedures. The CEMS users should consult instrument operation manuals, compressed gas safety requirements such as Occupational Safety and Health Administration regulations and other material safety data sheets for specific precautions to be taken.

6.0 *Equipment and Supplies.*

Equipment and supplies for HCl CEMS will vary depending on the measurement technology and equipment vendors. This section provides a description of the equipment and supplies typically found in one or more types of HCl CEMS.

6.1 Sample Extraction System. The portion of an extractive CEMS that collects and transports the sample to the pressure regulation and sample conditioning module. The extraction system must deliver a representative sample to the measurement instrument. The sample extraction system typically consists of a sample probe and a heated umbilical line.

6.2 Sample Conditioning Module. The portion of an extractive CEMS that removes particulate matter and moisture from the gas stream and provides a sample gas stream to the CEMS analysis module or analyzer. You must keep the particle-free gas sample above the dew point temperature of its components.

6.3 HCl Analyzer. The portion of the CEMS that detects, quantifies and generates an output proportional to the stack gas HCl concentration.

6.4 Diluent Analyzer. The portion of the CEMS that quantifies stack gas concentrations of O_2 or CO_2. For systems with a multi-component analyzer, the same analyzer may quantify for all measured gases.

6.5 System Controller. The portion of the CEMS that provides control of the analyzer and any sample extraction system components including the probe, pressure sensing and regulation, sample conditioning module and the sample interface.

6.6 Data Recorder. The portion of the CEMS that provides a record of analyzer output. The data recorder may record other pertinent data such as effluent flow rates, various instrument temperatures or abnormal CEMS operation. The data recorder output range must include the full range of expected HCl concentration values in the gas stream to be sampled including zero and span value. Multiple instrument ranges or extended calibration points to extend the measurement range may be necessary to measure concentrations encountered during normal process operation.

6.7 Reference Gas System(s). One or more systems may be needed to introduce calibration gases into the measurement system. You will use a reference gas system to introduce a known concentration of HCl gas into the measurement system. For extractive CEMS, the system must be able to introduce reference gas flow sufficient to flood the sampling probe and prevent entry of gas from the effluent stream. For IP–CEMS, the system must be able to introduce a known concentration of HCl, at known pressure and temperature, into the optical path used to measure HCl gas concentration.

6.8 Moisture Measurement System. If correction of the measured HCl emissions for moisture is required, either Method 4 in Appendix A–3 of this part or other moisture measurement methods approved by the Administrator will be needed to measure stack gas moisture content.

7.0 *Reagents and Standards.*

7.1 Reference cylinder gas(es) or liquid evaporative gas standards used to meet the performance specifications must be traceable to NIST.

7.2 Cylinder gas and/or liquid evaporative standards must be used within their certification period.

7.3 High concentration HCl standards may be diluted for use in this specification. You must document the quantitative introduction of HCl standards into the system using Method 205 or other procedure approved by the Administrator.

8.0 *CEMS Measurement Location Specifications and Pretest Preparation.*

8.1 Prior to the start of your initial PS tests, you must ensure that the HCl CEMS is installed according to the manufacturer's specifications and the requirements in this section. You may use either point or IP sampling technology.

8.2 Installation. Install the CEMS at an accessible location where the pollutant concentration or emission rate measurements are directly representative of the HCl emissions or can be corrected so as to be representative of the emissions from the affected facility. For CEMS sampling at a single point, a location that has been shown to be free of HCl (or sulfur dioxide (SO_2)) stratification is recommended. If you fail the RA requirements in this specification due to the measurement location and a satisfactory correction technique cannot be established, the Administrator may require the CEMS to be relocated.

8.3 Measurement Location. The measurement location should be (1) at least two equivalent diameters downstream of the nearest control device, point of pollution generation or other point at which a change of pollutant concentration may occur; and (2)

at least half an equivalent diameter upstream from the effluent exhaust. The equivalent duct diameter is calculated according to Method 1 in Appendix A–1 to this part.

8.3.1 Single point sample gas extraction should be (1) no less than 1.0 meter (3.3 ft.) from the stack or duct wall or (2) within the centroidal velocity traverse area of the stack or duct cross section.

8.3.2 Path-integrated measurements must (1) be conducted totally within the inner area bounded by a line 1.0 meter (3.3 ft.) from the stack or duct wall, or (2) have at least 70 percent of the path within the inner 50 percent of the stack or duct cross-sectional area, or (3) be located over any part of the centroidal area.

8.4 CEMS and Data Recorder Scale Check. After CEMS installation, we recommend you check the CE as described in section 11.7 to verify that the instrument is functioning properly. Record and document the measurement range of the HCl CEMS. The CEMS operating range (zero through CRAS) and the range of the data collection device must encompass the applicable emission limit and all expected HCl concentrations. The CEMS and data collection device output range must include zero and the CRAS value.

9.0 *Quality Control.* [Reserved]

10.0 *Calibration and Standardization.* [Reserved]

11.0 *Performance Specification Test Procedure.*

After completing the CEMS installation, setup and calibration, you must complete the performance specification test procedures in this section. You must perform the following procedures and meet the performance requirements for the initial demonstration of your HCl CEMS:

a. Interference Test;

b. Beam Intensity Test (IP–CEMS only);

c. Stack Temperature Verification (IP–CEMS only);

d. Stack Pressure Verification (IP–CEMS only);

e. Level of Detection (LOD) Determination;

f. Response Time (RT) Test;

g. Calibration Error (CE) Test;

h. Calibration Drift (CD) Test; and

i. Relative Accuracy (RA) Test:

- Comparison with RM
- Stratification Test
- Optional Dynamic Spiking (DS) Test.

11.1 Interference Test

11.1.1 You must conduct the interference test of your measurement system prior to its initial use in the field to verify that the candidate system measures HCl accurately in the presence of common interferences in emission matrices.

11.1.2 Your interference test may be conducted in either a controlled environment or on-site during initial setup and qualification of your CEMS.

11.1.3 If you have multiple measurement systems with components of the same make and model numbers, you need only perform this interference check on one system and you may also rely on an interference test conducted by the manufacturer on a system having components of the same make and model(s) of the system that you use.

11.1.4 Perform the interference check with an HCl concentration between 10 and 40 percent of the span value anticipated for your source CEMS application. Alternatively, successfully conducting the interference test at the relevant regulatory standard may be used to demonstrate performance.

11.1.5 Introduce the interference test gases listed in Table 1 in section 17.0 into the measurement system separately or in any combination.

11.1.5.1 For extractive CEMS, the interference test gases must be introduced into the sampling system at the probe such that the interference gas mixtures pass through all filters, scrubbers, conditioners, and other components as would be configured at a typical field site.

11.1.5.2 For IP–CEMS, the interference test gases may be added with the HCl in a calibration cell or separately in a temperature-controlled cell with an effective path length in the optical CEMS path representative of the required method detection level. Test gas and interference gas is added to the cell at a concentration that is equivalent to the effective stack concentration corrected for pressure, temperature and the nominal stack sampling path length of the CEMS.

11.1.6 The interference test must be performed by combining an HCl gas with each interference test gas (or gas mixture). You must measure the baseline HCl response, followed by the response after adding the interference test gas(es) at a constant HCl concentration. Your baseline HCl measurement must agree within three percent of the theoretical HCl concentration. You must perform each interference gas injection and evaluation in triplicate, and assess the combined interference of all of the gases in Table 1.

(Note: The baseline HCl injection may include interference gases at concentrations typical of ambient air (e.g., 21 percent O_2, 400 parts per million (ppm) CO_2, 2 percent H_2O), but these concentrations must be brought to the concentrations listed in Table 1 when their interference effects are being evaluated.)

11.1.7 You must document the quality and quantity of the gas volume/rate, temperature, and pressure used to conduct the interference test to be able to establish the error of blending the HCl and interference gases while maintaining a known HCl concentration. A gas blending system or manifold may be used.

11.1.8 The duration of each interference test should be sufficient to ensure the HCl measurement system surfaces are conditioned and a stable measurement is obtained.

11.1.9 Measure the HCl response of the analyzer to these gases in ppm. Record the responses and determine the overall interference response using Table 2 in section 17.0.

11.1.10 For each interference gas (or mixture), calculate the mean difference (ΔMC_{avg}) between the measurement system responses with and without the interference test gas(es) using Equation 1 in section 12.0. Summarize the results following the format contained in Table 2 in section 17.0.

11.1.11 Calculate the total percent interference (I) for the gas runs using Equation 2 in section 12.0. The combined interference response for the analyzer that was used for the test must not be greater than ± 3.0 percent of the equivalent HCl concentration used for the interference test.

11.2 Beam Intensity Test for IP–CEMS

11.2.1 For IP–CEMS, you must establish the beam intensity attenuation tolerance of your system and demonstrate that the HCl span response is independent of the beam intensity in the absence of HCl.

11.2.2 Insert one or more neutral density filter(s) or otherwise attenuate the beam intensity (*e.g.,* 90 percent of the beam intensity).

11.2.3 Perform a high-level calibration check.

11.2.4 Record and report the attenuated beam intensity, calibration gas concentration measured by the CEMS and the percent difference between the measured calibration gas concentration at full beam intensity and the measured concentration with attenuated beam intensity. The percent difference during the attenuated beam intensity calibration check for the light source and detector used in the IP–CEMS must not be more than ± 3.0 percent of the measured calibration concentration used for the test.

11.2.5 In the future, you may not operate your IP–CEMS at a beam intensity lower than that established during this test. However, you may repeat the test to establish a lower beam intensity cut point.

11.3 Temperature Measurement Verification Procedure for IP–CEMS

11.3.1 Any measurement instrument or device that is used to conduct ongoing verification of temperature measurement must have an accuracy that is traceable to NIST.

11.3.2 You must perform a temperature verification test on-site as part of the initial installation and verification procedures.

11.3.3 Comparison to Calibrated Temperature Measurement Device.

11.3.3.1 Place the sensor of a calibrated temperature measurement device adjacent to the sensor used to measure stack temperature for your HCl CEMS. The calibrated temperature measurement device must satisfy the accuracy requirements specified in Table 3 of this PS. The calibrated temperature measurement device must also have a range equal to or greater than the range of your HCl CEMS temperature monitor.

11.3.3.2 Allow sufficient time for the response of the calibrated temperature measurement device to reach equilibrium. With the process or control device operating under normal conditions concurrently, record the temperatures measured by your HCl CEMS system (M_t) and the calibrated measurement device (V_t). You must meet the accuracy requirements described in section 13.5.4 of this PS.

11.3.3.3 If your HCl CEMS temperature monitor does not satisfy the accuracy requirement of this PS, check all system components and take any corrective action that is necessary to achieve the required minimum accuracy. Repeat this validation check procedure until the accuracy requirement of this specification is satisfied.

11.4 Pressure Measurement Verification Test for IP–CEMS

11.4.1 For stack pressure verification, you should select a gauge or monitor that conforms to the design requirements of ASME B40.100–2010, ''Pressure Gauges and Gauge Attachments'' (incorporated by reference—see § 60.17).

11.4.2 As an alternative for a calibrated pressure measurement device with NIST traceable accuracy, you may use a mercury-in-glass or water-in-glass U-tube manometer to validate your pressure measurement equipment.

11.4.3 Allow sufficient time for the response of the calibrated pressure measurement device to reach equilibrium. With the process or control device operating under normal conditions, concurrently record the pressures measured by your HCl CEMS system (M_P) and the calibrated measurement device (V_p). You must meet the accuracy requirements described in section 13.5.5 of this PS.

