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DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Parts 165

[Docket Number USCG–2014–0883]

RIN 1625–AA00

Safety Zone, Delaware River; Delaware City, DE

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone closing Pea Patch Island Anchorage No. 5 and the upper portion of Reedy Point South Anchorage No. 3 to anchoring operations in order to facilitate dredging in New Castle Range in the Delaware River. This regulation is necessary to provide for the safety of life on the navigable waters of Pea Patch Island and Reedy Point South Anchorages. These closures are intended to restrict vessel anchoring to protect mariners from the hazards associated with ongoing pipe-laying and dredging operations.

DATES: This rule is effective without actual notice from October 6, 2014 until November 15, 2014, unless cancelled earlier by the Captain of the Port. For the purposes of enforcement, actual notice will be used from October 1, 2014, until October 6, 2014.

ADDRESSES: Documents mentioned in this preamble are part of docket [USCG–2014–0883]. To view documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov,* type the docket number 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.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email. If you have questions on this temporary rule, call or email Lieutenant Brennan Dougherty, U.S. Coast Guard, Sector Delaware Bay, Chief Waterways Management Division, Coast Guard; telephone (215) 271–4851, email *Brennan.P.Dougherty@uscg.mil.* If you have questions on viewing or submitting material to the docket, call Cheryl Collins, Program Manager, Docket Operations, telephone (202) 366–9826.

SUPPLEMENTARY INFORMATION:

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

A. Regulatory History and Information

The Coast Guard is issuing this temporary final rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are ''impracticable, unnecessary, or contrary to the public interest.'' Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because it is impracticable because immediate action is necessary to protect the maritime public. Publishing an NPRM is impracticable given that the final details for the dredging operation were not received by the Coast Guard until September 17, 2014. Vessels attempting to anchor in either Pea Patch Island or the upper portion of Reedy Point South Anchorages during pipe-laying or dredging operations may be at risk. Delaying this rule to wait for a notice and comment period to run would be contrary to the public interest as it would inhibit the Coast Guard's ability to protect the public from the hazards associated with pipe-laying and dredging operations.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register** as any delay encountered in this regulation's effective date would be contrary to public interest because immediate action is needed to provide for the safety of life and property from the hazards associated with pipe-laying and dredging operations.

B. Basis and Purpose

The legal basis for the rule is the Coast Guard's authority to establish regulated navigation areas and other limited access areas: 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, 160.5; Public Law 107–295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

Norfolk Dredging Company has been contracted by the Army Corps of Engineers (ACOE) to conduct maintenance dredging in the Delaware River within New Castle Range in order to maintain channel depth. This project requires the placement of floating and submerged pipeline, along with placement of an anchor barge, within Pea Patch Island Anchorage No. 5. Due to the presence of the pipeline, vessels are not permitted to anchor within Pea Patch Island Anchorage for the duration of the dredging project. In addition, as the dredging project proceeds south and approaches the entrance of the Chesapeake and Delaware (C & D) Canal, vessels heading north through the Delaware River with intent to transit the Canal will be re-directed through the upper portion of Reedy Point South Anchorage No. 3. As a result this upper portion of Anchorage No. 3 will be closed for anchoring purposes during this time. Notice of the closure will be broadcast by a Local Notice to Mariners and a Broadcast Notice to Mariners at the appropriate time. The Captain of the Port will reopen both anchorages once all submerged pipeline has been recovered and dredging operations are complete. At such time, notice that the temporary closure of the anchorages is no longer in effect will be broadcast to mariners on VHF channel 16. The Captain of the Port is establishing this safety zone to ensure the safety of life and property of all mariners and vessels transiting the local area.

C. Discussion of the Temporary Final Rule

The Coast Guard Captain of the Port is temporarily establishing a safety zone

closing Pea Patch Island Anchorage No. 5 and the upper portion of Reedy Point South Anchorage No. 3 to anchoring operations from October 1, 2014 to November 15, 2014, unless cancelled earlier by the Captain of the Port once operations are complete. The safety zone will include all waters within the boundaries of Pea Patch Island Anchorage No. 5 and all waters within a portion of Reedy Point South Anchorage No. 3 north of a line drawn between positions 39°33′7.5″ N, 75°33′2.0″ W and 39°33′8.8″ N, 75°32′31.8″ W, as charted on NOAA chart 12311. Vessels will not be permitted to anchor within these areas of Anchorage No. 5 or Anchorage No. 3. The Captain of the Port or her representative may be contacted via VHF channel 16.

D. Regulatory Analyses

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

1. Regulatory Planning and Review

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866, Regulatory Planning and Review, as supplemented by Executive Order 13563, Improving Regulation and Regulatory Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of Executive Order 12866 or under section 1 of Executive Order 13563. The Office of Management and Budget has not reviewed it under those Orders. Although this regulation will restrict access to the regulated area, the effect of this rule will not be significant because: (i) The Coast Guard will make extensive notification of the Safety Zone to the maritime public via maritime advisories so mariners can alter their plans accordingly; (ii) vessels may still be permitted to transit through the safety zone with the permission of the Captain of the Port on a case-by-case basis; and (iii) this rule will be enforced until pipe-laying and dredging operations have been completed.

2. Impact on Small Entities

The Regulatory Flexibility Act of 1980 (RFA), 5 U.S.C. 601–612, as amended, requires federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term ''small entities'' comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities. This rule will affect the following entities, some of which may be small entities: The owners or operators of vessels intending to anchor in Pea Patch Island Anchorage No. 5 and the upper portion of Reedy Point South Anchorage No. 3, from October 1, 2014 to November 15, 2014, unless cancelled earlier by the Captain of the Port once all operations are completed.

This safety zone will not have a significant economic impact on a substantial number of small entities for the following reason: Vessel traffic will be allowed to pass through the safety zone with permission of the Captain of the Port or her designated representative, and the safety zone is limited in size. Sector Delaware Bay will issue maritime advisories widely available to users of the Delaware River.

3. Assistance for Small Entities

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

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

4. Collection of Information

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

5. Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this rule under that Order and determined that this rule 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 rule will not result in such expenditure, we do discuss the effects of this rule elsewhere in this preamble.

8. Taking of Private Property

This rule will 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 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 rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not create an environmental risk to health or risk to safety that may disproportionately affect children.

11. Indian Tribal Governments

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

or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

12. Energy Effects

This action is not a ''significant energy action'' under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use.

13. Technical Standards

This rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

14. Environment

We have analyzed this 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 determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves implementation of regulations within 33 CFR Part 165, applicable to safety zones on the navigable waterways. This safety zone will temporarily restrict vessel traffic from anchoring in Pea Patch Island Anchorage No. 5 and Reedy Point South Anchorage No. 3. This rule is categorically excluded from further review under paragraph 34(g) of Figure 2–1 of the Commandant Instruction. An environmental analysis checklist supporting this determination and a Categorical Exclusion Determination are available in the docket where indicated under **ADDRESSES**. We seek any comments or information that may lead to the discovery of a significant environmental impact from this rule.

List of Subjects in 33 CFR Part 165

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

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

Authority: 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, 160.5; Pub. L. 107–295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1

■ 2. Amend § 165.T05–0883, to read as follows:

§ 165.T05–0883 Safety Zone, Delaware River; Delaware City, DE

(a) *Regulated area.* The safety zone will include all waters within the boundaries of Pea Patch Island Anchorage No. 5 and all waters within the upper portion of Reedy Point South Anchorage No. 3 north of a line drawn between positions 39°33′7.5″ N, 75°33′2.0″ W and 39°33′8.8″ N, 75°32′31.8″ W, as charted on NOAA chart 12311.

(b) *Enforcement period.* This section will be enforced from October 1, 2014 to November 15, 2014, unless cancelled earlier by the Captain of the Port once all operations are completed.

(c) *Regulations.* All persons are required to comply with the general regulations governing safety zones in 33 CFR 165.23.

(1) All persons or vessels wishing to transit through the Safety Zone must request authorization to do so from the Captain of the Port or her designated representative one hour prior to the intended time of transit.

(2) Vessels granted permission to transit must do so in accordance with the directions provided by the Captain of the Port or her designated representative to the vessel.

(3) To seek permission to transit the Safety Zone, the Captain of the Port's representative can be contacted via marine radio VHF Channel 16.

(4) This section applies to all vessels wishing to transit through the Safety Zone except vessels that are engaged in the following operations:

(i) Enforcing laws;

(ii) Servicing aids to navigation, and

(iii) Emergency response vessels.

(5) No person or vessel may enter or remain in a safety zone without the permission of the Captain of the Port;

(6) Each person and vessel in a safety zone shall obey any direction or order of the Captain of the Port;

(7) No person may board, or take or place any article or thing on board, any vessel in a safety zone without the permission of the Captain of the Port; and

(8) No person may take or place any article or thing upon any waterfront facility in a safety zone without the permission of the Captain of the Port.

(d) *Definitions.* The *Captain of the Port* means the Commander of Sector Delaware Bay or any Coast Guard commissioned, warrant, or petty officer who has been authorized by the Captain of the Port to act on her behalf.

(e) *Enforcement.* The U.S. Coast Guard may be assisted in the patrol and enforcement of the Safety Zone by Federal, State, and local agencies.

Dated: September 24, 2014.

K. Moore,

Captain, U.S. Coast Guard, Captain of the Port Delaware Bay.

[FR Doc. 2014–23663 Filed 10–3–14; 8:45 am]

BILLING CODE 9110–04–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R03–OAR–2014–0476; FRL–9917–16–Region 3]

Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; Allegheny County's Adoption of Control Techniques Guidelines for Offset Lithographic Printing and Letterpress Printing; Flexible Package Printing; and Industrial Solvent Cleaning Operations for Control of Volatile Organic Compound Emissions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving a State Implementation Plan (SIP) revision submitted by the Commonwealth of Pennsylvania. This SIP revision includes amendments to the Allegheny County Health Department (ACHD) Rules and Regulations, Article XXI, Air Pollution Control, and meets the requirement to adopt Reasonably Available Control Technology (RACT) for sources covered by EPA's Control Techniques Guidelines (CTG) standards for the following categories: Offset lithographic printing and letterpress printing, flexible package printing, and industrial solvent cleaning operations. EPA is approving the revision to the Pennsylvania SIP in accordance with the requirements of the Clean Air Act (CAA).

DATES: This final rule is effective on November 5, 2014.

ADDRESSES: EPA has established a docket for this action under Docket ID Number EPA–R03–OAR–2014–0476. All documents in the docket are listed in the *www.regulations.gov* Web site. Although listed in the electronic docket, some information is not publicly available, i.e., confidential business information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly

available only in hard copy form. Publicly available docket materials are available either electronically through *www.regulations.gov* or in hard copy for public inspection 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 Allegheny County Health Department, Bureau of Environmental Quality, Division of Air Quality, 301 39th Street, Pittsburgh, Pennsylvania 15201 and at the Pennsylvania Department of Environmental Protection, Bureau of Air Quality Control, P.O. Box 8468, 400 Market Street, Harrisburg, Pennsylvania 17105.