11.4.4 If your HCl CEMS pressure monitor does not satisfy the accuracy requirement of this PS, check all system components and take any corrective action that is necessary to achieve the required minimum accuracy. Repeat this validation check procedure until the accuracy requirement of this specification is satisfied.

11.5 Level of Detection (LOD) Determination

11.5.1 You must determine the minimum amount of HCl that can be detected above the background in a representative gas matrix.

11.5.2 You may perform the LOD determination as part of the interference test in section 11.1, in either a controlled environment or on-site during initial setup and qualification of your CEMS.

11.5.2.1 For extractive CEMS, spike the HCl and interferents into the CEMS at the probe prior to all filters and sample conditioning elements.

11.5.2.2 For IP–CEMS, spike the mixture described in section 11.1.4 into the system calibration cell.

11.5.3 The challenge standard mixture used to determine LOD must include HCl at a concentration no greater than three times the estimated LOD and must include the interferences listed in Table 1 of this PS.

11.5.4 Collect seven consecutive measurements separated by twice the response time.

11.5.5 Calculate the standard deviation of the measured values and define the LOD as three times the standard deviation of these measurements.

11.5.5.1 The LOD for extractive units must be determined and reported in ppmv.

11.5.5.2 The LOD for IP units must be determined and reported on a ppm-meter basis and the site- or installation-specific LOD must be calculated based on the actual measurement path length and gas density of the specific site installation in ppmv.

11.5.6 If you choose to perform the LOD determination test in a controlled environment, you must verify the LOD during the initial field certification test using the DS test procedure in Appendix A of this PS.

11.5.6.1 You must make three independent DS measurements at no more than five times the LOD for the detection level verification.

11.5.6.2 If your system limitation verification does not demonstrate the ability to distinguish the spike concentration from the background, you must increase the spike concentration incrementally until you establish a field verified detection level where the HCl measurement is a minimum of three times the noise for zero HCl concentration. The field verified detection level replaces the controlled environment LOD and becomes the site- or installation-specific LOD.

11.6 Response Time Determination

11.6.1 If your HCl CEMS extracts gas from stack emissions you must determine the average upscale and downscale RTs from three repetitions of each test. You will report the greater of the average upscale or average downscale RTs as the RT for the system.

11.6.2 Start the upscale RT determination by injecting zero gas into the measurement system at the extractive probe tip or IP calibration cell inlet. You may use humidified zero gas.

11.6.3 When the system output has stabilized (no change greater than 1 percent of full scale for 30 sec), record the response in ppmv and introduce an upscale reference gas.

11.6.4 Take repetitive measurements until you obtain a stable value at 95 percent or greater than the expected calibration gas response. You may use humidified calibration gas.

11.6.5 Record the time (upscale RT) required to reach 95 percent of the final stable value.

11.6.6 Next, reintroduce the zero gas and record the time required to reach five percent of the zero gas reading. This time is the downscale RT.

(Note: For CEMS that perform a series of operations (purge, blow back, sample integration, analyze, etc.), you must start adding calibration gases immediately after these procedures are complete.)

11.6.7 Repeat the entire procedure three times and determine the mean upscale and downscale RTs. The slower or longer of the two means is the system RT.

11.7 Calibration Error (CE) Test. The percent CE is the mean difference between the HCl calibration gas value and the CEMS response at each calibration point expressed as a percentage of the span. The CE must be less than five percent.

11.7.1 Extractive CEMS CE check.

11.7.1.1 Sequentially introduce calibration gas to the CEMS probe, before the sample conditioning and filtration system.

11.7.1.2 Measure three upscale HCl gas concentrations in the ranges shown in Table 4 of this PS.

11.7.1.3 Introduce the gases into the sampling probe with sufficient flow rate to replace the entire source gas sample.

11.7.1.4 Continue to add the standard gas until the response is stable as evidenced when the difference between two consecutive measurements is less than the LOD or within five percent of each other.

11.7.1.5 Make triplicate measurements for each gas standard. Introduce different calibration concentrations in any order but do not introduce the same gas concentration twice in succession. Conduct independent measurements three times for each concentration, for a total of nine measurements.

11.7.1.6 At each reference gas concentration, determine the average of the three CEMS responses

$$(\overline{MC_i})$$

Calculate the CE using Equation 3 in section 12.0.

11.7.1.7 If you desire to determine the system RT during this test, you may inject zero gas immediately followed by the high-level standard.

11.7.1.8 For non-dilution systems, you may adjust the system to maintain the correct flow rate at the analyzer during the test, but you may not make adjustments for any other purpose. For dilution systems, you must operate the measurement system at the appropriate dilution ratio during all system CE checks, and you may make only the adjustments necessary to maintain the proper ratio.

11.7.2 IP–CEMS CE check

11.7.2.1 Conduct a 3-point system CE test by sequential addition of known concentrations of HCl standard into a calibration cell of known volume, temperature, pressure and path length.

(Note: The optical path used for IP–CEMS calibration error checks must include the native measurement path. You must also collect native stack concentration before and after each HCl standard measurement. Bracketing HCl standard measurements with native stack measurements may be used in the calculations to correct the upscale measurements for stack gas HCl concentration changes.)

11.7.2.2 Introduce HCl standards into your calibration cell in a range of concentrations that produce responses equivalent to the source concentrations shown in Table 4 for your path length.

11.7.2.3 Introduce the low-, mid-, and high-level calibration standards in any order. Make three independent measurements of each concentration. Introduce different calibration concentrations in any order but do not introduce the same gas concentration twice in succession.

11.7.2.4 You must calculate the equivalent concentration ($C_{i,eff}$) of the HCl calibration gas equivalent to the stack concentration by correcting for calibration cell temperature, pressure, path length, line

strength factor (LSM) and, if necessary, the native source gas HCl concentration using equations 4, 5 and 6 in section 12.0.

11.7.2.5 You may use the LSM provided by your instrument manufacturer or determine an instrument-specific LSM as a function of temperature using a heated gas cell and effective gas concentrations ($C_{i,eff}$) between 50 and 150 percent of the emission limit.

11.7.2.6 At each gas concentration, determine the average of the three independent CEMS measurement responses corrected for stack concentration, and the average response during zero gas injections (background or native stack gas measurement). Calculate the CE using Equation 6 in section 12.0.

11.7.3 You may use Figure 1 to record and report your CE test results.

11.7.4 If the CE specification is not met for all three standard concentrations, take corrective action and repeat the test until an acceptable 3-point CE test is achieved.

11.8 Seven-Day Calibration Drift (CD) Test

11.8.1 The CD Test Period. Prior to the start of the RA tests, you must perform a CD test. The purpose of the CD measurement is to verify the ability of the CEMS to maintain calibration for each of seven, 24-hour periods.

11.8.2 The CD tests must be performed using the zero and either mid-level or high-level calibration standards as defined in Table 4.

11.8.3 Conduct the CD test during normal facility operations following the procedures in section 11.7 of this PS.

11.8.4 If periodic automatic or manual adjustments are made to the CEMS zero and upscale response factor settings, conduct the CD test immediately before these adjustments.

(Note: Automatic signal or mathematical processing of all measurement data to determine emission results may be performed throughout the entire CD process.)

11.8.5 Determine the magnitude of the CD at 24-hour intervals, for seven consecutive unit operating days. The seven consecutive unit operating days need not be seven consecutive calendar days. You may use Figure 2 to record and report the results of your CD test.

11.8.6 Record the average CEMS response for zero gas and mid- or high-level calibration gas.

11.8.6.1 For extractive CEMS, calculate the CD using Equation 3 in section 12. Report the absolute value of the differences as a percentage of the span value.

11.8.6.2 For IP–CEMS, you may exclude the in stack measurement path when determining zero gas concentration. Calculate the CD using equations in section 12.4.

11.8.7 You must record the average CEMS response for each reference gas and calculate the mid- or high-level CD using Equation 6 in section 12.0. Calculate the zero drift value using Equation 7.

11.8.8 The zero-level and high-level drift for each day must be less than five percent of the span value. You must pass each day's drift checks for seven days to meet this requirement. Each zero- and high-level drift check must be recorded and reported for the seven-day drift check tests.

11.9 Relative Accuracy (RA) Test

11.9.1 Unless otherwise specified in an applicable subpart of the regulations, use Method 26A in 40 CFR part 60 Appendix A–8, Method 320 and Method 321, both found in 40 CFR part 63 Appendix A, or ASTM D6348–12 including mandatory annexes, as the acceptable reference methods for HCl measurement. Other RMs for moisture, O_2, etc., may be necessary. Conduct the RM tests in such a way that they will yield results representative of the emissions from the source and can be compared to the CEMS data.

11.9.2 Conduct the diluent (if applicable), moisture (if needed), and pollutant measurements simultaneously. However, diluent and moisture measurements that are taken within an hour of the pollutant measurements may be used to calculate dry pollutant concentration and emission rates.

11.9.3 Stratification Test. A stratification test must be conducted during normal facility operating conditions. The purpose of this test is to verify that excess stratification of the target pollutant does not render the sampling point of the CEMS non-representative. You must traverse as required in this section while taking reference method samples used for the RA testing.

11.9.3.1 Perform a stratification test at each test site to determine the appropriate number of sample traverse points. If testing for multiple pollutants or diluents at the same site, a stratification test using only one pollutant or diluent satisfies this requirement. A stratification test is not required for small stacks that are less than four inches in diameter. To test for stratification, use a probe of appropriate length to measure the HCl concentration or an alternative analyte, as described in this section, at 12 traverse points located according to Table 1–1 or Table 1–2 of Method 1 in Appendix A–1 to 40 CFR part 60, as appropriate.

11.9.3.2 You may substitute a stratification test for SO_2 for the HCl stratification test if the HCl concentration is less than ten times the LOD of your HCl CEMS. If you select this option, you must follow the test procedures in Method 6C of Appendix A–4 to 40 CFR part 60.

11.9.3.3 You may substitute a stratification test for CO_2, CO or nitrogen oxides (NO_X) if you anticipate the concentration of both SO_2 and HCl are less than ten times the associated LOD for the CEMS instrument.

11.9.3.4 Calculate the mean measured concentration for all sampling points (MN_{avg}).

11.9.3.5 Calculate the percent stratification (S_t) of each traverse point using Equation 8 in section 12.0.

11.9.3.5.1 If the concentration at any traverse point differs from the mean concentration for all traverse points by no more than: (a) ±5.0 percent of the mean concentration or (b) ±0.5 ppm (whichever is less restrictive), the gas stream is considered unstratified and you may perform a single point RA test.

11.9.3.5.2 If the 5.0 percent or 0.5 ppm criterion is not met, but the concentration at any traverse point differs from the mean concentration for all traverse points by no more than: (a) ±10.0 percent of the mean or (b) ±1.0 ppm (whichever is less restrictive), the gas stream is considered to be minimally stratified, and you may take RA samples from three points. Space the three points at 16.7, 50.0, and 83.3 percent of the measurement traverse line.

11.9.3.5.3 If the traverse point differs from the mean concentration by more than 10 percent, the gas stream is considered stratified and you must conduct a full traversing RA test following tables 1–1 and 1–2 of Method 1 in Appendix A–1 to 40 CFR part 60.

11.9.3.6 Conduct all necessary RM tests within 3 cm (1.2 in.) of the traverse points, but no closer than 3 cm (1.2 in.) to the stack or duct wall.