FOR FURTHER INFORMATION CONTACT: Irene Shandruk, (215) 814–2166, or by email at *shandruk.irene@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

Section 172(c)(1) of the CAA provides that SIPs for nonattainment areas must include reasonably available control measures (RACM), including RACT, for sources of emissions. Section 182(b)(2)(A) provides that for certain nonattainment areas, states must revise their SIP to include RACT for sources of volatile organic compound (VOC) emissions covered by a CTG document issued after November 15, 1990 and prior to the area's date of attainment. In 2006, EPA developed new CTGs for offset lithographic printing and letterpress printing, flexible package printing, and industrial solvent cleaning operations. A formal SIP submission was submitted by Pennsylvania to EPA on November 15, 2013 and on August 1, 2014 (79 FR 44728), EPA published a notice of proposed rulemaking (NPR) proposing approval of Pennsylvania's SIP revision for adoption of the CTG standards for offset lithographic printing and letterpress printing, flexible package printing, and industrial solvent cleaning operations in Allegheny County.

II. Summary of SIP Revision

On November 15, 2013, Pennsylvania Department of Environmental Protection (PADEP) submitted to EPA a SIP revision concerning the adoption of the EPA CTGs for offset lithographic printing and letterpress printing, flexible package printing, and industrial cleaning solvent operations in Allegheny County. These regulations are contained in the ACHD Rules and Regulations, Article XXI, Air Pollution Control sections 2105.80, 2105.81, and 2105.82 in order to: (1) Establish applicability for offset lithographic printing and letterpress printing, flexible package printing, and industrial cleaning solvent operations at facilities; (2) establish exemptions; (3) establish record-keeping and work practice requirements; and (4) establish emission limitations. Other specific requirements and the rationale for EPA's proposed action are explained in the NPR and will not be restated here. No public comments were received on the NPR.

III. Final Action

EPA is approving the Commonwealth of Pennsylvania SIP revision submitted on November 15, 2013, which consists of amendments to the ACHD Rules and Regulations, Article XXI, Air Pollution Control, and meets the requirement to adopt RACT for sources located in Allegheny County covered by EPA's CTG standards for the following categories: Offset lithographic printing and letterpress printing, flexible package printing, and industrial solvent cleaning operations.

IV. Statutory and Executive Order Reviews

A. General Requirements

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

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

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

B. Submission to Congress and the Comptroller General

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).

C. Petitions for Judicial Review

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by December 5, 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 pertaining to ACHD's adoption of CTG standards for offset lithographic printing

and letterpress printing, flexible package printing, and industrial solvent cleaning operations may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: September 15, 2014.

William C. Early,

Acting Regional Administrator, Region III.

Therefore, 40 CFR part 52 is amended as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

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

Subpart NN—Pennsylvania

■ 2. In § 52.2020, the table in paragraph (c)(2) is amended by:

■ a. Under Part E, Subpart 1, revising the entry for ''2105.11, Graphic Arts Systems''; and

■ b. Under Part E, Subpart 7, adding entries for 2105.80, 2105.81, and 2105.82 in numerical order. The revision and additions read as follows:

§ 52.2020 Identification of plan.

* * * * *

(c) * * *

(2) * * *

Article XX or XXI citation	Title/subject	State effective date	EPA approval date	Additional explanation/ § 52.2063 citation
*	*	*	*	*
	Part E—Source Emission and Operating Standards			
*	*	*	*	*
	Subpart 1—VOC Sources			
*	*	*	*	*
2105.11	Graphic Arts Systems	6/8/13	10/6/14 [*Insert Federal Register citation*].	Revision to *Exempt Other,* section 2105.11(f).
*	*	*	*	*
	Subpart 7—Miscellaneous VOC Sources			
*	*	*	*	*
2105.80	Control of VOC Emissions from Offset Lithographic Printing and Letterpress Printing.	6/8/13	10/6/14 [*Insert Federal Register citation*].	New Regulation
2105.81	Control of VOC Emissions from Flexible Package Printing.	6/8/13	10/6/14 [*Insert Federal Register citation*].	New Regulation
2105.82	Control of VOC Emissions from Industrial Solvent Cleaning Operations.	6/8/13	10/6/14 [*Insert Federal Register citation*].	New Regulation
*	*	*	*	*

* * * * *

[FR Doc. 2014–23777 Filed 10–3–14; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R09–OAR–2014–0412; FRL–9912–71–Region 9]

Revisions to the California State Implementation Plan, Lake County Air Quality Management District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: The Environmental Protection Agency (EPA) is taking direct final action to approve a revision to the Lake County Air Quality Management District (LCAQMD) portion of the California State Implementation Plan (SIP). This revision concerns particulate matter (PM) emissions from agricultural compression engines and the definition of hazardous air pollutants (HAP). We are approving local rules under the Clean Air Act (CAA or the Act).

DATES: This rule is effective on December 5, 2014 without further notice, unless EPA receives adverse comments by November 5, 2014. If we receive such comments, we will publish a timely withdrawal in the **Federal Register** to notify the public that this direct final rule will not take effect.

ADDRESSES: Submit comments, identified by docket number EPA–R09–OAR–2014–0412, by one of the following methods:

1. Federal eRulemaking Portal: *www.regulations.gov.* Follow the on-line instructions.

2. Email: *steckel.andrew@epa.gov.*

3. Mail or deliver: Andrew Steckel (Air-4), U.S. Environmental Protection Agency Region IX, 75 Hawthorne Street, San Francisco, CA 94105–3901.

Instructions: All comments 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 Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Information that you consider CBI or otherwise protected should be clearly identified as such and should not be submitted through *www.regulations.gov* or email. *www.regulations.gov* is an ''anonymous access'' system, and EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send email directly to EPA, your email address will be automatically captured and included

as part of the public comment. 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: Generally, documents in the docket for this action are available electronically at *www.regulations.gov* and in hard copy at EPA Region IX, 75 Hawthorne Street, San Francisco, California 94105–3901. While all documents in the docket are listed at *www.regulations.gov,* some information may be publicly available only at the hard copy location (e.g., copyrighted material, large maps), and some may not be publicly available in either location (e.g., CBI). To inspect the hard copy materials, please schedule an appointment during normal business hours with the contact listed in the **FOR FURTHER INFORMATION CONTACT** section.

FOR FURTHER INFORMATION CONTACT: Idalia Pérez, EPA Region IX, (415) 972–3248, *perez.idalia@epa.gov.*

SUPPLEMENTARY INFORMATION: Throughout this document, ''we,'' ''us,'' and ''our'' refer to EPA.

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I. The State's Submittal

A. What rules did the State submit?

Table 1 lists the rules we are approving with the dates that they were adopted by the local air agency and submitted by the California Air Resources Board.

TABLE 1—SUBMITTED SECTIONS

Local agency	Section No.	Section title	Adopted	Submitted
LCAQMD	228	Hazardous Air Pollutants (HAP)	06/23/98	12/23/98
LCAQMD	470	Air Toxics Control Measure for Emissions of Toxic Particulate Matter from In-Use Agricultural Compression Ignition Engines.	09/21/10	04/05/11

On June 23, 1999, the submittal for LCAQMD Rule 228 was deemed by operation of law to meet the completeness criteria in 40 CFR Part 51 Appendix V. On May 6, 2011, EPA determined that the submittal for LCAQMD Rule 470 met the completeness criteria in 40 CFR Part 51 Appendix V, which must be met before formal EPA review.

B. Are there other versions of these rules?

There are no previous versions of Rules 228 or 470 approved into the SIP.

C. What is the purpose of the submitted rules?

Section 110(a) of the CAA requires States to submit regulations that control volatile organic compounds, oxides of nitrogen, PM, and other air pollutants which harm human health and the environment. Rule 228 was developed as part of the local agency's program to control these pollutants. It defines HAPs as ''Those pollutants that are listed in the Federal Clean Air Act's Section 112(b) List of Hazardous Air Pollutants.''

PM contributes to effects that are harmful to human health and the environment, including premature mortality, aggravation of respiratory and cardiovascular disease, decreased lung function, visibility impairment, and damage to vegetation and ecosystems. Section 110(a) of the CAA requires States to submit regulations that control PM emissions. Section 470 provides a local administrative program for registering compression ignition (CI) stationary engines used in agricultural operations and controlling air emissions from these sources by setting engine tier requirements for certain replacement units. EPA's technical support document (TSD) has more information about rule 470.

II. EPA's Evaluation and Action

A. How is EPA evaluating the rules?

Generally, SIP rules must be enforceable (see section 110(a) of the Act) and must not relax existing requirements (see sections 110(l) and 193). Rule 228 does not set emissions standards thus it does not have to meet a specific stringency requirement for emissions. Additionally, LCAQMD regulates an area that is classified as attainment for all National Ambient Air Quality Standards (NAAQS) (see 40 CFR Part 81.305), so Rule 470 does not have to meet a specific stringency requirement for emissions from this source category.

Guidance and policy documents that we use to evaluate enforceability requirements consistently include the following:

1. ''Issues Relating to VOC Regulation Cutpoints, Deficiencies, and Deviations; Clarification to Appendix D of November 24, 1987 **Federal Register** Notice,'' (Blue Book), notice of availability published in the May 25, 1988 **Federal Register**.
2. ''Guidance Document for Correcting Common VOC & Other Rule Deficiencies,'' EPA Region 9, August 21, 2001 (the Little Bluebook).

B. Do the rules meet the evaluation criteria?

We believe these rules are consistent with the relevant policy and guidance regarding enforceability and SIP relaxations. The Technical Support Document (TSD) has more information on our evaluation.

C. EPA Recommendations To Further Improve the Rule

The TSD describes additional rule revisions that we recommend for the next time the local agency modifies Rule 470.

D. Public Comment and Final Action

As authorized in section 110(k)(3) of the Act, EPA is fully approving the submitted rules because we believe they fulfill all relevant requirements. We do not think anyone will object to this approval, so we are finalizing it without proposing it in advance. However, in the Proposed Rules section of this **Federal Register**, we are simultaneously proposing approval of the same submitted rules. If we receive adverse comments by November 5, 2014, we will publish a timely withdrawal in the **Federal Register** to notify the public that the direct final approval will not take effect and we will address the comments in a subsequent final action

based on the proposal. If we do not receive timely adverse comments, the direct final approval will be effective without further notice on December 5, 2014. This will incorporate the rules into the federally enforceable SIP.

Please note that if EPA receives adverse comment on an amendment, paragraph, or section of either of these rules and if that provision may be severed from the remainder of the rules, EPA may adopt as final those provisions of the rules that are not the subject of an adverse comment.

III. Statutory and Executive Order Reviews

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

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

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

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

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by December 5, 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. 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 proposed rulemaking. This action may not be challenged later in proceedings to enforce its requirements (see section 307(b)(2)).

List of Subjects in 40 CFR Part 52

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

Dated: May 30, 2014.

Jared Blumenfeld,

Regional Administrator, Region IX.

Part 52, 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 F—California

■ 2. Section 52.220 is amended by adding paragraphs (c)(388) (i)(G) and (c)(443) to read as follows:

§ 52.220 Identification of plan.

* * * * *

(c) * * *

(388) * * *

(i) * * *

(G) Lake County Air Quality Management District.

(*1*) Lake County Air Quality Management District Board of Directors Resolution 2010–174 adopting Section 470, ''Air Toxics Control Measure for Emissions of Toxic Particulate Matter from In-Use Agricultural Compression Ignition Engines,'' adopted on September 21, 2010, as ''Exhibit A.''

* * * * *

(443) New and amended regulations for the following APCDs were submitted on December 23, 1998 by the Governor's Designee.

(i) Incorporation by Reference.

(A) Lake County Air Quality Management District.

(*1*) Lake County Air Quality Management District Board of Directors Resolution 98–195 adopting Section 228, ''Hazardous Air Pollutants (HAP),'' adopted on June 23, 1998, as ''Exhibit A.''

[FR Doc. 2014–23771 Filed 10–3–14; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R05–OAR–2014–0242; FRL–9915–94–Region 5]

Approval and Promulgation of Air Quality Implementation Plans; Wisconsin; Revisions to PSD and NNSR Programs

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: Pursuant to its authority under the Clean Air Act (CAA or Act), the Environmental Protection Agency (EPA) is approving a revision to the Wisconsin State Implementation Plan (SIP) for the Prevention of Significant Deterioration (PSD) and Nonattainment New Source Review (NNSR) programs.

DATES: This final rule is effective on November 5, 2014.

ADDRESSES: EPA has established a docket for this action under Docket ID No. EPA–R05–OAR–2014–0242. 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 (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through *www.regulations.gov* or in hard copy at the Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604. This facility is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding Federal holidays. We recommend that you telephone Anthony Maietta, Life Scientist, at (312) 353–8777 before visiting the Region 5 office.

FOR FURTHER INFORMATION CONTACT: Anthony Maietta, Life Scientist, Control Strategies Section, Air Programs Branch (AR–18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 353–8777, *maietta.anthony@epa.gov.*

SUPPLEMENTARY INFORMATION: Throughout this document whenever ''we,'' ''us,'' or ''our'' is used, we mean EPA. This supplementary information section is arranged as follows:

I. What is the background for this action?
II. Effective Date of Wisconsin's Adopted Rule and Formal SIP Submission.
III. What action is EPA taking?
IV. Statutory and Executive Order Reviews.

I. What is the background for this action?

On March 12, 2014, the Wisconsin Department of Natural Resources (WDNR) submitted a request to EPA to revise portions of its PSD and NNSR programs. The submittal requested that EPA approve the following revised rules into Wisconsin's SIP: (1) NR 400.02(123m) and (124); (2) NR 405.02(21)(b)5.a. and b. and 6; (3) NR 405.02(25i)(a); (4) NR 405.02(25i)(ag) and (ar)1–3; and (5) NR 408.02(20)(e) 5.a and b. and 6. On May 2, 2014, EPA published in the **Federal Register** (79 FR 25063) a proposal to take action on portions of the March 12, 2014, submittal that pertained to the definition of ''major modification'', and explicitly identify oxides of nitrogen (NO_X) as a precursor to ozone. Specifically, EPA's May 2, 2014, proposed rulemaking was limited to the following provisions: (1) NR 405.02(21)(b)5.a. and b. and 6; (2) NR 405.02(25i)(a); (3)NR 405.02(25i)(ar)(intro) and 1.; and, (4) NR 408.02(20)(e) 5.a and b. and 6. The remainder of WDNR's submission, as it relates to the identification of precursors to particulate matter of less than 2.5 micrometers ($PM_{2.5}$), and the definition of $PM_{2.5}$ and particulate matter of less than 10 micrometers, will be addressed in a separate rulemaking.

Because the SIP revision was not effective at the state level at the time of the March 12, 2014, submittal, Wisconsin requested that EPA parallel process the SIP revision. EPA's May 2, 2014, proposal was contingent upon both the effectiveness of amended rules at the state level and a formal, fully adopted SIP revision request.

II. Effective Date of Wisconsin's Adopted Rule and Formal SIP Submission

On June 30, 2014, revisions to Wisconsin's PSD and NNSR rules, as submitted in draft to EPA on March 12, 2014, were published in the Wisconsin Administrative Register, and became effective on July, 1, 2014. On August 11, 2014, Wisconsin formally submitted its request for EPA to take final action on our May 2, 2014 proposal.

III. What action is EPA taking?

EPA is approving revisions to Wisconsin rules NR 405.02(21)(b)5.a. and b. and 6; NR 405.02(25i)(a); NR 405.02(25i)(ar)(intro) and 1.; and NR 408.02(20)(e) 5.a and b. and 6., as submitted by WDNR on August 11, 2014, into the Wisconsin SIP.

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 approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

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

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

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 December 5, 2014. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen oxides, Ozone, Reporting and recordkeeping requirements, Sulfur oxides.

Dated: August 19, 2014.

Susan Hedman,

Regional Administrator, Region 5.

40 CFR part 52 is amended as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

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

■ 2. Section 52.2570 is amended by adding paragraph (c)(131) to read as follows:

§ 52.2570 Identification of plan.

* * * * *

(c) * * *

(131) On August 11, 2014, the Wisconsin Department of Natural Resources submitted a request to revise Wisconsin's Prevention of Significant Deterioration and Nonattainment New Source Review rules.

(i) Incorporation by reference.

(A) Wisconsin Administrative Code, NR 405.02(21)(b)5.a. and b. and 6; NR 405.02(25i)(a); NR 405.02(25i)(ar)(intro) and 1., as published in the Wisconsin Administrative Register July 2014, No. 703, effective August 1, 2014.

(B) Wisconsin Administrative Code, NR 408.02(20)(e) 5.a and b. and 6., as published in the Wisconsin Administrative Register July 2014, No. 703, effective August 1, 2014.

[FR Doc. 2014–23769 Filed 10–3–14; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R05–OAR–2013–0273; FRL–9914–97–Region 5]

Approval and Promulgation of Air Quality Implementation Plans; Illinois; Amendments to Gasoline Volatility Standards and Motor Vehicle Refinishing Requirements for Illinois

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving state implementation plan (SIP) revisions submitted by the Illinois Environmental Protection Agency (IEPA) on March 19, 2013, concerning the state's gasoline volatility standards. The SIP revisions also include amendments to the state's motor vehicle refinishing regulations to allow for the alternative use of a high volume, low pressure (HVLP) equivalent coating applicator in motor vehicle refinishing operations, and repeal a registration program under these regulations that overlaps with Federal registration requirements.

DATES: This direct final rule is effective December 5, 2014, unless EPA receives adverse comments by November 5, 2014. If adverse comments are received, EPA 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–R05–OAR–2013–0273, by one of the following methods:

1. *www.regulations.gov:* Follow the on-line instructions for submitting comments.

2. *Email: blakley.pamela@epa.gov.*

3. *Fax:* (312) 692–2450.

4. *Mail:* Pamela Blakley, Chief, Control Strategies Section, Air Programs Branch (AR–18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604.

5. *Hand Delivery:* Pamela Blakley, Chief, Control Strategies Section, Air Programs Branch (AR–18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604. Such deliveries are only accepted during the Regional Office normal hours of operation, and special arrangements should be made for deliveries of boxed information. The Regional Office official hours of business are Monday through Friday, 8:30 a.m. to 4:30 p.m., excluding Federal holidays.

Instructions: Direct your comments to Docket ID No. EPA–R05–OAR–2013–0273. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *www.regulations.gov* or email. The *www.regulations.gov* Web site is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to EPA without going through *www.regulations.gov* your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the docket are listed in the *www.regulations.gov* index. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available

either electronically in *www.regulations.gov* or in hard copy at the Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604. This facility is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding Federal holidays. We recommend that you telephone Francisco J. Acevedo, Mobile Source Program Manager, at (312) 886–6061 before visiting the Region 5 office.

FOR FURTHER INFORMATION CONTACT:

Francisco J. Acevedo, Mobile Source Program Manager, Control Strategies Section, Air Programs Branch (AR–18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886–6061, *acevedo.francisco@epa.gov.*

SUPPLEMENTARY INFORMATION:

Throughout this document whenever ''we,'' ''us,'' or ''our'' is used, we mean EPA. This supplementary information section is arranged as follows:

I. What is the background for the gasoline volatility standards portion of this action?
II. What changes have been made to Illinois' gasoline volatility standards?
III. What is the background for the motor vehicle refinishing standards portion of this action?
IV. What changes have been made to Illinois' motor vehicle refinishing standards?
V. What is EPA's analysis of the state's submittal?
VI. What action is EPA taking?
VII. Statutory and Executive Order Reviews.

I. What is the background for the gasoline volatility standards portion of this action?

Under section 211(c) of the Clean Air Act (CAA), EPA promulgated regulations on March 22, 1989 (54 FR 11868) that set maximum limits for the Reid vapor pressure (RVP) of gasoline sold during the regulatory control periods that were established on a state-by-state basis in the final rule. The regulatory control periods addressed the portion of the year when peak ozone concentrations were expected. Peak ozone concentrations are expected during the summertime. These regulations constituted Phase I of a two phase nationwide program, which was designed to reduce the volatility of commercial gasoline during the high ozone season. Depending on the state and month, gasoline RVP was not to exceed 10.5 pounds per square inch (psi), 9.5 psi, or 9.0 psi. Phase I was applicable to calendar years 1989 through 1991. On June 11, 1990 (55 FR 23658), EPA promulgated more stringent volatility controls as Phase II of the volatility control program. These requirements established maximum RVP standards of 9.0 psi or 7.8 psi (depending on the state, the month, and the area's initial ozone attainment designation with respect to the 1-hour ozone national ambient air quality standards (NAAQS)). Phase II is applicable to 1992 and subsequent years.

The 1990 CAA Amendments established a new section, 211(h), to address fuel volatility. Section 211(h)(1) requires EPA to promulgate regulations making it unlawful to sell, offer for sale, dispense, supply, offer for supply, transport, or introduce into commerce gasoline with an RVP level in excess of 9.0 psi during the high ozone season. Section 211(h)(2) prohibits EPA from establishing a volatility standard more stringent than 9.0 psi in an attainment area, except that the Agency may impose a lower (more stringent) standard in any former ozone nonattainment area (NAA) redesignated to attainment.

On December 12, 1991 (56 FR 64704), EPA modified the Phase II volatility regulations to be consistent with section 211(h) of the CAA. The modified regulations prohibited the sale of gasoline with an RVP above 9.0 psi in all areas designated attainment for ozone, beginning in 1992. For areas designated as nonattainment, the regulations retained the original Phase II standards published on June 11, 1990 (55 FR 23658), which included the 7.8 psi ozone season limitation for certain areas.

Section 211(k) of the CAA requires the use of reformulated gasoline (RFG) in the nine ozone NAAs having a 1980 population in excess of 250,000 and having the highest ozone design value during the period 1987 through 1989. The Chicago ozone NAA was designated as one of these areas. See 40 CFR 80.70(f). The use of RFG was required in the Chicago ozone NAA beginning in 1995 when Phase I of the RFG program went into effect. Phase II of the RFG program went into effect in 2000. In addition to these areas which are required to market RFG, state Governors can petition EPA for the inclusion of other NAAs in the RFG program. Accordingly, the State of Illinois requested EPA to extend the requirement for the sale of RFG for the Illinois portion of the Metro-East St. Louis ozone NAA in July 2006 with the program becoming effective in July 2007.