11.9.3.7 In order to correlate the CEMS and RM data properly, record the beginning and end of each RM run (including the exact time of day) with the permanent record of CEMS output.

11.9.4 Conduct the RA test using an RM.

11.9.4.1 You must conduct RA tests at the affected facility during process operating conditions representing average production and full control operation at the source, or as specified in an applicable subpart.

11.9.4.2 Conduct a minimum of nine sets of all necessary RM test runs.

11.9.4.3 If HCl CEMS measurements are less than or equal to 20 percent of the applicable standard, you must perform a DS verification test during CEMS installation and performance tests following the procedures in Appendix A of this PS.

11.9.4.4 When Method 26A is used as the RM, you must conduct the RM test runs with paired or duplicate sampling systems and use the average of the HCl concentrations measured by the two trains. You must sample sufficient gas to reach three times your method detection limit for Method 26A in 40 CFR part 60, Appendix A–8, or for a minimum of one hour, whichever is less.

11.9.4.5 Identify outliers in the paired Method 26A data by calculating the relative difference (RD) for the paired RM tests. Data that do not meet the RD criteria may not be used in the calculation of RA. The primary reason for performing paired RM sampling is to ensure the quality of the RM data. Determine the RD for paired data points using Equation 9 in section 12.0.

11.9.4.6 The minimum performance criteria for RM paired HCl data is an RD for any data pair of ≤10 percent when the mean HCl concentration is greater than 50 percent of the applicable emission limit expressed as an equivalent concentration. If the mean HCl concentration is less than or equal to 50 percent of the applicable emission limit expressed as an equivalent concentration, the RD must be ≤20 percent. Pairs of RM data exceeding these RD criteria must be eliminated from the data set used to develop the HCl CEMS RA assessment.

(Note: More than nine sets of RM tests may be performed. If this option is chosen, a maximum of three sets of the test results may be rejected when the HCl concentration is greater than 50 percent of the applicable standard; a maximum of six sets of test

results may be rejected when the HCl concentration is less than 50 percent of the applicable standard so long as the total number of test results used to determine the RA is greater than or equal to nine. However, all data must be reported, including the rejected data.)

11.9.5 When Method 320 and Method 321, both found in 40 CFR part 63 Appendix A, or ASTM D6348–12, are used, you must collect gas samples that are at stack conditions (hot and wet) and you must traverse as required in section 11.9.3.

11.9.6 Analyze the results from the RM test runs using equations in section 12.7 (equations 10–15). Calculate and report the RA between the HCl CEMS results and the RM.

11.9.7 As an option, in addition to performing a RATA with a reference method, you may perform a DS test verification during CEMS installation and performance tests following the procedures in Appendix A of this PS. If the HCl CEMS passes the DS test verification, you may use DS as an alternative to selected quarterly RATA tests as specified in 40 CFR part 60 Appendix F requirements for ongoing quality assessment of the HCl CEMS.

11.10 Reporting

11.10.1 For systems that use a gas blender and/or liquid evaporative calibrator to deliver HCl gas standards, record and report supporting data for these devices, including liquid feed calibrations, liquid standard(s) concentration, feed rate and gas flow calibrations for all diluent and HCl gas flows. All calibrations must include a stated uncertainty, and the combined uncertainty of the delivered gas concentration must be calculated and reported.

11.10.2 Record and summarize in tabular form the results of the CD test, the linearity tests, the RT test, CE test, RA test, and optional spike recovery procedure, as appropriate. Include all data sheets, calculations, CEMS data records (*i.e.,* charts, records of CEMS responses), and cylinder gas or other reference material certifications necessary to confirm that the performance of the CEMS met the performance specifications.

11.10.3 Record and report supporting dilution system data including standard cylinder gas flow, total gas flow, and the results of the test measurements.

11.10.4 Record and report the LOD and system limitation verification in ppmv for the HCl CEMS as installed.

12.0 *Calculations and Data Analysis.*

12.1 Nomenclature

C_i = Actual HCl calibration gas concentration used for test i (ppmv);
$C_{i,eff}$ = Equivalent concentration of the reference value, C_i, at the specified conditions;
CC = Confidence coefficient;
$CD_{extractive}$ = Calibration drift for extractive CEMS (percent);
CD_{IP} = Calibration drift for IP–CEMS (percent);
CD_0 = The calibration drift at zero HCl concentrations for an IP–CEMS;
$CE_{extractive}$ = Calibration error for extractive CEMS (percent);
CE_{IP} = Calibration error for IP–CEMS (percent);
d_{avg} = Mean difference between CEMS response and the reference gas (ppmv);
d_i = Difference of CEMS response and the RM value (ppmv);
I = Total interference from major matrix stack gases, percent;
LSM = Line strength factor for IP–CEMS, measurements, temperature dependent derivation from the HITRAN database;
ΔMC_{avg} = Average of the 3 absolute values of the difference between the measured HCl calibration gas concentrations with and without interference from selected stack gases (ppmv);
MC_i = Measured HCl calibration gas concentration i (ppmv);
MC_{int} = Measured HCl concentration of the HCl calibration gas plus the individual or combined interference gases (ppmv);
MN_{avg} = Average concentration at all sampling points (ppmv);
MN_b = Measured native concentration bracketing calibration spike measurements;
MN_i = Measured native concentration for test or run i (ppmv);
n = Number of measurements in an average value;
PL_{Cell} = Path length of IP–CEMS calibration cell;
PL_{Stack} = Path length of IP–CEMS stack optical path;
R_a = HCl concentration measured by the first of two RM pairs (ppmv);
R_b = HCl concentration measured by the second of two RM pairs (ppmv);
RA = Relative accuracy of CEMS compared to a RM (percent);
RD = Relative difference between paired RM trains (percent);
RM_i = RM concentration for test run I;
RM_{avg} = Mean measured RM value or the mean dynamic spike concentration (ppmv);
S = Span of the instrument (ppmv);
S_d = Standard deviation of the differences;
S_t = Stratification (percent);
$t_{0.975}$ = One-sided t-value obtained from Table 5 for n-1 measurements;
$T_{reference}$ = Temperature of the calibration cell for IP–CEMS (degrees Kelvin);
T_{stack} = Temperature of the stack at the monitoring location for IP–CEM (degrees Kelvin).

12.2 Calculate the difference between the measured HCl concentration with and without interferents for each interference gas (or mixture) for your CEMS as:

$$\Delta MC_{avg} = \frac{\sum_{i=1}^{3} |MC_i - MC_{int}|}{3} \qquad \text{Eq. 1}$$

Calculate the total percent interference as:

$$I = \sum_{i=1}^{3} \frac{\Delta MC_{avg}}{C_i} * 100 \qquad \text{Eq. 2}$$

12.3 Calculate the calibration error or calibration drift at concentration i for an extractive CEMS as:

$$CE_{extractive} = CD_{extractive} = \frac{(|C_i - \overline{MC_i}|)}{S} * 100 \qquad \text{Eq. 3}$$

12.4 Calculate the calibration error or calibration drift at concentration i for IP–CEMS that use a calibration cell as follows:

12.4.1 Calculate the equivalent concentration $C_{i,eff}$ using Equation 4:

$$C_{i,eff} = \left[C_i \times \frac{PL_{cell}}{PL_{Stack}} \times \frac{T_{stack}}{T_{reference}} \times LSM\right] \quad \text{Eq. 4}$$

12.4.2 Calculate the average native concentration before and after a calibration check measurement as:

$$MN_b = \frac{MN_i + MN_{i+1}}{2} \quad \text{Eq. 5}$$

12.4.3 Calculate the calibration error or calibration drift at concentration i for an IP–CEMS as:

$$CE_{IP} = CD_{IP} = \frac{(|C_{i,eff} - \overline{MC_i} - MN_b|)}{S} * 100 \quad \text{Eq. 6}$$

12.4.4 Calculate the calibration drift at zero HCl concentrations for an IP–CEMS as:

$$CD_0 = \frac{(|(MC_i - MN_b) - (MC_{i+1} - MN_b)|)}{S} \quad \text{Eq. 7}$$

12.5 Calculate the percent stratification at each traverse point as:

$$S_t = \frac{|MN_i - \mathrm{MN_{avg}}|}{MN_{avg}} * 100 \quad \text{Eq. 8}$$

12.6 Calculate the relative difference between paired RM sampling train results as:

$$RD = \frac{|R_a - R_b|}{R_a + R_b} * 100 \quad \text{Eq. 9}$$

12.7 Calculate the relative accuracy using RM and CEMS Data.

12.7.1 Determine the HCl CEMS final integrated minute average pollutant concentration or emission rate for each RM test period. Consider system response time, if important, and confirm that the results have been corrected to the same moisture, temperature and diluent concentration basis.

12.7.2 When Method 26A, found in 40 CFR part 60 Appendix A–8, is used as the RM, compare each CEMS integrated average value against the corresponding average of the paired RM values.

12.7.3 If the RM is Method 320 or Method 321, found in 40 CFR part 63 Appendix A, or ASTM D6348–12, make a direct comparison of the average RM results and CEMS average value for identical test periods.

12.7.4 Calculate the arithmetic difference of the RA measurements to the CEMS one-minute average results using Equation 10.

$$d_i = RM_i - MN_i \quad \text{Eq. 10}$$

12.7.5 Calculate the standard deviation of the differences (S_d) of the HCl CEMS measured and RM results using Equation 11.

$$S_d = \sqrt{\frac{\sum_i^n \left(d_i - \left(\frac{\sum_{i=1}^n d_i}{n}\right)\right)^2}{n-1}} \quad \text{Eq. 11}$$

12.7.6 Calculate the confidence coefficient (CC) for the relative accuracy tests using Equation 12.

$$CC = t_{0.975} * \left(\frac{s_d}{(n^{1/2})}\right) \qquad \text{Eq. 12}$$

12.7.7 Calculate the mean difference (d_{avg}) between the RM and CEMS values in the units of ppmv or the emission standard using Equation 13.

$$d_{avg} = \frac{1}{n}\sum_{i=1}^{n} d_i \qquad \text{Eq. 13}$$

12.7.8 Calculate the average RM value using Equation 14.

$$RM_{avg} = \frac{1}{n}\sum_{i=1}^{n} RM_i \qquad \text{Eq. 14}$$

12.7.9 Calculate RA for the HCl CEMS using Equation 15.

$$RA = \left[\left(\left|d_{avg}\right| + |CC|\right)/RM_{avg}\right] * 100 \qquad \text{Eq. 15}$$

13.0 *Method Performance.*

13.1 Level of Detection. You may not use an HCl CEMS whose LOD is greater than 20 percent of the regulatory limit or other action level for the intended use of the data. An LOD less than or equal to 20 percent of the standard should result in 95 percent confidence level or better for measurements at the level of the standard.

13.2 Calibration Drift. The calibration drift for the HCl CEMS must not drift or deviate from the reference gas value by more than five percent of the span value for seven consecutive days.

13.3 Calibration Error Check (linear or quadratic)

13.3.1 The calibration intercept must be equal to or less than 15 percent of the system span.

13.3.2 The mean percent difference between the reference gas value and the CEMS measured concentration at each of the three points (Eq.7) must be less than five percent of span.

13.4 Relative Accuracy Check—Reference Method. The RA of the CEMS compared to a RM in the units of the HCl concentration must be less than or equal to 20 percent of the RM when RM_{avg} is used in the denominator of Equation 14. In cases where the average emission level for the test is less than 50 percent of the applicable standard, substitute the equivalent emission standard value in ppmvw in the denominator of Equation 14 in place of RM_{avg}, and this alternative calculated RA must be less than or equal to 15 percent of the RM.