Illinois enacted state specific limits to address the summertime volatility of gasoline through regulations at 35 Ill. Adm. Code Section 215.585 for the Illinois ozone attainment area, Section 218.585 for the Chicago ozone NAA, and Section 219.585 for the Metro-East St. Louis ozone NAA.

On April 6, 1990, and May 4, 1990, Illinois submitted to EPA a regulation which reduced the maximum allowable volatility for gasoline sold in Illinois during July and August 1990 to 9.5 psi RVP. EPA approved this regulation on July 18, 1990 (55 FR 29200). On January 10, 1991, the state adopted amendments further limiting the maximum allowable volatility for gasoline sold in Illinois during June 1 through September 15, 1991 to 9.0 psi RVP.[1] On July 25, 1991 and September 9, 1993 the state adopted changes to Illinois' volatility regulations limiting the volatility of gasoline sold in the Chicago and Metro-East St. Louis ozone NAAs to 9.0 psi RVP and lengthened the regulatory control period to May 1 through September 15. EPA approved this regulation on September 9, 1994 (59 FR 46562). On October 25, 1994, Illinois submitted to EPA a regulation that reduces the maximum allowable volatility for gasoline sold in the Illinois portion of the Metro-East St. Louis ozone NAA, which includes Madison, Monroe, and St. Clair Counties, to 7.2 psi RVP during the summer control period. EPA approved this regulation on March 23, 1995 (60 FR 15233). On May 14, 1996, Illinois submitted an amendment to its RVP rule to EPA which adjusts the summer regulatory control period of the Metro-East St. Louis RVP program to make it consistent with the national RVP regulation. EPA approved this regulation on August 12, 1997 (62 FR 43100).

II. What changes have been made to Illinois' gasoline volatility standards?

The State of Illinois has repealed its gasoline volatility standards at 35 Ill. Adm. Code Section 215.585 for the state's ozone attainment area, Section 218.585 for the Chicago ozone NAA, and Section 219.585 for the Metro-East St. Louis ozone NAA. The state gasoline volatility regulations have essentially been superseded by Federal regulations promulgated under Section 211(c) and later under Sections 211(h) and 211(k) of the CAA. For this reason and to relieve the administrative burden associated with the development of waivers during periods of fuel supply shortages, the Illinois Pollution Control

[1] EPA proposed to approve this regulation on June 7, 1991 (66 FR 26359). On April 28, 1992, IEPA requested that EPA place the SIP revision on the inactive status since IEPA would not be able to take emission reduction credits for an ''early'' reduction in RVP one year ahead of the Federal requirement. Consequently, EPA did not approve this regulation.

Board repealed the state regulations. The Board also approved clean-up amendments to 35 Ill. Adm. Code Parts 211, 215, 218, and 219 to update references and to be consistent with the repeal of the state gasoline volatility standards.

a. State Ozone Attainment Area

35 Ill. Adm. Code Section 215.585 applied only to the year 1991 in the state's ozone attainment area and limited the RVP of gasoline sold, offered for sale, dispensed, supplied, offered for supply or transported for use in Illinois between June 1 and September 15 to 9.0 psi. Ethanol blend gasoline containing 9 to 10 percent ethanol by volume were allowed to have an RVP up to 10.0 psi.

Pursuant to Section 211(c) of the CAA, EPA adopted national gasoline volatility standards which set maximum RVP limits for gasoline sold during the May 1 to September 15 control period. See 40 CFR 80.27. Beginning in 1992, these regulations limited the RVP of gasoline sold in Illinois to 9.0 psi. These regulations also allowed an additional 1.0 psi for ethanol blend gasoline containing 9 to 10 percent ethanol by volume.

Since Section 215.585 was only in force in 1991, and the Federal RVP standards now apply to the attainment areas of the state, IEPA believes that there is no longer any need in maintaining the state gasoline volatility standard and the Illinois Pollution Control Board repealed this section.

b. Chicago Ozone Nonattainment Area

The state gasoline volatility standards affecting the Chicago ozone NAA are found at 35 Ill. Adm. Code 218.585. The Illinois portion of the Chicago ozone NAA includes Cook, DuPage, Kane, Lake, McHenry, and Will Counties and Aux Sable and Goose Lake Townships in Grundy County and Oswego Township in Kendall County. This regulation limits the RVP of gasoline sold, offered for sale, dispensed, supplied, offered for supply or transported for use in the Chicago ozone NAA area during May 1 through the September 15 control period to 9.0 psi. A 1.0 psi allowance is granted for ethanol blend gasoline containing 9 to 10 percent ethanol by volume. On September 9, 1994, EPA approved this regulation as part of the Illinois SIP. 59 FR 46562 (September 9, 1994).

As stated above, Section 211(k) of the CAA requires the use of RFG in the nine ozone NAAs having a 1980 population in excess of 250,000 and having the highest ozone design value during the period 1987 through 1989. The Chicago ozone NAA was designated as one of these areas. See 40 CFR 80.70(f). The use of RFG was required in the Chicago ozone NAA beginning in 1995 when Phase I of the RFG program went into effect. Phase II of the RFG program went into effect in 2000 and requires a 27.4 percent (averaging) reduction in summertime (May 1 through September 15) VOC emissions from RFG in VOC control region 2 areas (northern areas), which includes Chicago. Compliance with the RFG standards is measured by inputting specific gasoline characteristic parameters into a performance standards model known as the ''complex model''. The fuel parameters used in the complex model include RVP, oxygen, sulfur, aromatics, olefins, benzene, and a percent of fuel evaporated at 200 and 300 degrees Fahrenheit (E200 and E300, respectively). The model evaluates the emissions from the RFG blend compared to the 27.4 percent reduction baseline. Although the RVP of the fuel is an important characteristic in determining the emissions from the fuel blend, the RFG standards do not establish a maximum volatility. Rather, a refiner or blender can vary the specific parameters as long as the resultant blend meets the overall emission reduction specification provided by the complex model. The result is an equivalent percentage reduction in VOC emissions as would be achieved if a fuel RVP of 6.7 psi was utilized. Even though the RFG requirements do not specifically establish an RVP limit, historical data indicates that RVP of RFG sold during the summertime (high ozone season) in the Chicago ozone NAA is considerably less than the RVP limits established in the Federal and state gasoline volatility standards, and has a range of averages from 6.7 to 7.2 psi, well below the maximum limits established in Section 218.585. Therefore, since the Federal RFG requirements are more stringent than the Chicago ozone NAA gasoline volatility regulations in Section 218.585, these regulations are no longer necessary.

The existence of the Chicago NAA gasoline volatility standards can also become an obstacle in times of emergency fuel shortages. In the event of a regional fuel shortage, Section 211(c)(4)(C) of the CAA allows EPA, with the concurrence of the Department of Energy, to temporarily waive fuel requirements in order that other fuel can be brought into the area and sold. EPA has issued two such emergency fuel waivers since 2005, one due to the impact of Hurricane Katrina, and a second due to damage caused by a severe storm at a Metro-East St. Louis area refinery. In these instances, EPA granted a short-term waiver from the RFG regulations, but due to the existence of the state Chicago NAA gasoline volatility standards, Illinois had to issue a provisional variance to the regulation in order for the EPA waiver to achieve its intended effect. Repealing the existing Chicago NAA gasoline volatility standards, which are less stringent than the RFG standards, would result in no loss of emissions reductions benefits, and in times of regional fuel supply shortages, would eliminate the RVP SIP waiver and provisional variance processes, allowing other fuel to be marketed in the affected region in a more efficient manner.

c. Metro-East St. Louis Ozone Nonattainment Area

The state gasoline volatility regulation affecting the Metro-East St. Louis ozone NAA is found at 35 Ill. Adm. Code Section 219.585. The Illinois portion of the Metro-East St. Louis ozone NAA includes Madison, Monroe, St. Clair and Jersey Counties. Section 182(b)(1) of the CAA requires all moderate and above ozone NAAs to achieve a 15 percent reduction of 1990 emissions of VOC by 1996. The Metro-East St. Louis area ozone NAA was subject to this requirement and in order to meet the CAA 15 percent Rate of Progress emissions requirement and to strive for consistency in the fuel across the St. Louis metropolitan area, IEPA proposed, and the Illinois Pollution Control Board adopted, a more stringent gasoline volatility regulation in 1994. This regulation limits the RVP of gasoline sold, offered for sale, dispensed, supplied, offered for supply or transported for use in the Metro-East St. Louis ozone NAA during May 1 through the September 15 control period to 7.2 psi. A 1.0 psi allowance is granted for ethanol blend gasoline having at least 9 percent but not more than 10 percent ethyl alcohol by volume. The Illinois Pollution Control Board adopted an amendment to this regulation which changed the start of regulatory control period from May 1 to June 1 to be consistent with the Federal compliance dates. On March 23, 1995, EPA approved the regulation with the May 1 date as part of the Illinois SIP. 60 FR 15233 (March 23, 1995). On August 12, 1997, EPA approved the revision relating to the change in the regulatory control period to June 1 as part of the Illinois SIP. 62 FR 43100 (August 12, 1997).

As stated above, Section 211(k) of the CAA requires the use of RFG in the nine ozone NAAs having a 1980 population

in excess of 250,000 and having the highest ozone design value during the period 1987 through 1989. In addition to these areas which are required to market RFG, state Governors can petition EPA for the inclusion of other NAAs in the RFG program. Accordingly, the State of Illinois requested EPA to extend the requirement for the sale of RFG for the Illinois portion of the Metro-East St. Louis ozone NAA in July 2006. On April 24, 2007, EPA issued a final rule requiring the sale of RFG in the Illinois portion of the Metro-East St. Louis ozone NAA. 72 FR 20237 (April 24, 2007). The required use of RFG for VOC control region 1 (southern areas) in the Illinois portion of the Metro-East St. Louis ozone NAA would achieve additional emissions reductions beyond the 7.2 psi RVP limit for the Metro-East St. Louis ozone NAA and would harmonize the fuel requirements across the region as Missouri had opted-in the RFG program for the St. Louis portion of the ozone NAA in 1999.

Similar to the situation in Chicago, when regional fuel supply shortages occurred and EPA issued a waiver from the RFG requirements to allow the flow of other fuels into the regions, the state had to issue a provisional variance to the volatility regulations for the Metro-East St. Louis ozone NAA in order for the EPA waiver to achieve its intended effect. Repealing the existing gasoline volatility standards for the Metro-East St. Louis ozone NAA, which are less stringent than the RFG standards, results in no loss of emissions reductions benefits, and, in times of regional fuel shortage, would eliminate the RVP SIP waiver and provisional variance processes, allowing other fuels to be marketed in the affected area in a more efficient manner.

d. Clean-up Amendments and Update of Technical References

IEPA has also submitted clean-up amendments to 35 Ill. Adm. Code Parts 211, 215, 218 and 219 to update references and to be consistent with the repeal of the state's gasoline volatility standards. IEPA updated the reference to ASTM D 323 to its current version, ASTM D 323–08, in Section 211.101, and also in the definitions of Heavy Liquid, Section 211.2870, and RVP, Section 211.5510. In addition, IEPA removed the reference to Section 215.105 in the definition of Heavy Liquid, Section 211.2870, because IEPA removed ASTM D 323–82 from Part 215 with this revision.

IEPA also removed the definition of RVP contained in Section 215.104 because this term is only used in Section 215.585, which has been repealed, and is also defined in 35 Ill. Adm. Code Part 211. IEPA also removed ASTM D 323–82, ASTM D 4057, ASTM D 4177, and 40 CFR 80, appendices D, E, and F contained in Section 215.105 because these incorporations by reference are only found in Section 215.585, are outdated, and are no longer necessary with a repeal of the state's gasoline volatility standards.

Further, Illinois removed 40 CFR 80 and 40 CFR 80, appendices D, E, and F contained in Sections 218.112 and 219.112 (Incorporations by Reference) because this Part is no longer necessary with a repeal of Sections 218.585 and 219.585, and the appendices have already been repealed. Also, IEPA has updated the reference to ASTM D–323 in Sections 218.112, 218.128, 219.112, and 219.128 to its current version, ASTM D–323–08, for measuring vapor pressure.

III. What is the background for the motor vehicle refinishing portion of this action?

In 1993, the Chicago and Metro-East St. Louis areas were classified as Severe and Moderate nonattainment, respectively, and as such were subject to the requirement under Section 182(b)(1) of the CAA to reduce VOC emissions within six years after November 15, 1990 by at least 15 percent from baseline emissions. Illinois reviewed available control measures that could provide reductions by 1996 and included motor vehicle refinishing operations in the 15 percent rate of progress plan for both areas.

Illinois' motor vehicle refinishing regulations are found at Subpart HH of 35 Ill. Adm. Code Parts 218 and 219. The regulations require the use of either an electrostatic spray gun or a HVLP spray gun. In addition, these regulations require affected sources to register with the state. Registration includes providing source contact information, descriptions of coating operations, and certain certifications. Irrespective of the registration program, motor vehicle refinishing operations are required to meet the substantive provisions of Subpart HH, which include, among other things, VOC content limitations, coating preparation and applicator requirements, and work practices. EPA approved the motor vehicle refinishing regulations at Subpart HH of 35 Ill. Adm. Code Parts 218 and 219 as part of the Illinois SIP on July 25, 1996. 61 FR 38577 (July 25, 1996).

In 2008, EPA promulgated National Emission Standards for Hazardous Air Pollutants (NESHAP) for Paint Stripping and Miscellaneous Surface Coating Operations at Area Sources (January 9, 2008, 73 FR 1738). These standards are found at 40 CFR 63, subpart HHHHHH. As it relates to surface coating of motor vehicles and mobile equipment, this NESHAP requires that all subject surface coating operations apply coatings with a HVLP spray gun, electrostatic spray gun, airless spray gun, air-assisted airless spray gun, or an equivalent technology demonstrated to be equal in transfer efficiency to one of these spray guns. 40 CFR 63.11173(e)(3). In addition, this NESHAP requires these operations to submit an initial registration notification, an annual notification of changes, and also contains recordkeeping requirements. 40 CFR 63.11175, 63.11176, 63.11177. Proper registration includes providing source contact information, a description of coating operations, and certain certifications. 40 CFR 63.11175.

In Illinois, these registration notifications are submitted to IEPA because it has been delegated authority to implement and enforce this NESHAP. This NESHAP targets sources that the state's motor vehicle refinishing rules target. Irrespective of the NESHAP's registration requirements, subject sources must comply with the substantive portion of this NESHAP, which include, among other things, extensive training, coating preparation and application requirements, coating applicator requirements, management practices, maintenance of equipment requirements and recordkeeping.

IV. What changes have been made to Illinois' motor vehicle refinishing standards?

The State of Illinois submitted amendments to Subpart HH, Motor Vehicle Refinishing, at 35 Ill. Adm. Code Sections 218.784 and 219.784 to allow the use of a new spray gun that is demonstrated to achieve transfer efficiency comparable to a HVLP spray gun. The regulations in Sections 218.784 and 219.784 require the equivalent coating applicator technology to be approved by EPA and documentation of EPA's approval to be maintained at the motor vehicle refinishing operation. This will provide flexibility to affected sources by allowing them to choose an alternate means of compliance that is approved by EPA. Illinois also repealed the registration program at 35 Ill. Adm. Code Sections 218.792 and 219.792 due to the corresponding, overlapping Federal NESHAP registration program already in place. This will streamline the registration of motor vehicle refinishing operations and eliminate source confusion over multiple registrations.

The NESHAP at 40 CFR part 63, subpart HHHHHH targets the sources that Illinois' motor vehicle registration program targets and the registration programs are very similar in what they require. The NESHAP's registration program is more stringent than Illinois' registration program in that it requires an annual notification of any change from the initial registration, which the state's registration program does not require. 40 CFR 63.11176 (2010). Moreover, irrespective of the existence of either registration program, subject motor vehicle refinishing operations must comply with the substantive provisions of both the NESHAP and Illinois' motor vehicle refinishing requirements which contain the applicable control requirements that limit emissions from such operations. Repealing Illinois' registration program and the continued applicability of the NESHAP registration program will streamline registration for motor vehicle refinishing sources and avoid confusion over two separate registration requirements.

V. What is EPA's analysis of the state's submittal?

Our primary consideration for determining the approvability of the Illinois revisions to remove gasoline volatility standards from the SIP is whether these revisions comply with section 110(l) of the CAA. Section 110(l) of the CAA provides that EPA cannot approve a SIP revision if that revision interferes with any applicable requirement regarding attainment and reasonable further progress or any other requirement established in the CAA. The EPA can, however, approve a SIP revision that removes or modifies control measures in the SIP once the state makes a ''noninterference'' demonstration that such removal or modification will not interfere with attainment of the NAAQS, or any other CAA requirement. Illinois has evaluated the impacts of approving these revisions. The repeal of the ozone attainment area gasoline volatility standards in Section 215.585 would result in no loss of emissions reductions since this section applied to 1991 only. The intent of the rule has been fulfilled through EPA's volatility standards adopted pursuant to section 211(k) of the CAA. The repeal of the Chicago and Metro-East St. Louis gasoline volatility standards under Sections 218.585 and 219.585, respectively, would result in no loss of emissions reductions as the current Federal RFG standards in place in both areas achieve additional emissions reductions benefits beyond the state standards. The equipment specification changes to Illinois' motor vehicle refinishing requirements under Sections 218.784 and 219.784 provide flexibility to affected sources while not increasing emissions by allowing the use of new spray guns that have been demonstrated to achieve transfer efficiency comparable to HVLP spray guns and that have been approved by EPA. Finally, the removal of the state's registration requirements for motor vehicle refinishing operations is not a relaxation, since the Federal NESHAP includes a registration provision requesting similar and additional information than what was required in Illinois' rules. The deletion of the state requirement basically removes a duplicative regulation and decreases the administrative burden on such sources while still providing all the necessary information to IEPA. As noted above, all registration notifications under the NESHAP are submitted to IEPA because it has been delegated authority to implement and enforce the NESHAP.

VI. What action is EPA taking?

EPA is approving the revisions to the Illinois ozone SIP submitted on March 19, 2013, concerning the state's gasoline volatility standards at Section 218.585 for the Chicago ozone NAA and Section 219.585 for the Metro-East St. Louis ozone NAA. Since EPA did not approve the gas volatility standard for 1991 in Section 215.585 as part of the Federally enforceable SIP, EPA cannot approve a SIP revision that repeals this section. Thus, EPA is taking no action on the gas volatility standard for 1991. EPA is also approving amendments to 35 Ill. Adm. Code Parts 211, 215, 218, and 219 to make necessary updates. EPA is also approving amendments to Subpart HH, Motor Vehicle Refinishing, at 35 Ill. Adm. Code Sections 218.784 and 219.784 to allow for the use of HVLP-equivalent spray guns in motor vehicle refinishing operations, and the repeal of the registration program at 35 Ill. Adm. Code Sections 218.792 and 219.792 due to overlapping Federal registration requirements. EPA finds that the revisions will not interfere with any applicable requirement concerning attainment, reasonable further progress or any other applicable CAA requirement.

We are publishing this action without prior proposal because we view this as a noncontroversial amendment and anticipate no adverse comments. However, in the proposed rules section of this **Federal Register** publication, we are publishing a separate document that will serve as the proposal to approve the state plan if relevant adverse written comments are filed. This rule will be effective December 5, 2014 without further notice unless we receive relevant adverse written comments by November 5, 2014. If we receive such comments, we will withdraw this action before the effective date by publishing a subsequent document that will withdraw the final action. All public comments received will then be addressed in a subsequent final rule based on the proposed action. EPA will not institute a second comment period. Any parties interested in commenting on this action should do so at this time. Please note that if EPA receives adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment. If we do not receive any comments, this action will be effective December 5, 2014.

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, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a ''significant regulatory action'' subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);

• Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);

• Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and

• Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

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

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 December 5, 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. 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 proposed rulemaking. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Oxides of Nitrogen, Ozone, Volatile organic compounds.

Dated: July 29, 2014.

Susan Hedman,

Regional Administrator, Region 5.

40 CFR part 52 is amended as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

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

■ 2. Section 52.720 is amended by adding paragraphs (c)(101)(i)(A)(*3*), (c)(101)(i)(B)(*3*), (c)(109)(i)(D), (c)(120)(i)(D), and (c)(201) to read as follows:

§ 52.720 Identification of plan.

* * * * *

(c) * * *

(101) * * *

(i) * * *

(A) * * *

(*3*) Section 218.585 was repealed in 2013 and is removed without replacement; see paragraph (c)(201) of this section.

(B) * * *

(*3*) Section 219.585 was repealed in 2013 and is removed without replacement; see paragraph (c)(201) of this section.

* * * * *

(109) * * *

(i) * * *

(D) Section 219.585 was repealed in 2013 and is removed without replacement; see paragraph (c)(201) of this section.

* * * * *

(120) * * *

(i) * * *

(D) Sections 218.792 and 219.792 were repealed in 2013 and are removed without replacement; see paragraph (c)(201) of this section.

* * * * *

(201) On March 19, 2013, the Illinois Environmental Protection Agency submitted a request to repeal the gasoline volatility standards at 35 Ill. Adm. Code 215.585, 218.585, and 219.585, including other related revisions to 35 Ill. Adm. Code Parts 211, 215, 218, and 219, to revise the motor vehicle refinishing equipment specifications at 35 Ill. Adm. Code 218.784 and 219.784, and to repeal the motor vehicle refinishing registration requirements at 35 Ill. Adm. Code 218.792 and 219.792.

(i) Incorporation by reference.

(A) Illinois Administrative Code, Title 35: Environmental Protection, Subtitle B: Air Pollution, Chapter I: Pollution Control Board, Subchapter c: Emission Standards and Limitations for Stationary Sources, Part 211, Definitions and General Provisions, Sections 211.101 Incorporations by Reference, 211.2870 Heavy Liquid, and 211.5510 Reid Vapor Pressure. Effective January 28, 2013.