13.5 *Response Time.*

13.5.1 The RT to a measurable change in concentration must be less than or equal to 15 minutes.

13.5.2 Interference Check. The combined interference response for the HCl CEMS that was used for the test must not be greater than ±3.0 percent of the equivalent HCl concentration used for the interference test.

13.5.3 Integrated Path Beam Intensity. The percent difference during attenuated light calibration check for the light source and detector used in an IP–CEMS must not be more than ±3.0 percent of the known measured concentration without attenuation used for the test.

13.5.4 Your temperature monitor satisfies the accuracy required if the absolute relative difference between M_t and V_t is ≤ one percent or if the absolute difference between measured value of stack temperature (M_t) and the value of calibrated temperature reference device (V_t) is ≤2.8 °C (5.0 °F), whichever is greater.

13.5.5 Your pressure monitor satisfies the accuracy required if the absolute relative difference between M_P and the value of calibrated pressure reference device (V_P) is ≤ five percent or if the absolute difference between the measured value of stack pressure (M_p and V_P) is ≤0.12 kilopascals (0.5 inches of water column), whichever is greater.

14.0 *Pollution Prevention.* [Reserved]

15.0 *Waste Management.* [Reserved]

16.0 *References.*

1. Method 318, 40 CFR, part 63, Appendix A (Draft), ''Measurement of Gaseous Formaldehyde, Phenol and Methanol Emissions by FTIR Spectroscopy,'' EPA Contract No. 68D20163, Work Assignment 2–18, February, 1995.
2. ''EPA Protocol for the Use of Extractive Fourier Transform Infrared (FTIR) Spectrometry in Analyses of Gaseous Emissions from Stationary Industrial Sources,'' February, 1995.
3. ''Measurement of Gaseous Organic and Inorganic Emissions by Extractive FTIR Spectroscopy,'' EPA Contract No. 68–D2–0165, Work Assignment 3–08.
4. ''Method 301—Field Validation of Pollutant Measurement Methods from Various Waste Media,'' 40 CFR part 63, Appendix A.
5. EPA Traceability Protocol for Assay and Certification of Gaseous Calibration Standards 2012. See *www.epa.gov/ttn/emc.*

17.0 *Tables, Diagrams, Flowcharts, and Validation Data.*

TABLE 1—INTERFERENCE CHECK GAS CONCENTRATIONS

Potential interferent gas [1]	Approximate concentration (balance N_2)
CO_2	15% ± 1% CO_2.[2]
CO	100 ± 20 ppm.
CH_2O	20 ppm.
CH_4	100 ± 20 ppm.
NH_3	10 ppm (extractive CEMS only).
NO_2	250 ± 50 ppm.
SO_2	200 ± 20 ppm.
O_2	3% ± 1% O_2.[2]
H_2O	10% ± 1% H_2O.[2]
N_2	Balance.[2]

[1] Any of these specific gases can be tested at a lower level if the manufacturer has provided reliable means for limiting or scrubbing that gas to a specified level.

[2] Gases for short path IP cell interference tests added at relative concentration ratios indicated in the table.

TABLE 2—EXAMPLE INTERFERENCE TEST DATA SHEET

Date of Test: _____ Serial No.: _____ Test Organization: _____
Analyzer Type: _____ Span: _____ Test Personnel: _____
Model No.: _____ Calibration Range Above Span: _____

Interference gas or gas combination	HCl concentration (ppmv)	HCl concentration (ppmv) w/interference	Absolute difference (ppmv)	Average absolute difference (ppmv)
Sum of Responses				
% of Calibration Span				

TABLE 3—DESIGN STANDARDS FOR TEMPERATURE SENSORS

If the sensor is a . . .	You can use the following design standards as guidance in selecting a sensor for your CPMS
1. Thermocouple	a. ASTM E235–88 (1996), ''Specification for Thermocouples, Sheathed, Type K, for Nuclear or Other High-Reliability Applications.''

TABLE 3—DESIGN STANDARDS FOR TEMPERATURE SENSORS—Continued

If the sensor is a . . .	You can use the following design standards as guidance in selecting a sensor for your CPMS
	b. ASTM E585/E585M–04, ''Specification for Compacted Mineral-Insulated, Metal-Sheathed, Base Metal Thermocouple Cable.'' c. ASTM E608/E608M–06, ''Specification for Mineral-Insulated, Metal-Sheathed Base Metal Thermocouples.'' d. ASTM E696–07, ''Specification for Tungsten-Rhenium Alloy Thermocouple Wire.'' e. ASTM E1129/E1129M–98 (2002), ''Standard Specification for Thermocouple Connectors.'' f. ASTM E1159–98 (2003), ''Specification for Thermocouple Materials, Platinum-Rhodium Alloys, and Platinum.'' g. ISA–MC96.1–1982, ''Temperature Measurement Thermocouples.''
2. Resistance temperature detector	ASTM E1137/E1137M–04, ''Standard Specification for Industrial Platinum Resistance Thermometers.''

TABLE 4—PERFORMANCE SPECIFICATION TEST CALIBRATION GAS RANGES

Test	Units	HCl calibration material concentrations [a]				Section
		Zero	Low level	Mid level	High level	
Calibration Drift	% of Span	<LOD ...	10–30	NA	80–120	11.8
Calibration Error Test	% of Span	NA	0–30	50–60	80–100	11.7
Dynamic Spiking	% of Limit [b]	NA	30–60	80–120	130–180	11.9

[a] Reference calibration material concentration must be NIST traceable.
[b] Dynamic spiking concentrations are a percent of the applicable emission limit or the actual source emission concentration, whichever is larger.

TABLE 5—STUDENTS T-VALUES

n-1 [a]	t-value	n-1 [a]	t-value	n-1 [a]	t-value	n-1 [a]	t-value
5	2.571	11	2.201	17	2.110	23	2.069
6	2.447	12	2.179	18	2.101	24	2.064
7	2.365	13	2.160	19	2.093	25	2.060
8	2.306	14	2.145	20	2.086	26	2.056
9	2.262	15	2.131	21	2.080	27	2.052
10	2.228	16	2.120	22	2.074	28	2.048

[a] The value n is the number of independent pairs of measurements (a pair consists of one spiked and its corresponding unspiked measurement). Either discreet (independent) measurements in a single run, or run averages can be used.

SOURCE:			DATE:		
CEMS:			LOCATION:		
SERIAL NUMBER:			SPAN:		
RUN NUMBER	CALIBRATION VALUE	CEMS RESPONSE	DIFFERENCE		
			Zero/Low	Mid	High
1					
2					
3					
4					
5					
6					
7					
8					
9					
Mean Difference =					
Calibration Error =			%	%	%

Figure 1. Calibration Error Determination

SOURCE:					DATE:		
CEMS:					LOCATION:		
SERIAL NUMBER:					SPAN:		
LEVEL	DAY	DATE	TIME	CALIBRATION VALUE	CEMS RESPONSE	DIFFERENCE	PERCENT OF SPAN
ZERO/LOW LEVEL	1						
	2						
	3						
	4						
	5						
	6						
	7						
HIGH LEVEL	1						
	2						
	3						
	4						
	5						
	6						
	7						

Figure 2. Calibration Drift Determination

Performance Specification—18 APPENDIX A Dynamic Spiking Procedure

A1. *Scope and Application*

1.1 This appendix to Performance Specification (PS) 18 describes the procedure and performance requirements for dynamic spiking (DS) as a quality check for hydrogen chloride (HCl) continuous emission monitoring systems (CEMS).

1.2 This appendix is applicable to quality checks of both extractive and integrated path (IP) technologies used to measure HCl emissions.

1.3 When performed during PS–18 qualification of an HCl CEMS, this procedure may be used, as allowed by individual rules or ongoing quality assurance requirements, as an alternative to cylinder gas audit tests and relative accuracy tests with a reference method.

A2. *Summary of the Appendix for Dynamic Spiking.*

Dynamic spiking is a gas phase method of standard additions used to verify the accuracy of CEMS in the presence of the sample matrix. It consists of spiking a known quantity of HCl into the measurement system that includes the native HCl and the native source gas matrix.

A3. *Definition.*

Dynamic Spiking (DS) means the procedure where a known concentration of HCl gas is injected into the probe sample gas stream for extractive CEMS at a known flow rate, or spiked into a calibration cell for *in-situ* IP–CEMS in order to assess the ability of the measurement system to recover and measure HCl in the presence of potential interference from the flue gas matrix.

A4. *Interferences.* Interferences are defined in PS–18, section 4.0.

A5. *Safety.* The procedures required under this appendix may involve hazardous materials, operations and equipment. This procedure may not address all of the safety problems associated with these procedures. It is the user's responsibility to establish appropriate safety and health practices and determine the applicable regulatory limitations prior to performing these procedures. The CEMS users should consult instrument operation manuals, compressed gas safety requirements such as Occupational Safety and Health Administration regulations and other material safety data sheets for specific precautions to be taken.

A6. *Equipment and Supplies.* An example of equipment and supplies is described in section 6 of PS–18.

A7. *Reagents and Standards.* Spiking materials must meet the quality requirements defined for calibration standards in section 7 of PS–18 to perform this procedure. You must use HCl calibration material traceable to a National Institute of Standards and Testing (NIST) standard.

(Note: The concentration of standard material required for dynamic spiking may be significantly higher than the concentration required to calibrate your CEMS.)

A8. *Dynamic Spiking Procedure.* You must calculate the mean and relative standard deviation for the required number of dynamic spiking measurements to determine CEMS spike recovery. For initial demonstration of relative accuracy, you will compare the average of nine dynamic spike recovery measurements to the specifications in section A12 of this appendix. For ongoing relative accuracy assessment, you will compare the average of three dynamic spike recovery measurements to the requirements in section A12.

8.1 Spiking Concentration and Measurement Replicates.

8.1.1 You must add and measure the HCl gas spike at concentrations of approximately 50, 100, and 150 percent of the applicable emission limit or source emission concentration, whichever is larger.

8.1.2 You must measure each of the three spike gas concentrations (zero and two upscale) three times each for a total of nine independent measurements. Introduce the gases in such a manner that the entire CEMS is challenged. Do not measure the same gas concentration twice in succession.

8.1.3 You may not exceed the calibration range above span when the spike and native HCl concentration are combined.

8.1.4 You may perform dynamic spiking with NIST traceable calibration gas, humidified NIST traceable calibration gas, or NIST traceable liquid evaporative generated HCl gas.

8.1.5 You must collect a pre- and post-spike background measurement of stack HCl concentration for each spike measurement.

8.1.6 As an alternative to making background measurements pre- and post-spiking, you may use an independent continuous HCl monitor as a temporary unit to measure unspiked stack HCl concentration while simultaneously using the CEMS to measure the spike plus background/native concentration.

8.1.7 You must collect background or native HCl measurements using both the installed HCl CEMS and the independent continuous HCl monitor to confirm the independent monitoring system measures the

same background concentration as the HCl CEMS being qualified with this PS.

8.1.8 Background measurements must be corrected to the dilution affected by the spike additions.

8.2 Extractive CEMS Dynamic Spiking Procedure

8.2.1 Spike Additions. Your HCl spike addition may not alter the total volumetric sample system flow rate or basic dilution ratio of your CEMS (if applicable).