(B) Illinois Administrative Code, Title 35: Environmental Protection, Subtitle B: Air Pollution, Chapter I: Pollution Control Board, Subchapter c: Emission Standards and Limitations for Stationary Sources, Part 215, Organic Material Emission Standards and Limitations, Sections 215.104 Definitions, and 215.105 Incorporation by Reference. Effective January 28, 2013.

(C) Illinois Administrative Code, Title 35: Environmental Protection, Subtitle B: Air Pollution, Chapter I: Pollution Control Board, Subchapter c: Emission Standards and Limitations for Stationary Sources, Part 218, Organic Material Emission Standards and Limitations for the Chicago Area, Sections 218.112 Incorporations by Reference, 218.128 Monitoring VOL Operations, and 218.784 Equipment Specifications. Effective January 28, 2013.

(D) Illinois Administrative Code, Title 35: Environmental Protection, Subtitle B: Air Pollution, Chapter I: Pollution Control Board, Subchapter c: Emission Standards and Limitations for Stationary Sources, Part 219, Organic Material Emission Standards and Limitations for the Metro East Area, Sections 219.112 Incorporations by Reference, 219.128 Monitoring VOL Operations, and 219.784 Equipment Specifications. Effective January 28, 2013.

[FR Doc. 2014–23767 Filed 10–3–14; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R09–OAR–2014–0592; FRL–9917–02-Region 9]

Revisions to the California State Implementation Plan, Imperial County Air Pollution Control District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: The Environmental Protection Agency (EPA) is taking direct final action to approve revisions to the Imperial County Air Pollution Control District (ICAPCD) portion of the California State Implementation Plan (SIP). These revisions concern oxides of nitrogen (NO_X) emissions from wallboard kilns and internal combustion engines. We are approving local rules that regulate these emission sources under the Clean Air Act (CAA or the Act).

DATES: This rule is effective on December 5, 2014 without further notice, unless EPA receives adverse comments by November 5, 2014. If we receive such comments, we will publish a timely withdrawal in the **Federal Register** to notify the public that this direct final rule will not take effect.

ADDRESSES: Submit comments, identified by docket number EPA–R09–OAR–2014–0592, by one of the following methods:

1. *Federal eRulemaking Portal: www.regulations.gov*. Follow the on-line instructions.
2. *Email: steckel.andrew@epa.gov*.
3. *Mail or deliver:* Andrew Steckel (Air–4), U.S. Environmental Protection Agency Region IX, 75 Hawthorne Street, San Francisco, CA 94105–3901.

Instructions: All comments 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 Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Information that you consider CBI or otherwise protected should be clearly identified as such and should not be submitted through *www.regulations.gov* or email. *www.regulations.gov* is an ''anonymous access'' system, and EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send email directly to EPA, your email address will be automatically captured and included as part of the public comment. 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: Generally, documents in the docket for this action are available electronically at *www.regulations.gov* and in hard copy at EPA Region IX, 75 Hawthorne Street, San Francisco, California 94105–3901. While all documents in the docket are listed at *www.regulations.gov,* some information may be publicly available only at the hard copy location (e.g., copyrighted material, large maps), and some may not be publicly available in either location (e.g., CBI). To inspect the hard copy materials, please schedule an appointment during normal business hours with the contact listed in the **FOR FURTHER INFORMATION CONTACT** section.

FOR FURTHER INFORMATION CONTACT: Idalia Perez, EPA Region IX, (415) 972–3248, *perez.idalia@epa.gov*.

SUPPLEMENTARY INFORMATION: Throughout this document, ''we,'' ''us,'' and ''our'' refer to EPA.

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I. The State's Submittal

A. What rules did the State submit?

Table 1 lists the rules we are approving with the dates that they were adopted by the local air agency and submitted by the California Air Resources Board (CARB).

TABLE 1—SUBMITTED RULES

Local agency	Rule No.	Rule title	Adopted	Submitted
ICAPCD	400.3	Internal Combustion Engine(s)	10/22/13	02/10/14
ICAPCD	400.4	Emissions of Oxides of Nitrogen from Wallboard Kilns	10/22/13	02/10/14

On April 9, 2014, EPA determined that the submittal for ICAPCD Rules 400.3 and 400.4 met the completeness criteria in 40 CFR Part 51 Appendix V, which must be met before formal EPA review.

B. Are there other versions of these rules?

There are no previous versions of Rules 400.3 and 400.4.

C. What is the purpose of the submitted rules?

NO_X helps produce ground-level ozone, smog and particulate matter, which harm human health and the environment. Section 110(a) of the CAA requires States to submit regulations that control NO_X emissions. Rule 400.3 regulates emissions of NO_X from internal combustion engines with a brake horsepower greater than 50. Rule 400.4 regulates emissions of NO_X from kilns with a heat input rating of MMBtu/hour or larger that operate at wallboard production facilities. EPA's technical support documents (TSD) have more information about these rules.

II. EPA's Evaluation and Action

A. How is EPA evaluating the rules?

Generally, SIP rules must be enforceable (see section 110(a) of the Act), must require Reasonably Available Control Technology (RACT) for each category of sources covered by a Control Techniques Guidelines (CTG) document as well as each NO_X or VOC major source in ozone nonattainment areas classified as moderate or above (see sections 182(b)(2) and 182(f)), and must not relax existing requirements (see sections 110(l) and 193). The ICAPCD regulates an ozone nonattainment area classified as moderate for the 8-hour ozone NAAQS (see 40 CFR 81.305), so Rule 400.3 and 400.4 must fulfill RACT if the District has major sources in these categories.

Guidance and policy documents that we use to evaluate enforceability and RACT requirements consistently include the following:

1. ''State Implementation Plans; General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990,'' 57 FR 13498 (April 16, 1992); 57 FR 18070 (April 28, 1992).
2. ''State Implementation Plans; Nitrogen Oxides Supplement to the General Preamble; Clean Air Act Amendments of 1990 Implementation of Title I; Proposed Rule,'' (the NO_X Supplement), 57 FR 55620, November 25, 1992.
3. ''Issues Relating to VOC Regulation Cutpoints, Deficiencies, and Deviations,'' EPA, May 25, 1988 (the Bluebook).

4. ''Guidance Document for Correcting Common VOC & Other Rule Deficiencies,'' EPA Region 9, August 21, 2001 (the Little Bluebook).

5. ''Alternative Control Techniques Document—NO_X Emissions from Stationary Reciprocating Internal Combustion Engines,'' U.S. EPA, July 1993.

6. ''Determination of Reasonably Available Control Technology and Best Available Retrofit Control Technology for Stationary Spark-Ignited Internal Combustion Engines,'' CARB, November 2001.

B. Do the rules meet the evaluation criteria?

We believe these rules are consistent with the relevant policy and guidance regarding enforceability, RACT, and SIP relaxations. Since there are no major sources subject to Rule 400.3 that are required to meet RACT, Rule 400.3 is not required to implement RACT requirements and at this time we are not making a determination of its ability to implement RACT. The TSDs have more information on our evaluation. Rule 400.4 implements RACT.

C. EPA Recommendations To Further Improve the Rules

The TSDs describe additional rule revisions that we recommend for the next time the local agency modifies the rules.

D. Public Comment and Final Action

As authorized in section 110(k)(3) of the Act, EPA is fully approving the submitted rules because we believe they fulfill all relevant requirements. We do not think anyone will object to this approval, so we are finalizing it without proposing it in advance. However, in the Proposed Rules section of this **Federal Register**, we are simultaneously proposing approval of the same submitted rules. If we receive adverse comments by November 5, 2014, we will publish a timely withdrawal in the **Federal Register** to notify the public that the direct final approval will not take effect and we will address the comments in a subsequent final action based on the proposal. If we do not receive timely adverse comments, the direct final approval will be effective without further notice on December 5, 2014. This will incorporate these rules into the federally enforceable SIP.

Please note that if EPA receives adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment.

III. Statutory and Executive Order Reviews

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

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

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

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

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by December 5, 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. 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 this **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 proposed rulemaking. This action may not be challenged later in proceedings to enforce its requirements (see section 307(b)(2)).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements.

Dated: August 20, 2014.

Jared Blumenfeld,

Regional Administrator, Region IX.

Part 52, 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 F—California

■ 2. Section 52.220 is amended by adding paragraph (c)(442) (i)(A)(*2*) and (*3*) to read as follows:

§ 52.220 Identification of plan.

* * * * *

(c) * * *

(442) * * *

(i) * * *

(A) * * *

(*2*) Rule 400.3, ''Internal Combustion Engine(s),'' adopted on October 22, 2013.

(*3*) Rule 400.4, ''Emissions of Oxides of Nitrogen from Wallboard Kilns,'' adopted on October 22, 2013.

* * * * *

[FR Doc. 2014–23788 Filed 10–3–14; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R05–OAR–2014–0274; FRL 9917–33–Region 5]

Approval and Promulgation of Air Quality Implementation Plans; Illinois; Revision to the Chicago 8-Hour Ozone Maintenance Plan

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving the State of Illinois' March 28, 2014, revision to the state implementation plan (SIP) for the 1997 8-hour ozone maintenance plan for the Illinois portion of the Chicago-Gary-Lake County, Illinois-Indiana area (the Greater Chicago Area). This SIP revision establishes new Motor Vehicle Emissions Budgets (MVEB) for volatile organic compounds (VOC) and oxides of nitrogen (NO_X) for the year 2025. EPA is approving the allocation of a portion of the safety margin for VOC and NO_X in the ozone maintenance plan to the 2025 MVEBs. Total year 2025 emissions of VOC and NO_X for the area will remain below the attainment levels as required by the transportation conformity regulations.

DATES: This final rule is effective on November 5, 2014.

ADDRESSES: EPA has established a docket for this action under Docket ID No. EPA–R05–OAR–2014–0274. 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 (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through *www.regulations.gov* or in hard copy at the Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604. This facility is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding Federal holidays. We recommend that you telephone Michael Leslie, Environmental Engineer, at (312) 353–6680 before visiting the Region 5 office.

FOR FURTHER INFORMATION CONTACT: Michael Leslie, Environmental Engineer, Control Strategies Section, Air Programs Branch (AR–18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 353–6680, *leslie.michael@epa.gov.*

SUPPLEMENTARY INFORMATION: Throughout this document whenever ''we,'' ''us,'' or ''our'' is used, we mean EPA. This **SUPPLEMENTARY INFORMATION** section is arranged as follows:

I. What is the background for this action?
II. What is EPA's response to comments?
III. What action is EPA taking?
IV. Statutory and Executive Order Reviews

I. What is the background for this action?

On August 13, 2012 (77 FR 48062), EPA approved a request from the State of Illinois to redesignate the Illinois portion of the Greater Chicago Area to attainment of the 1997 8-hour ozone national ambient air quality standard (NAAQS). In addition to approving the ozone redesignation request, EPA approved the State's plan for maintaining the 1997 8-hour ozone NAAQS in the Illinois portion of the Greater Chicago Area through 2025. The ozone maintenance plan established MVEBs for VOC and NO_X for the year 2025.

MVEBs are the projected levels of controlled emissions from the transportation sector (mobile sources) that are estimated in the SIP to provide for maintenance of the ozone NAAQS. The transportation conformity rule allows the MVEB to be changed as long as the total level of emissions from all sources remains below the attainment levels.