8.2.2 You may add no more than 10 percent of the total volumetric flow rate through the CEMS.

8.2.3 You must determine a dilution factor (DF) or relative concentration of HCl for each dynamic spike. You must document the quantitative uncertainty of flow dilutions using Method 205. (Note: Since the spiking mass balance calculation is directly dependent on the accuracy of the DF determination, high accuracy is required for total volumetric flow rate, spike gas flow rate, or effective standard addition concentration as applicable to the technology you use. NIST-traceable flow meters, venturies and/or orifices accurate to within two percent or certified tracer gas measurements are required to make the necessary flow rate determination at the accuracy required for this performance specification.)

8.2.4 You must monitor and record the total sampling system flow rate and sample dilution ratio (if applicable) for the spiking and stack gas sampling systems to ensure they are known and do not change during the spiking procedure. Record all data on a data sheet similar to Table 1 in section 13 of this appendix.

8.2.4.1 You may either measure the spike gas flow and the total flow with a calibrated flow monitor capable of NIST traceable ± 2.0 percent accuracy or calculate the flow using a stable tracer gas included in your spike gas standard.

8.2.4.2 If you use flow measurements to determine the spike dilution, then use equation A1 in section 11 of this appendix to calculate the DF. Total probe flow measurement requires measurement of HCl spike flow (Q_{spike}) and total flow through the CEM sampling system (Q_{probe}).

8.2.4.3 If your CEMS is capable of measuring an independent stable tracer gas, you may use a spike gas that includes the tracer to determine the DF using equation A2 in section 11 of this appendix.

8.2.5 Begin by collecting unspiked sample measurements. You must use the average of two unspiked sample measurements as your pre-spike background.

(Note: Measurements should agree within five percent or three times the level of detection to avoid biasing the spike recovery results.)

8.2.5.1 Introduce the HCl gas spike into the permanent CEMS probe, upstream of the particulate filter or sample conditioning system and as close to the sampling inlet as practical.

8.2.5.2 Maintain the HCl gas spike for at least twice the response time of your CEMS or until the consecutive measurements agree within five percent. Collect two independent measurements of the native plus spiked HCl concentration.

8.2.5.3 Stop the flow of spike gas for at least twice the response time of your CEMS or until the consecutive measurements agree within five percent. Collect two independent measurements of the native HCl concentration.

8.2.6 Repeat the collection of sample measurements in section 8.2.5 until you have data for each spike concentration for a total of nine sets of data including a final set of unspiked sample measurements according to section 8.2.5.

8.2.7 Calculate the percent recovery for extractive CEMS as described in section 11.2 of this appendix.

8.2.8 If the spikes persistently show poor recovery repeatability, or if the recoveries are not within the range specified in section 12 of this appendix, you must take corrective action and repeat the dynamic spiking accuracy procedure.

8.3 Dynamic Spiking Procedure for IP–CEMS.

8.3.1 For IP–CEMS, you must spike a known quantity of calibration gas into a calibration cell that is in the optical path used to make CEMS source measurements.

8.3.2 Use calibration gas at a concentration that produces a signal equivalent to the ranges specified in Table 4 of PS–18.

8.3.3 Introduce zero gas into a permanently mounted calibration cell located in the optical measurement path of the instrument. Continue to flush the zero gas into the cell for at least the response time of your CEMS or until two consecutive measurements taken are within five percent, then collect two independent measurements. Introduce spike gas into the same calibration cell. Continue to flush the spike gas into the cell for at least the response time of your CEMS or until two consecutive measurements taken are within five percent. Then collect two independent measurements.

8.3.4 Repeat the collection of sample spike and native HCl measurements in section 8.3.3 until you have data for each spike concentration for a total of nine sets of data including a final zero gas sample measurement. The measured concentrations must be corrected for calibration cell and stack temperature, pressure and stack measurement path length.

8.3.5 Calculate the percent spike recovery (%SA) for IP–CEMS, as described in section 11.2.3.5, using the appropriate equations in section 11.2 of this appendix.

8.3.6 If the spikes persistently show poor repeatability, or if the recoveries are not within the range specified in section 12 of this appendix, you must take corrective action and repeat the dynamic spiking accuracy procedure.

A9. *Quality Control.* (Reserved)

A10. *Calibration and Standardization.* (Reserved)

A11. *Calculations and Data Analysis.* Calculate the spike recoveries for each injection and its associated pair of native HCl measurements, using equations in this section. (Note: For cases where the emission standard is expressed in units of lb/MMBtu or corrected to a specified O_2 or CO_2 concentration, an absolute accuracy specification based on a span at stack conditions may be calculated using the average concentration and applicable conversion factors. The appropriate procedures for use in cases where a percent removal standard is more restrictive than the emission standard are the same as in 40 CFR part 60 PS–2, sections 12 and 13.)

11.1 Nomenclature

C_i = Actual HCl calibration gas concentration used for test i (ppmv);

$C_{i,eff}$ = Spike equivalent concentration of the reference value, C_i, at the specified conditions;

$C_{spike\ gas}$ = Actual HCl standard gas concentration spiked (*e.g.,* bottle or standard gas concentration) ppmv;

$C_{tracer\ spiked}$ = Tracer gas concentration injected with spike gas (''standard concentration'') ppmv;

$C_{expected}$ = Expected HCl concentration response for dynamic spike;

CC = Confidence coefficient;

DF = Spiked gas dilution factor;

LSM = Line strength factor for integrated path; measurements, temperature dependent derivation from the HITRAN database (see *http://www.cfa.harvard.edu/hitran/* for HITRAN access);

MC_i = Measured HCl calibration gas concentration i (ppmv);

MC_{native} = Average measured concentration of the native HCl (ppmv);

$M_{native\ tracer}$ = Measured tracer gas concentration present in native effluent gas (ppmv);

$M_{spiked\ tracer}$ = Measured diluted tracer gas concentration in a spiked sample (ppmv);

n = Number of measurements in an average value;

PL_{Cell} = Path length of IP–CEMS calibration cell;

PL_{Stack} = Path length of IP–CEMS stack optical path;

Q_{spike} = Flow rate of the dynamic spike gas (Lpm);

Q_{probe} = Average total stack sample flow through the system (Lpm);

S = Span;

%SA = Spike recovery accuracy (percent);

$\%SR_{avg}$ = Mean dynamic spike recovery (percent);

$\%SR_i$ = Dynamic spike recovery (percent);

S_d = Standard deviation of the differences;

$t_{0.975}$ = One-sided Students t-value n-1 measurements;

T_{stack} = Temperature of the stack gas;

$T_{reference}$ = Temperature measured by the reference temperature indicator.

11.2 Calculating Dynamic Spike Recovery for Extractive CEMS.

11.2.1 If you determine your spike dilution factor using spike gas and stack sample flow measurements, calculate the dilution factor for dynamic spiking accuracy tests using equation A1:

$$DF = \frac{Q_{probe}}{Q_{spike}} \qquad \text{Eq. A1}$$

11.2.2 If you determine your spike dilution factor using an independent stable tracer gas that is not present in the native source gas, calculate the dilution factor for dynamic spiking using equation A2:

$$DF = \frac{M_{spiked\ tracer}}{C_{\text{tracer spiked}}} \qquad \text{Eq. A2}$$

11.2.3 If you determine your spike dilution factor using an independent stable tracer that is present in the native source gas, calculate the dilution factor for dynamic spiking using equation A3:

$$DF = \frac{M_{spiked\ tracer} - M_{native\ tracer}}{C_{\text{tracer spiked}}} \qquad \text{Eq. A3}$$

11.2.3.1 Calculate the percent spike recovery (SR_i) between the CEMS results and the spike gas concentration for each spiked sample measurement using equation A4.

$$\%SR_i = \frac{MC_i - MC_{native} * (1 - DF)}{C_{spike} * DF} * 100 \qquad \text{Eq. A4}$$

11.2.3.2 You must calculate the mean of the recovery for the nine (or more) dynamic spikes using equation A5.

$$\%SR_{avg} = \frac{1}{n} \sum_{i=1}^{n} \%SR_i \qquad \text{Eq. A5}$$

11.2.3.3 You must calculate the standard deviation of the spike recoveries for the nine (or more) dynamic spiking measurements to determine CEMS accuracy using equation A6.

$$S_d = \sqrt{\frac{\sum_{i=1}^{n} (\%SR_i - \%SR_{avg})^2}{n-1}} \qquad \text{Eq. A6}$$

11.2.3.4 Calculate the confidence coefficient (CC) for the relative accuracy tests using equation A7.

$$CC = t_{0.975} * \left(\frac{S_d}{(n^{1/2})}\right) \qquad \text{Eq. A7}$$

11.2.3.5 Calculate the percent %SA for the extractive CEMS using equation A8.

$$\%SA = \left(\left|\%SR_{avg} - 100\right| + |CC|\right) \qquad \text{Eq. A8}$$

11.3 DS Recovery for IP–CEMS.

11.3.1 If you use an *in-situ* IP–CEMS and a calibration cell, calculate and substitute the spike equivalent concentration $C_{i,eff}$ for C_{spike} using equation A9:

$$C_{i,eff} = \left[C_{spike} \times \frac{PL_{cell}}{PL_{Stack}} \times \frac{T_{stack}}{T_{reference}} \times LSM\right] \qquad \text{Eq. A9}$$

11.3.2 Calculate the percent spike equivalent recovery ($\%SR_i$) between the CEMS results and the spike equivalent concentration for each spiked sample measurement using equation A10.

$$\%SR_i = \frac{(MC_i - MC_{native})}{C_{i,eff}} * 100\% \qquad \text{Eq. A10}$$

11.3.3 Calculate the average spike recovery (SR_{avg}) using equation A11.

$$\%SR_{avg} = \frac{1}{n}\sum_{i=1}^{n} \%SR_i \qquad \text{Eq. A11}$$

11.3.4 Calculate the standard deviation of the spike recoveries for the nine (or more) dynamic spiking measurements to determine CEMS accuracy using equation A12.

$$S_d = \sqrt{\frac{\sum_{i=1}^{n}(\%SR_i - \%SR_{avg})^2}{n-1}} \qquad \text{Eq. A12}$$

11.3.5 Calculate the confidence coefficient (CC) for the spiking accuracy using equation A13.

$$CC = t_{0.975} * \left(\frac{S_d}{(n^{1/2})}\right) \qquad \text{Eq. A13}$$

11.3.6 Calculate the relative spike recovery accuracy (%SA) for the IP–CEMS using equation A14.

$$\%SA = \left[\left(\left|\%SR_{avg}\right| + |CC|\right)/S\right] * 100 \qquad \text{Eq. A14}$$

A12. *Performance Requirements DS Spike Accuracy Check.*

12.1 The %SA of the average CEMS results calculated using equation A8 for extractive CEMS or equation A14 for IP–CEMS in the units of HCl concentration (ppm) must be less than or equal to 25 percent of (the average of) the spiked sample concentration.

A13. *Tables and Figures.*

TABLE 1—SPIKE RECOVERY WORK SHEET

Facility name:	Date: Time:
Unit(s) tested:	Test personnel:
Analyzer make and model:	
Serial number:	
Calibration range above span:	

Q_{probe} (lpm)	Q_{spike} (lpm)	CF[1]	C_{native}			Actual Values		SR (% spike recovery)
			Pre	Post	Avg	C_i[2] (ppmv)	MC_{ss}[3] (ppmv)	
							Average	
							SD	

[1] CF must be ≥ 10 for extractive CEMS.
[2] C_i = Actual HCl concentration of the spike gas, ppmv.
[3] MCss = Measured HCl concentration of the spiked sample at the target level, ppmv.

■ 3. Appendix F to part 60 is amended by adding Procedure 6 to read as follows:

Appendix F to Part 60—Quality Assurance Procedures

* * * * *

Procedure 6. Quality Assurance Requirements for Gaseous Hydrogen Chloride (HCl) Continuous Emission Monitoring Systems Used for Compliance Determination at Stationary Sources

1.0 *Applicability and Principle.*

1.1 Applicability. Procedure 6 is used to evaluate the effectiveness of quality control (QC) and quality assurance (QA) procedures and evaluate the quality of data produced by any hydrogen chloride (HCl) gas, CAS: 7647–01–0, continuous emission monitoring system (CEMS) that is used for determining compliance with emission standards for HCl on a continuous basis as specified in an applicable permit or regulation.

1.1.1 This procedure specifies the minimum QA requirements necessary for the control and assessment of the quality of CEMS data submitted to the Environmental Protection Agency (EPA). Source owners and operators responsible for one or more CEMS used for HCl compliance monitoring must meet these minimum requirements and are encouraged to develop and implement a more extensive QA program or to continue such programs where they already exist.

1.1.2 Data collected as a result of QA and QC measures required in this procedure are to be submitted to the EPA or the delegated authority. These data are to be used by both the responsible agency and the CEMS operator in assessing the effectiveness of the CEMS QC and QA procedures in the maintenance of acceptable CEMS operation and valid emission data.

1.2 Principle.

1.2.1 The QA procedures consist of two distinct and equally important functions. One function is the assessment of the quality of the HCl CEMS data by estimating accuracy. The other function is the control and improvement of the quality of the CEMS data by implementing QC policies and corrective actions. These two functions form an iterative control loop. When the assessment function indicates that the data quality is inadequate, the control effort must be increased until the data quality is acceptable. In order to provide uniformity in the assessment and reporting of data quality, this procedure specifies the assessment procedures to evaluate response drift and accuracy. The procedures specified are based on Performance Specification 18 (PS–18) in appendix B of this part. Procedure 6 also requires the analysis of reference method audit samples, if they are available, concurrently with reference method tests as specified in the general provisions of the applicable part. (Note: Because the control and corrective action function encompasses a variety of policies, specifications, standards and corrective measures, this procedure treats QC requirements in general terms to allow each source owner or operator to develop the most effective and efficient QC system for their circumstances.)

2.0 Definitions.

2.1 *Calibration Cell* means a gas containment cell used with cross stack or integrated path (IP) monitoring systems to perform precision and calibration checks. The cell may be a removable sealed cell or an evacuated and/or purged cell capable of exchanging calibration and zero gases. When charged for calibration, the calibration cell contains a known concentration of calibration gas. The calibration cell is filled with zero gas or removed from the optical path during normal stack gas measurement.

2.2 *Calibration Drift (CD)* means the absolute value of the difference between the CEMS output response and an upscale reference gas or a zero-level reference gas, expressed as a percentage of the span value, when the CEMS is challenged after a stated period of operation during which no unscheduled maintenance or repair took place. A separate CD determination must be performed for pollutant and diluent analyzers. The calibration standards must meet the requirements of section 7.0 in PS–18 of Appendix B in this part.

2.3 *Continuous Emission Monitoring System (CEMS)* means the total equipment required under the emission monitoring sections in applicable subparts, used to sample and condition (if applicable), to analyze, and to provide a permanent record of emissions or process parameters.

2.4 *Diluent Gas* means a major gaseous constituent in a gaseous pollutant mixture. For combustion sources, either carbon dioxide (CO_2) or oxygen (O_2) or a combination of these two gases are the major gaseous diluents of interest.

2.5 *Dynamic Spiking (DS)* means, for extractive CEMS, the procedure where a known concentration of HCl gas is injected into the sample gas stream at the probe with a known flow rate; for *in-situ* IP–CEMS, it is a procedure where a known concentration of HCl gas is spiked into a calibration cell. In both cases, the procedure is performed to assess the accurate recovery of HCl introduced into the measurement system in the presence of potential interference from the flue gas sample matrix.

2.6 *Liquid Evaporative Standard* means a calibration standard produced by vaporizing National Institute of Standards and Testing (NIST) traceable liquid standards of known

HCl concentration and quantitatively mixing the resultant vapor with a diluent carrier gas.

2.7 *Span Value* means the calibration portion of the measurement range as established by the applicable regulatory requirement. If the span is not specified by an applicable regulation or other requirement, then it must be equal to an instrument value representative of twice the emission limit.

2.8 *HCl concentration values* (Zero, Low-Level, Mid-Level and High-Level Values) means the values that are defined in Table 4 of PS–18 in Appendix B of this part.

2.9 *Relative Accuracy (RA)* means the value calculated using Equation 15 of PS–18 in Appendix B of this part or as specified in an applicable regulation. The RA is the absolute mean difference between the gas concentration determined by the CEMS and the value determined by the reference method (RM), plus the 2.5 percent error confidence coefficient of a series of tests divided by the average of the RM or the applicable emission standard.

3.0 *QC Plan Requirements.*

3.1 Each source owner or operator must develop and implement a QC program. As a minimum, each QC program must include written procedures and/or manufacturer's information which should describe in detail, complete, step-by-step procedures and operations for each of the following activities:

(a) CD checks of HCl CEMS;

(b) CD determination and adjustment of HCl CEMS;

(c) Integrated path HCl CEMS emission source (*e.g.,* stack) temperature and pressure accuracy;

(d) Integrated path HCl CEMS beam intensity checks;

(e) Routine and preventative maintenance of HCl CEMS (including spare parts inventory);

(f) Data recording, calculations, and reporting;

(g) Accuracy audit procedures for HCl CEMS including sampling and analysis methods; and

(h) Program of corrective action for malfunctioning HCl CEMS.

3.2 These written procedures must be kept on record and available for inspection by the enforcement agency. As described in section 5.3, whenever excessive inaccuracies occur for two consecutive quarters, the source owner or operator must revise the current written procedures or modify or replace the CEMS to correct the deficiency causing the excessive inaccuracies.

4.0 *Daily Quality Requirements, Calibration and Measurement Standardization Procedures.*

4.1 CD Assessment.

4.1.1 CD Requirement. As described in 40 CFR 60.13(d) and 63.8(c), source owners and operators of HCl CEMS must check, record, and quantify the CD at two concentration values and at the calibration range above span (CRAS) concentration value at least once daily (approximately 24 hours) in accordance with the method prescribed by the manufacturer. The HCl CEMS calibration must, at a minimum, be adjusted whenever the daily zero (or low-level) CD or the daily high-level CD exceeds two times the drift limits of the applicable performance specification (*e.g.,* PS–18 in Appendix B to this part).

4.1.2 Recording Requirement for Automatic CD Adjusting CEMS. A CEMS that automatically adjusts the data to the corrected calibration values (*e.g.,* microprocessor control) must be programmed to record the unadjusted concentration measured in the CD prior to resetting the calibration, if performed, or record the amount of adjustment.

4.1.3 Criteria for Excessive CD. If either the zero (or low-level) or high-level CD result exceeds twice the drift requirement in the applicable performance specification in Appendix B of this part for five consecutive daily periods, the CEMS is out-of-control. If either the zero (or low-level) or high-level CD result exceeds four times the applicable drift specification during any CD check, the CEMS is out-of-control. If the CEMS is out-of-control, take necessary corrective action. Following corrective action, repeat the CD checks.

4.1.4 Out-Of-Control Period Definition. The beginning of the out-of-control period for the CEMS calibration is the time corresponding to the completion of the fifth consecutive daily check with a CD in excess of two times the allowable limit, or the time corresponding to the completion of the daily CD check preceding the daily CD check that results in a CD in excess of four times the allowable limits. The end of the out-of-control period is the time corresponding to the completion of the CD check following corrective action that results in the CDs at both the zero (or low-level) and high-level measurement points being within the corresponding allowable CD limit (*i.e.,* either two times or four times the allowable limit of the applicable rule).

4.2 Beam Intensity Requirement for HCl integrated path-CEMS (IP–CEMS).

4.2.1 Beam Intensity Verification. Source owners and operators of HCl IP–CEMS must quantify and record the beam intensity of their IP–CEMS in appropriate units at least once daily (approximately 24 hours apart) according to manufacturer's specifications and procedures.

4.2.2 Criteria for Excessive Beam Intensity Loss. If the beam intensity falls below the level established for the operation range determined following the procedures in section 11.2 of PS–18 of this part, then the HCl CEMS is out-of-control. This quality check is independent of whether the HCl CEMS daily calibration drift is acceptable. If the HCl CEMS is out-of-control, take necessary corrective action. Following corrective action, repeat the beam intensity check.

4.3 CEMS Data Status During Out-of-Control Period. During the period the CEMS is out-of-control, the CEMS data may not be used in calculating compliance with an emissions limit nor be counted towards meeting minimum data availability as required and described in the applicable regulation or permit.

5.0 *Data Accuracy Assessment.*

Each CEMS must be audited at least once each calendar quarter. Successive quarterly audits shall occur no closer than two months.

5.1 Temperature and Pressure Accuracy Assessment for IP CEMS.

5.1.1 Stack or source gas temperature measurement audits for HCl IP–CEMS must be conducted and recorded at least quarterly in accordance with the procedure described in section 11.3 of PS–18 in Appendix B of this part. Any measurement instrument or device that is used to conduct ongoing verification of temperature measurement must have an accuracy that is traceable to NIST.

5.1.2 Stack or source gas pressure measurements for HCl IP–CEMS must be checked and recorded at least quarterly in accordance with the procedure described in section 11.4 of PS–18 in Appendix B of this part. Any measurement instrument or device that is used to conduct ongoing verification of pressure measurement must have an accuracy that is traceable to NIST.

5.1.3 Excessive Parameter Verification Inaccuracy. If the temperature or pressure verification exceeds the criteria in section 5.3.5, the HCl CEMS is out-of-control. If the CEMS is out-of-control, take necessary corrective action to eliminate the problem. Following corrective action, the source owner or operator must repeat the failed verification to determine if the HCl CEMS is operating within the specifications.

5.2 Concentration Accuracy Auditing Requirements. The accuracy of each HCl CEMS must be audited at least once each calendar quarter (except the quarter the relative accuracy audit test (RATA) is conducted) by dynamic spiking audit (DSA), a cylinder gas audit (CGA), a relative accuracy audit (RAA), or other acceptable alternative. Successive quarterly audits must occur no closer than two months apart. The accuracy audits shall be conducted as follows:

5.2.1 Relative Accuracy Test Audit. The RATA must be conducted at least once every four calendar quarters, except as otherwise noted in section 5.2.5 of this procedure. Unless otherwise specified in an applicable regulation or permit, conduct the RATA during process operating conditions representing average production and full control operation at the source as specified in section 11.9.4 of PS–18 in Appendix B of this part.

5.2.1.1 Repeating the stratification test in section 11.9.3 is not required unless the flow path of the emission stream has been altered or changed since the initial RATA.

5.2.1.2 You must analyze and pass the appropriate performance audit samples for the reference method (*i.e.,* Method 26 and Method 26A) as described in the general provisions to the applicable part (*e.g.* 40 CFR part 60 or 63).

5.2.1.3 If the measured source concentration during a RATA is 20 percent or less than the applicable emission standard, you must perform a CGA or a DSA for at least one subsequent (one of the following three) quarterly audits.