On March 28, 2014, Illinois submitted a SIP revision to the 1997 8-hour ozone maintenance plan for the Illinois portion of the Greater Chicago Area. This SIP revision establishes new MVEBs for VOC and NO_X for the year 2025. Illinois allocated a portion of the safety margin for VOC and NO_X in the ozone maintenance plan to the 2025 MVEBs. Total year 2025 emissions of VOC and NO_X for the area will remain below the attainment levels required by the transportation conformity regulations.

On May 22, 2014, EPA published proposed (79 FR 29395) and direct final (79 FR 29324) rules approving a revision to the 1997 8-hour ozone maintenance plan for the Illinois portion of the Greater Chicago Area. EPA subsequently received adverse comments on the direct final rule and withdrew it on June 26, 2014 (79 FR 36220). The proposal was not withdrawn.

II. What is EPA's response to comments?

EPA received one supportive and one adverse comment on the May 22, 2014 (79 FR 29324) proposed approval of the Illinois SIP revision. The adverse comment was submitted by Robert Ukeiley.

Comment from Robert Ukeiley: The commenter contends that EPA's approval of an increase in mobile source NO_X and VOC emissions will interfere with attainment the 2008 ozone NAAQS as expeditiously as possible and will also interfere with reasonable further progress in violation of Clean Air Act Section 110(l). The comment provides no support for or explanation of the basis for these claims.

Response to Robert Ukeiley: Clean Air Act (Act) Section 110(l) provides in part: ''The Administrator shall not approve a revision of a plan if the revision would interfere with any applicable requirement concerning attainment and reasonable further progress or any other applicable requirement of this chapter.'' As a general matter, EPA must and does consider section 110(l) requirements for every SIP revision, including whether the revision would ''interfere with'' any applicable requirement. See, e.g., 70 FR 53, 57 (January 3, 2005); 70 FR 17029, 17033 (April 4, 2005); 70 FR 28429, 28431 (May 18, 2005); and 70 FR 58119, 58134 (October 5, 2005).

At this time, the Greater Chicago Area is marginal nonattainment for the 2008 ozone NAAQS. Marginal areas have an

attainment date of December 31, 2015. Marginal areas do not have any reasonable further progress requirements under section 171 of the Act.

The Illinois maintenance plan update for the 1997 8-hour ozone NAAQS does not revise or remove any existing emissions limit for any source. The transportation conformity process, found at 40 CFR part 93 subpart A, allows areas to modify existing MVEBs by adding a ''safety margin'' to the budgets provided that, in this case, the maintenance plan for the area demonstrates that a ''safety margin'' exists. A safety margin, as defined in the transportation conformity rule, is the amount by which the total projected emissions from all sources of a given pollutant are less than the total emissions that would satisfy the applicable requirement for reasonable further progress, attainment, or maintenance. (40 CFR 93.101) This concept is further described in 40 CFR 93.124(a). The attainment level of emissions is the level of emissions during one of the years in which the area met the NAAQS. This maintenance plan update establishes new MVEBs for VOC and NO_X for the year 2025 by allocation of a portion of the safety margin for VOC and NO_X from the approved 1997 8-hour ozone maintenance plan. The safety margin for the Illinois portion of the Greater Chicago Area is 175.60 tons/day of VOC and 469.65 tons/day of NO_X as shown in Table 1 below.

TABLE 1—SAFETY MARGIN FOR CHICAGO'S 1997 8-HOUR OZONE MAINTENANCE PLAN

Pollutant	2008 Attainment year emissions (tons/day)	2025 Projected year maintenance emissions (tons/day)	Safety margin (tons/day)
VOC	787.45	611.95	175.60
NO_X	896.76	427.11	469.65

Illinois has requested the allocation of 12 tons/day of the VOC and 25 tons/day of NO_X from the safety margins to the 2025 MVEBs. Table 2 shows the approved 1997 8-hour ozone maintenance plan MVEBs, the amount of emissions from the safety margin allocated to the new MVEBs, and new MVEBs.

TABLE 2—APPROVED AND NEW MVEBS FOR CHICAGO'S 1997 8-HOUR OZONE MAINTENANCE PLAN

Pollutant	Approved 2025 MVEB (tons/day)	Safety margin allocation (tons/day)	New 2025 MVEB (tons/day)
VOC	48.13	12.00	60.13
NO_X	125.27	25.00	150.27

Tables 1 and 2 show that the total year 2025 emissions of VOC and NO_X for the area will remain below the attainment level required by the transportation conformity regulations. On this basis, EPA concludes that the maintenance plan update does not interfere with attainment or maintenance of any air quality NAAQS. The revised MVEBs will be used to show that the area's transportation plan and transportation improvement program conform to the SIP for any required analysis year starting with 2025 through the last year of the area's transportation plan. This revision to the MVEBs has no impact on transportation conformity requirements for any year prior to 2025.

The commenter does not provide any information to demonstrate that approval of this maintenance plan update would have any impact on the area's ability to comply with the 2008 ozone NAAQS. In fact, the maintenance plan update provided with the State's submission demonstrates a decline in ozone precursor emissions over the timeframe of the initial maintenance period. The maintenance plan update will not relax the currently applicable MVEB that is used for any analysis year prior to 2025, nor will the maintenance plan update alter the status quo of the air quality, at least through 2025. As stated above, this area's attainment date for the 2008 ozone NAAQS is December 31, 2015. We believe they will attain (or adopt a strategy to attain) the ozone NAAQS well before 2025, so the change to the 2025 budget should not interfere with the attainment of the 2008 ozone NAAQS as expeditiously as practicable. Accordingly, EPA finds no basis under section 110(l) for EPA to disapprove the SIP revision.

III. What action is EPA taking?

EPA is approving a revision to the 1997 8-hour ozone maintenance plan for the Illinois portion of the Greater Chicago Area. The revision will change the MVEBs for VOC and NO_X that are used for transportation conformity purposes. The new 1997 8-hour ozone maintenance plan MVEBs for the Illinois portion of the Greater Chicago Area are 60.13 tons/day of VOC emissions and 150.27 tons/day of NO_X emissions for the year 2025. The revision will keep the total emissions for the area at or below the attainment levels required by law. This action will allow State or local agencies to continue to maintain air quality while allowing planned transportation projects to proceed.

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 Act. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a ''significant regulatory action'' subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);

• Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);

• Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);

• Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);

• Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);

• Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);

• Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);

• Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and

• Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

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

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 December 5, 2014. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Oxides of Nitrogen, Ozone, Volatile organic compounds.

Dated: September 22, 2014.

Susan Hedman,

Regional Administrator, Region 5.

40 CFR part 52 is amended as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

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

■ 2. Section 52.726 is amended by adding paragraph (oo) to read as follows:

§ 52.726 Control strategy: Ozone.

* * * * *

(oo) Approval—On March 28, 2014, the State of Illinois submitted a revision to its State Implementation Plan for the Illinois portion of the Chicago-Gary-Lake County, Illinois-Indiana area (the Greater Chicago Area). The submittal established new Motor Vehicle Emissions Budgets (MVEB) for Volatile Organic Compounds (VOC) and Oxides of Nitrogen (NO_X) for the year 2025. The MVEBs for the Illinois portion of the Greater Chicago Area are: 60.13 tons/day of VOC emissions and 150.27 tons/day of NO_X emissions for the year 2025.

[FR Doc. 2014–23795 Filed 10–3–14; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R05–OAR–2011–0888; EPA–R05–OAR–2012–0991; FRL 9917–32–Region 5]

Approval and Promulgation of Air Quality Implementation Plans; Ohio; Infrastructure SIP Requirements for the 2008 Lead and 2010 NO2 NAAQS

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is taking final action to approve elements of state implementation plan (SIP) submissions from Ohio regarding the infrastructure requirements of section 110 of the Clean Air Act (CAA) for the 2008 lead (Pb) and 2010 nitrogen dioxide (NO_2) National Ambient Air Quality Standards (NAAQS). The infrastructure requirements are designed to ensure that the structural components of each state's air quality management program are adequate to meet the state's responsibilities under the CAA. The proposed rulemaking associated with this final action was published on July 25, 2014, and EPA received no comments pertaining to infrastructure for the 2008 Pb or 2010 NO_2 NAAQS during the comment period, which ended on August 25, 2014. The 2008 ozone and 2010 SO_2 infrastructure SIPs were also addressed in the proposed rulemaking but will be addressed in a separate final rulemaking.

DATES: This final rule is effective on November 5, 2014.

ADDRESSES: EPA has established dockets for this action under Docket ID No. EPA–R05–OAR–2011–0888 (2008 Pb infrastructure SIP elements) and Docket ID No. EPA–R05–OAR–2012–0991 (2010 NO_2 infrastructure SIP elements). 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., Confidential Business Information or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly-available only in hard copy. Publicly-available docket materials are available either electronically in *www.regulations.gov* or in hard copy at the U.S. Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604. This facility is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding Federal holidays. We recommend that

you telephone Sarah Arra at (312) 886–9401 before visiting the Region 5 office.

FOR FURTHER INFORMATION CONTACT: Sarah Arra, Environmental Scientist, Attainment Planning and Maintenance Section, Air Programs Branch (AR–18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886–9401, *arra.sarah@epa.gov.*

SUPPLEMENTARY INFORMATION: Throughout this document whenever ''we,'' ''us,'' or ''our'' is used, we mean EPA. This **SUPPLEMENTARY INFORMATION** section is arranged as follows:

I. What is the background of these SIP submissions?
A. What State SIP submissions does this rulemaking address?
B. Why did the State make these SIP submissions?
C. What is the scope of this rulemaking?
II. What action is EPA taking?
III. Statutory and Executive Order Reviews

I. What is the background of these SIP submissions?

A. What State SIP submissions does this rulemaking address?

This rulemaking addresses submissions from the Ohio Environmental Protection Agency. The state submitted the infrastructure SIP for the 2008 Pb NAAQS on October 12, 2011, supplemented on June 7, 2013; and submitted the infrastructure SIP for the 2010 NO_2 NAAQS on February 8, 2013, supplemented on February 25, 2013 and June 7, 2013.

B. Why did the State make these SIP submissions?

Under sections 110(a)(1) and (2) of the CAA, states are required to submit infrastructure SIPs to ensure that their SIPs provide for implementation, maintenance, and enforcement of the NAAQS, including the 2008 Pb and 2010 NO_2 NAAQS. These submissions must contain any revisions needed for meeting the applicable SIP requirements of section 110(a)(2), or certifications that their existing SIPs for the NAAQS already meet those requirements.

EPA has highlighted this statutory requirement in multiple guidances, the most recent guidance document entitled ''Guidance on Infrastructure State Implementation Plan (SIP) Elements under Clean Air Act Sections 110(a)(1) and (2)'' on September 13, 2013.