5.2.2 Quarterly Cylinder Gas Audit. A quarterly CGA may be conducted as an option to conducting a RATA in three of four calendar quarters, but in no more than three quarters in succession.

5.2.2.1 To perform a CGA, challenge the CEMS with a zero-level and two upscale

level audit gases of known concentrations within the following ranges:

Audit point	Audit range
1 (Mid-Level)	50 to 60% of span value.
2 (High-Level)	80 to 120% of span value.

5.2.2.2 Sequentially inject each of the three audit gases (zero and two upscale) three times each for a total of nine injections. Inject the gases in such a manner that the entire CEMS is challenged. Do not inject the same gas concentration twice in succession.

5.2.2.3 Use HCl audit gases that are NIST certified or NIST traceable. Cylinder gases must be certified accurate to a tolerance of five percent or less.

5.2.2.4 Calculate results as described in section 6.3.

5.2.3 Dynamic Spiking Audit (DSA). A DSA may be conducted as an option to a RATA in three of four calendar quarters, but in no more than three quarters in succession.

5.2.3.1 To conduct a DSA, you must conduct the dynamic spiking procedure as described in Appendix A to PS–18 of Appendix B to this part.

5.2.3.2 You must calculate the mean and relative standard deviation for dynamic spiking measurements to determine CEMS accuracy.

5.2.3.3 For extractive HCl CEMS, you must perform the DSA by passing the spiked source gas through all filters, scrubbers, conditioners and other monitoring system components used during normal sampling, and as much of the sampling probe as is practical. For IP–CEMS, you must perform the DSA by adding or passing a known concentration calibration gas into a calibration cell in the optical path of the CEMS. You must include the source measurement optical path while performing a DSA using an IP–CEMS.

5.2.4 Relative Accuracy Audit (RAA). As an alternative to a CGA or DSA, an RAA may be conducted in one to three of four calendar quarters. To conduct an RAA, follow the RATA test procedures in section 11.9 of PS–18 in Appendix B to this part, except that only three test runs are required.

5.2.5 Other Alternative Quarterly Audits. Other alternative audit procedures, as approved by the Administrator, may be used for three of four calendar quarters. One RATA is required at least every four calendar quarters, except in the case where the affected facility is off-line (does not operate in the fourth calendar quarter since the quarter of the previous RATA). In that case, the RATA shall be performed in the quarter in which the unit recommences operation. Also, a CGA, DSA, RAA, or RATA is not required for calendar quarters in which the affected facility does not operate.

5.3 Excessive Audit Inaccuracy. If the results of the RATA, the DSA, CGA, or RAA exceed the criteria in section 5.3.5, the HCl CEMS is out-of-control. If the CEMS is out-of-control, take necessary corrective action to eliminate the problem. Following corrective action, the source owner or operator must audit the CEMS with a RATA, DSA, CGA, or RAA to determine if the HCl CEMS is operating within the specifications.

5.3.1 A RATA must always follow an out-of-control period resulting from a RATA.

5.3.2 If the audit results show the CEMS to be out-of-control, the CEMS operator shall report both the audit showing the CEMS to be out-of-control and the results of the audit following corrective action showing the CEMS to be operating within specifications.

5.3.3 Out-Of-Control Period Definition. The beginning of the out-of-control period is the time corresponding to the completion of the sampling for the failed RATA, CGA or DSA. The end of the out-of-control period is the time corresponding to the completion of the sampling of the subsequent successful audit.

5.3.4 CEMS Data Status During Out-Of-Control Period. During the period the CEMS is out-of-control, the CEMS data may not be used in calculating emission compliance nor be counted towards meeting minimum data availability as required and described in the applicable regulation or permit.

5.3.5 Criteria for Excessive Quarterly Test Inaccuracy. Unless specified otherwise in the applicable regulation or permit, the criteria for excessive inaccuracy are:

(a) For the RATA, the allowable RA is equal to 20 percent of the RM when RM_{avg} is used in the denominator of equation 15 in PS–18 of Appendix B to this part. In cases where the average emission level for the test is less than 50 percent of the applicable standard, you may substitute the equivalent emission standard value (in ppmvw) in the denominator of equation 15 in the place of RM_{avg} and this alternative calculation of RA must be less than or equal to 15 percent of the RM.

(b) For CGA, the allowable calibration error in PS–18 of Appendix B to this part is applicable (less than five percent of span).

(c) For the DSA, the allowable RA is + 15 percent of the average spike value or ± 20 percent of the applicable emission standard at source conditions under the production rate during the time of the DSA, whichever is greater.

(d) For temperature verification, the CEMS must satisfy the requirements in section 13.5.4 in PS–18 of Appendix B to this part.

(e) For pressure verification, the CEMS must satisfy the requirements in section 13.5.5 in PS–18 of Appendix B to this part.

5.4 Criteria for Acceptable QC Procedures. Repeated excessive inaccuracies (*i.e.,* out-of-control conditions resulting from the quarterly audits) indicate that the QC procedures are inadequate or that the CEMS is incapable of providing quality data. Therefore, whenever excessive inaccuracies occur for two consecutive quarters, the source owner or operator must revise the QC procedures (see section 3.0) or modify or replace the CEMS.

5.5 Criteria for Optional QA Test Frequency. If all the quality criteria are met in section 4 and 5 of this procedure, the CEMS is in-control.

5.5.1 If the CEMS is in-control and if the source releases ≤ 75 percent of the HCl emission limit for eight consecutive quarters that include a minimum of two RATA, the source owner or operator may revise their auditing procedures to use CGA, RAA or DSA each quarter for eight subsequent quarters following a RATA.

5.5.2 The source owner or operator must perform at least one RATA that meets the acceptance criteria every two years.

If the source owner or operator fails a RATA, CGA, or DSA, then the audit schedule in section 5.2 must be followed until the audit's results meet the criteria in section 5.3.5 to start requalifying for the optional QA test frequency in section 5.5.

6.0 *Calculations for CEMS Data Accuracy.*

6.1 RATA RA Calculation. Follow equation 15 in Section 12 of PS–18 in Appendix B to this part to calculate the RA for the RATA. The RATA must be calculated in units of the applicable emission standard.

6.2 CGA Accuracy Calculation. For each reference gas concentration, determine the average of the three CEMS responses and subtract the average response for the reference gas value. For extractive HCl CEMS, calculate the measurement error at each gas level using Equation 3 in section 12.3 of PS–18 in Appendix B to this part. For IP–CEMS, calculate the measurement error at each gas level using Equation 6 in section 12.6 of PS–18. Calculate CGA accuracy in units of the appropriate concentration (*e.g.*, ppmvd, lb/MWhr, lb/MMBtu).

6.3 DSA Accuracy Calculation.

6.3.1 For extractive HCl CEMS, use the equations described in section 11.2 in Appendix A of PS–18 of this part to calculate the accuracy for the dynamic spike accuracy assessment. The DSA reported as the percent spike recovery accuracy (%SA) must be calculated in units of the applicable emission standard (*e.g.,* ppmv).

6.3.2 For HCl IP–CEMS, use the equations described in section 11.3 in Appendix A of PS–18 to this part to calculate the accuracy for the dynamic spike accuracy assessment for IP–CEMS. The DSA reported as the percent spike recovery accuracy (%SA) must be calculated in units of the applicable emission standard (*e.g.*, ppmvd, lb/MWhr, lb/MMBtu).

7.0 *Reporting Requirements.*

At the reporting interval specified in the applicable regulation or permit, report for each CEMS the accuracy results from section 6 and the CD assessment results from section 4.

7.1 Report the drift and accuracy information as a Data Assessment Report (DAR), and include one copy of this DAR for each quarterly audit with the report of emissions required under the applicable subparts of this part or other applicable regulations or permits. An example of a DAR format is shown in Figure 1.

7.1.1 At a minimum, the DAR must contain the following information:

a. Source owner or operator name and address.

b. Identification and location of monitors in the CEMS.

c. Manufacturer and model number of each monitor in the CEMS.

d. Assessment of CEMS data accuracy and date of assessment as determined by a RATA, CGA or DSA described in section 5 including:

- The RA for the RATA;
- The RA for the CGA or DSA;
- Beam intensity results for IP–CEMS;

• The RM results, the cylinder gases certified values;
• The CEMS responses;
• The calculations results as defined in section 6;
• Results from EPA performance audit samples described in section 5 and the applicable RMs; and
• Summary of all corrective actions taken when CEMS was determined out-of-control, as described in sections 4 and 5.

7.1.2 If the accuracy audit results show the CEMS to be out-of-control, the CEMS operator shall report both the audit results showing the CEMS to be out-of-control and the results of the audit following corrective action showing the CEMS to be operating within specifications.

8.0 *Bibliography.*

1. ''A Procedure for Establishing Traceability of Gas Mixtures to Certain National Bureau of Standards Standard Reference Materials.'' Joint publication by NBS and EPA–600/7–81—10, Revised 1989. Available from the U.S. Environmental Protection Agency. Quality Assurance Division (MD–77). Research Triangle Park, NC 27711.

2. Method 205, ''Verification of Gas Dilution Systems for Field Instrument Calibrations,'' 40 CFR 51, appendix M.

9.0 *Tables, Diagrams, Flowcharts and Validation Data.*

9.1 Accuracy assessment results. Complete the applicable DAR sections (A, B and C) for each CEMS or for each pollutant and diluent analyzer, as applicable. If the quarterly audit results show the CEMS to be out-of-control, report the results of both the quarterly audit and the audit following corrective action showing the CEMS to be operating properly.

FIGURE 1—EXAMPLE FORMAT FOR DATA ASSESSMENT REPORT

Period ending date

Year

Company name

Plant name

Source unit No.

CEMS manufacturer

Model No.

CEMS serial No.

CEMS type (*e.g.,* extractive, integrated path)

CEMS sampling location (*e.g.,* control device outlet)

CEMS span values as per the applicable regulation: _____ (*e.g.,* HCl ppmv)

A—RELATIVE ACCURACY TEST AUDIT (RATA) FOR HCL IN ppmv

1. Date of audit _____

2. Reference methods (RMs) used _____ (*e.g.,* Methods 26A, 320, 321).

3. Average RM value ____ (*e.g.,* lb/MMw, ng/J, mg/dsm^3, or percent volume).

4. Average CEMS value ____ .

5. Absolute value of mean difference [d] ____.

6. Confidence coefficient [CC] ____.

7. Percent relative accuracy (RA) ____ percent.

8. * Method 26A performance audit results:
   a. Audit lot number (1) ____ (2) ____

   b. Audit sample number (1) ____ (2) ____

   c. Results (mg/dsm^3) (1) ____ (2) ____

   d. Actual value (mg/dsm^3) (1) ____ (2)____

   e. Relative error (1) ____ (2) ____

* As applicable

B—CYLINDER GAS AUDIT (CGA) FOR HCL IN ppmv

	Audit point 1	Audit point 2	
1. Date of audit			
2. Cylinder ID number			
3. Date of certification			
4. Type of certification			*e.g.,* EPA Protocol 1 or CRM).
5. Certified audit value			(*e.g.,* ppm).
6. CEMS response value			(*e.g.,* ppm).

B—CYLINDER GAS AUDIT (CGA) FOR HCL IN ppmv—Continued

	Audit point 1	Audit point 2	
7. Accuracy	.....	.....	Percent.

C—DYNAMIC SPIKING AUDIT (DSA) FOR HCL IN ppmv

	Concentration 1	Concentration 2	Concentration 3
1. Date of audit			
2. Effective Spike Addition (ppmv)			
3. Average CEMS value			
4. Spike Recovery Accuracy (%SA)			
5. Average Recovery Accuracy (%SA average.)			

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Part III

The President

Proclamation 9120—National Defense Transportation Day and National Transportation Week, 2014
Proclamation 9121—National Small Business Week, 2014
Proclamation 9122—National Women's Health Week, 2014
Proclamation 9123—Peace Officers Memorial Day and Police Week, 2014
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Presidential Documents

Title 3—

The President

Proclamation 9120 of May 9, 2014

National Defense Transportation Day and National Transportation Week, 2014

By the President of the United States of America

A Proclamation

In today's global economy, first-class jobs gravitate to first-class infrastructure. A sound transportation system allows businesses to safely move their goods to market, and maintaining that system creates jobs upgrading ports, unclogging commutes, and repairing roads and rails. During National Defense Transportation Day and National Transportation Week, we underscore the importance of infrastructure to our economy, security, and way of life.

This summer, the Congress will need to protect more than three million jobs by finishing transportation and waterways bills that provide at least 4 years of funding for extensive infrastructure repairs and investments. Because accessible roads, safe bridges, and good jobs should transcend politics, I am hopeful our representatives will do right by the American people. In the meantime, I am taking executive action to slash bureaucracy and streamline the permitting process for key projects. Earlier this year, I launched a competition for 600 million dollars in transportation grants. Cities and States can win this funding by creating plans that both modernize transportation infrastructure and stimulate the economy.

Infrastructure also plays a vital role in America's security. Fluid, dependable, and efficient transportation systems allow first responders and service members to swiftly arrive on the scene of an emergency. When natural disasters strike, we rely on these systems to bring food and first aid to victims. In order to safeguard our Nation, we must ensure our infrastructure is resilient enough to withstand disaster and keep supply lines open.

Today, America has ports that are not prepared for the next generation of supertankers. We have more than 100,000 bridges that are old enough to qualify for Medicare. And we have a world-class labor force ready to tackle this challenge. Let's put them to work.

In recognition of the importance of our Nation's transportation infrastructure, and of the men and women who build, maintain, and utilize it, the Congress has requested, by joint resolution approved May 16, 1957, as amended (36 U.S.C. 120), that the President designate the third Friday in May of each year as ''National Defense Transportation Day,'' and, by joint resolution approved May 14, 1962, as amended (36 U.S.C. 133), that the week during which that Friday falls be designated as ''National Transportation Week.''

NOW, THEREFORE, I, BARACK OBAMA, President of the United States of America, do hereby proclaim Friday, May 16, 2014, as National Defense Transportation Day and May 11 through May 17, 2014, as National Transportation Week. I call upon all Americans to recognize the importance of our Nation's transportation infrastructure and to acknowledge the contributions of those who build, operate, and maintain it.

IN WITNESS WHEREOF, I have hereunto set my hand this ninth 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.

[FR Doc. 2014–11303
Filed 5–13–14; 11:15 am]
Billing code 3295–F4

Presidential Documents

Proclamation 9121 of May 9, 2014

National Small Business Week, 2014

By the President of the United States of America

A Proclamation

Small businesses represent an ideal at the heart of our Nation's promise—that with ingenuity and hard work, anyone can build a better life. They are also the lifeblood of our economy, employing half of our country's workforce and creating nearly two out of every three new American jobs. During National Small Business Week, we renew our commitment to helping these vital enterprises thrive.

From day one, my Administration has been focused on cultivating an environment where small businesses can succeed. During my first term, we added 18 direct tax breaks for small businesses, including new tax credits for hiring unemployed workers and veterans and for investing in new equipment. Through the Small Business Administration (SBA), we have supported hundreds of thousands of loans. And to ensure small businesses have a voice in economic decisions, I elevated the Small Business Administrator to a Cabinet level position.

My Administration is also working to ease burdens on businesses. We cut in half the time it takes for the Federal Government to pay small business contractors, freeing up more resources for growth. To provide a boost to the smallest new businesses, we have eliminated SBA fees on loans under 150,000 dollars and waived fees for veterans who take out loans under 350,000 dollars. Thanks to the Affordable Care Act, it is now easier for small business owners to purchase quality health insurance, and they are now eligible for tax credits that cover up to half of the cost of providing coverage for their employees. And we continue to implement patent reforms that are reducing the application backlog, protecting American intellectual property abroad, and helping entrepreneurs roll out their inventions sooner.

Yet we have more work to do. In the years to come, we must protect tax credits that help small businesses hire and add incentives for paying workers higher wages. We must ensure entrepreneurs—even those who are not rich—have the resources to take their businesses to the next level. Because if we create a more level playing field, the best ideas will rise to the top, opportunity will flourish, and America will prosper.

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 12 through May 16, 2014, as National Small Business Week. I call upon all Americans to recognize the contributions of small businesses to the competitiveness of the American economy with appropriate programs and activities.

IN WITNESS WHEREOF, I have hereunto set my hand this ninth 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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Presidential Documents

Proclamation 9122 of May 9, 2014

National Women's Health Week, 2014

By the President of the United States of America

A Proclamation

As Americans, we strive for a Nation of broad-based prosperity, where hard work pays off and everyone can go as far as their dreams allow. Over the past half-century, women have opened up vast horizons for themselves and their daughters. Yet many still work harder for less, and because of gender inequality in areas like health care, they have had to stretch paychecks further to make ends meet. During National Women's Health Week, we recommit to expanding women's access to care, fighting discrimination, and advancing the opportunity agenda.

The Affordable Care Act (ACA) prohibits insurers from charging women higher premiums simply because of their gender. Insurance companies can no longer discriminate against women due to pregnancy, or deny coverage because of pre-existing conditions. Thanks to the ACA, women can receive preventive services like contraceptive care, recommended cancer screenings, and annual well-woman visits at no out-of-pocket cost. And this year, millions of women signed up for affordable coverage through the Health Insurance Marketplace while millions more gained insurance through the expansion of Medicaid. To learn more about resources available to women and girls, visit www.HealthCare.gov, www.WomensHealth.gov, or www.GirlsHealth.gov.

As we continue to implement this law, my Administration remains dedicated to protecting women's rights to make their own health care decisions. The past few years have seen an orchestrated and historic effort to roll back these basic rights. States have enacted laws aimed at banning or severely limiting the right to choose and introduced legislation that would cut off access to common forms of birth control. Together, we must reject policies that aim to turn back the clock.

This week, let us uphold the principle of equality in health care. Let us affirm that women alone—not insurance executives, not politicians, and not their bosses—have the right to make decisions about their own health.

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 11 through May 17, 2014, as National Women's Health Week. I encourage all Americans to celebrate the progress we have made in protecting women's health and to promote awareness, prevention, and educational activities that improve the health of all women.

IN WITNESS WHEREOF, I have hereunto set my hand this ninth 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.

[FR Doc. 2014–11305
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Presidential Documents

Proclamation 9123 of May 9, 2014

Peace Officers Memorial Day and Police Week, 2014

By the President of the United States of America

A Proclamation

Each year, America sets aside a week to salute the men and women who do the difficult, dangerous, and often thankless work of safeguarding our communities. Our Nation's peace officers embody the very idea of citizenship—that along with our rights come responsibilities, both to ourselves and to others. During Peace Officers Memorial Day and Police Week, we celebrate those who protect and serve us every minute of every day, and we honor the courageous officers who devoted themselves so fully to others that in the process they laid down their lives.

As we mourn the fallen, let us also remember how they lived. With unflinching commitment, they defended our schools and businesses. They guarded prisons; patrolled borders; and kept us safe at home, on the road, and as we went about our lives. To their families, we owe an unpayable debt. And to the men and women who carry their mission forward, we owe our unyielding support.

Our Nation has an obligation to ensure that as police officers face untold risks in the line of duty, we are doing whatever we can to protect them. This means providing all necessary resources so they can get the job done, hiring new officers where they are needed most, and investing in training to prepare those on the front lines for potentially deadly situations. It also means making reforms to curb senseless epidemics of violence that threaten law enforcement officers and haunt the neighborhoods they serve.

Just as police officers never let down their guard, we must never let slide our gratitude. We should extend our thanks not only in times of tragedy, but for every tragedy averted—every accident avoided because a patrol officer took a drunk driver off the streets, every child made safer because a criminal was brought to justice, every life saved because police officers raced to the scene. In other words, we must show our gratitude every day.

By a joint resolution approved October 1, 1962, as amended (76 Stat. 676), and by Public Law 103–322, as amended (36 U.S.C. 136–137), the President has been authorized and requested to designate May 15 of each year as ''Peace Officers Memorial Day'' and the week in which it falls as ''Police Week.''

NOW, THEREFORE, I, BARACK OBAMA, President of the United States of America, do hereby proclaim May 15, 2014, as Peace Officers Memorial Day and May 11 through May 17, 2014, as Police Week. I call upon all Americans to observe these events with appropriate ceremonies and activities. I also call on Governors of the United States and the Commonwealth of Puerto Rico, officials of the other territories subject to the jurisdiction of the United States, and appropriate officials of all units of government, to direct that the flag be flown at half-staff on Peace Officers Memorial Day. I further encourage all Americans to display the flag at half-staff from their homes and businesses on that day.

IN WITNESS WHEREOF, I have hereunto set my hand this ninth 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.

[FR Doc. 2014–11306
Filed 5–13–14; 11:15 am]
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Presidential Documents

Proclamation 9124 of May 9, 2014

Mother's Day, 2014

By the President of the United States of America

A Proclamation

For over a century, Americans have come together to celebrate our first friends and mentors, our inspirations and constant sources of strength. Our mothers are breadwinners, community leaders, and pillars of family. They pioneer scientific discoveries, serve with valor in our Armed Forces, and represent our Nation in the loftiest halls of Government. Whether biological, adoptive, or foster, they play a singular role in our lives. Because they so often put everything above themselves, on Mother's Day, we put our moms first.

Through centuries of organizing, marching, and making their voices heard, mothers have won greater opportunities than ever before for themselves and their children. Their victories brought our Nation closer to realizing a sacred founding principle—that we are all created equal and each of us deserves the chance to pursue our own version of happiness.

Today, there are more battles to win. Working mothers increasingly provide the majority of their family's income, yet even now, discrimination prevents women from earning a living equal to their efforts. My Administration is proud to fight alongside women as they push to close the gender pay gap, shatter glass ceilings, and implement workplace policies that do not force any parent to choose between their jobs and their kids. Because when women succeed, America succeeds.

By words and example, mothers teach us how to grow and who to become. They shape lasting habits that can lead to healthy living and lifelong learning. They demonstrate what is possible when we work hard and apply our talents. Without complaint, they give their best every day so they and their children might achieve the scope of their dreams. Today, let us once again extend our gratitude for our mothers' unconditional love and support—during years past and in the years to come.

The Congress, by a joint resolution approved May 8, 1914 (38 Stat. 770), has designated the second Sunday in May each year as ''Mother's Day'' and requested the President to call for its appropriate observance.

NOW, THEREFORE, I, BARACK OBAMA, President of the United States of America, do hereby proclaim May 11, 2014, as Mother's Day. I urge all Americans to express love and gratitude to mothers everywhere, and I call upon all citizens to observe this day with appropriate programs, ceremonies, and activities.

IN WITNESS WHEREOF, I have hereunto set my hand this ninth 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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