C. What is the scope of this rulemaking?

EPA is acting upon the SIP submission from Ohio that address the infrastructure requirements of CAA sections 110(a)(1) and 110(a)(2) for the 2008 Pb and 2010 NO_2 NAAQS. The requirement for states to make a SIP submission of this type arises out of CAA section 110(a)(1). Pursuant to section 110(a)(1), states must make SIP submissions ''within 3 years (or such shorter period as the Administrator may prescribe) after the promulgation of a national primary ambient air quality standard (or any revision thereof),'' and these SIP submissions are to provide for the ''implementation, maintenance, and enforcement'' of such NAAQS. The statute directly imposes on states the duty to make these SIP submissions, and the requirement to make the submissions is not conditioned upon EPA's taking any action other than promulgating a new or revised NAAQS. Section 110(a)(2) includes a list of specific elements that ''[e]ach such plan'' submission must address.

EPA has historically referred to these SIP submissions made for the purpose of satisfying the requirements of CAA sections 110(a)(1) and 110(a)(2) as ''infrastructure SIP'' submissions. Although the term ''infrastructure SIP'' does not appear in the CAA, EPA uses the term to distinguish this particular type of SIP submission from submissions that are intended to satisfy other SIP requirements under the CAA, such as ''nonattainment SIP'' or ''attainment plan SIP'' submissions to address the nonattainment planning requirements of part D of title I of the CAA, ''regional haze SIP'' submissions required by EPA rule to address the visibility protection requirements of CAA section 169A, and nonattainment new source review (NNSR) permit program submissions to address the permit requirements of CAA, title I, part D.

A detailed rationale, history, and interpretation related to infrastructure SIP requirements can be found in our May 13, 2014, proposed rule entitled, ''Infrastructure SIP Requirements for the 2008 Lead NAAQS'' in the section, ''What is the scope of this rulemaking?'' (*see* 79 FR 27241 at 27242–27245).

This rulemaking will not cover three substantive areas that are not integral to acting on a state's infrastructure SIP submission: (i) Existing provisions related to excess emissions during periods of start-up, shutdown, or malfunction at sources, 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 purport to permit revisions to SIP approved emissions limits with limited public process or without requiring further approval by EPA, that may be contrary to the CAA (collectively referred to as ''director's discretion''); 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''). Instead, EPA has the authority to address each one of these substantive areas in separate rulemaking.

In addition, EPA is not acting on portions of section 110(a)(2)(J)—visibility protection for 2010 NO_2 and portions of Ohio's submission addressing the prevention of significant deterioration, sections 110(a)(2)(C), (D)(i)(II), (D)(ii), and the prevention of significant deterioration (PSD) portion of (J) for 2008 Pb and 2010 NO_2. EPA is also not acting on section 110(a)(2)(I)—Nonattainment Area Plan or Plan Revisions Under Part D, in its entirety. The rationale for not acting on elements of these requirements was included in EPA's July 25, 2014 proposed rulemaking.

II. What action is EPA taking?

The proposed rulemaking associated with this final action was published on July 25, 2014 (79 FR 43338), and EPA received no comments pertaining to infrastructure for 2008 Pb or 2010 NO_2 NAAQS during the comment period, which ended on August 25, 2014. The 2008 ozone and 2010 SO_2 infrastructure SIPs were also addressed in the proposed rulemaking but will be addressed in a separate final rulemaking.

For the reasons discussed in our proposed rulemaking and since no public comments were received, EPA is taking final action to approve, as proposed, Ohio's infrastructure SIPs for the 2008 Pb and 2010 NO_2 NAAQS. Our final actions by element of section 110(a)(2) and NAAQS, are contained in the table below.

Element	2008 Pb	2010 NO_2
(A): Emission limits and other control measures.	A	A
(B): Ambient air quality monitoring and data system.	A	A
(C)1: Enforcement of SIP measures.	A	A
(C)2: PSD program for Pb	NA	NA
(C)3: NO_X as a precursor to ozone for PSD.	NA	NA
(C)4: $PM_{2.5}$ Precursors/$PM_{2.5}$ and PM_{10} condensables for PSD.	NA	NA
(C)5: $PM_{2.5}$ Increments	NA	NA
(C)5: GHG permitting thresholds in PSD regulations.	NA	NA
(D)1: Contribute to nonattainment/interfere with maintenance of NAAQS.	A	A

Element	2008 Pb	2010 NO_2
(D)2: PSD	NA	NA
(D)3: Visibility Protection	A	NA
(D)4: Interstate Pollution Abatement.	A	A
(D)5: International Pollution Abatement.	A	A
(E): Adequate resources	A	A
(E): State boards	A	A
(F): Stationary source monitoring system.	A	A
(G): Emergency power	A	A
(H): Future SIP revisions	A	A
(I): Nonattainment area plan or plan revisions under part D.	NA	NA
(J)1: Consultation with government officials.	A	A
(J)2: Public notification	A	A
(J)3: PSD	NA	NA
(J)4: Visibility protection	+	+
(K): Air quality modeling and data.	A	A
(L): Permitting fees	A	A
(M): Consultation and participation by affected local entities.	A	A

In the above table, the key is as follows:

A Approve
NA No Action/Separate Rulemaking
+ Not germane to infrastructure SIPs

III. Statutory and Executive Order Reviews

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

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

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

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 December 5, 2014. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Reporting and recordkeeping requirements.

Dated: September 22, 2014.

Susan Hedman,

Regional Administrator, Region 5.

40 CFR part 52 is amended as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

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

■ 2. Section 52.1891 is amended by adding paragraphs (e) and (f) to read as follows:

§ 52.1891 Section 110(a)(2) infrastructure requirements.

* * * * *

(e) Approval—In a October 12, 2011, submittal, supplemented on June 7, 2013, Ohio certified that the State has satisfied the infrastructure SIP requirements of section 110(a)(2)(A) through (H), and (J) through (M) for the 2008 Lead NAAQS. We are not finalizing action on submissions addressing the prevention of significant deterioration requirements in sections 110(a)(2)(C), (D)(i)(II), (D)(ii), and the prevention of significant deterioration (PSD) portion of (J).

(f) Approval—In a February 8, 2013 submittal, supplemented on February 25, 2013, and June 7, 2013, Ohio certified that the State has satisfied the infrastructure SIP requirements of section 110(a)(2)(A) through (H), and (J) through (M) for the 2010 NO_2 NAAQS. We are not finalizing action on the visibility protection requirements of (D)(i)(II) or the prevention of significant deterioration requirements in sections 110(a)(2)(C), (D)(i)(II), (D)(ii), and the prevention of significant deterioration (PSD) portion of (J).

[FR Doc. 2014–23798 Filed 10–3–14; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 81

[EPA–R09–OAR–2013–0735; FRL–9917–23–Region 9]

Approval of Implementation Plans and Designation of Areas for Air Quality Planning Purposes; Las Vegas Valley, Nevada; Redesignation to Attainment for PM_{10}

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is taking final action to approve a revision to the Nevada state implementation plan that provides for the maintenance of the national ambient air quality standard for particulate matter with an aerodynamic diameter less than or equal to a nominal ten micrometers (PM_{10}) in Las Vegas Valley for the next ten years and to approve the related motor vehicle emissions budgets. Based in part on the approval of the PM_{10} maintenance plan, EPA is also taking final action to grant the State of Nevada's request for redesignation of Las Vegas Valley to attainment for the PM_{10} standard. Consistent with the assumptions of the maintenance plan, EPA is approving revisions to certain local fugitive dust rules to ensure their continued applicability after redesignation of the area to attainment. Lastly, EPA is taking final action to delete the area designation for Las Vegas Valley for the revoked national standard for total suspended particulate because the designation is no longer necessary.

DATES: This rule is effective on November 5, 2014.

ADDRESSES: EPA has established a docket for this action under Docket ID Number EPA–R09–OAR–2013–0735. Generally, documents in the docket for this action are available electronically at *www.regulations.gov* and in hard copy at EPA Region IX, 75 Hawthorne Street, San Francisco, California. While all documents in the docket are listed at *www.regulations.gov,* some information may be publicly available only at the hard copy location (e.g., copyrighted material, large maps), and some may not be publicly available in either location (e.g., confidential business information or ''CBI''). To inspect the hard copy materials, please schedule an appointment during normal business hours with the contact listed in the **FOR FURTHER INFORMATION CONTACT** section.

FOR FURTHER INFORMATION CONTACT: Karina O'Connor, Air Planning Office (AIR–2), U.S. Environmental Protection Agency, Region IX, (775) 434–8176, *oconnor.karina@epa.gov.*

SUPPLEMENTARY INFORMATION: Throughout this document, ''we,'' ''us,'' or ''our'' refer to EPA. This **SUPPLEMENTARY INFORMATION** section is arranged as follows:

Table of Contents

I. Proposed Actions
II. Public Comments
III. Final Action
IV. Statutory and Executive Order Reviews

I. Proposed Actions

On July 21, 2014 (79 FR 42258), under Clean Air Act (CAA or ''Act'') section 110(k)(3), EPA proposed to approve a submittal from the Nevada Division of Environmental Protection (NDEP) dated September 7, 2012 of the *Redesignation Request and Maintenance Plan for Particulate Matter (PM_{10}), Clark County, Nevada* (August 2012) (''Las Vegas Valley PM_{10} Maintenance Plan'') as a revision to the Nevada state implementation plan (SIP). In so doing, we found that the Las Vegas Valley PM_{10} Maintenance Plan adequately demonstrates that the area will maintain the PM_{10} national ambient air quality standard (NAAQS or ''standard'') for 10 years beyond redesignation and includes sufficient contingency provisions to promptly correct any violation of the PM_{10} standard which occurs after redesignation and thereby meets the requirements for maintenance plans under CAA section 175A. We also proposed to approve the motor vehicle emissions budgets (MVEBs) in the Las Vegas Valley PM_{10} Maintenance Plan because we found they meet the applicable transportation conformity requirements under 40 CFR 93.118(e).

In our July 21, 2014 proposed rule, under CAA section 107(d)(3)(D), we proposed to grant NDEP's request to redesignate the Las Vegas Valley PM_{10} nonattainment area from ''nonattainment'' to ''attainment'' for the PM_{10} standard. We proposed to do so based on our conclusion that the Las Vegas Valley has attained the PM_{10} standard;[1] that the relevant portions of the Nevada SIP are fully approved; that the improvement in air quality is due to permanent and enforceable emissions reductions; that the State of Nevada has met all of the requirements applicable to the Las Vegas Valley PM_{10} nonattainment area with respect to section 110 and part D of the CAA; and, based on our proposed approval as described above, that the Las Vegas Valley PM_{10} Maintenance Plan meets the requirements for maintenance plans under section 175A of the CAA; and that, therefore, the State of Nevada has met the criteria for redesignation under CAA section 107(d)(3)(E) for the Las Vegas Valley PM_{10} nonattainment area.

Next, we proposed to approve certain fugitive dust rules (i.e., Clark County Air Quality Regulations sections 41, and 90 through 93) that Clark County has amended to ensure their continued applicability after the area is redesignated to attainment and that NDEP submitted to us (on May 27, 2014) as a revision to the Nevada SIP.

Lastly, we proposed to delete the area designation for Las Vegas Valley for the revoked NAAQS for total suspended particulate.

Please see our July 21, 2014 proposed rule for a detailed discussion of the background for these actions, and the rationale for approval of the Las Vegas Valley PM_{10} Maintenance Plan, for granting NDEP's request for redesignation of Las Vegas Valley to attainment, for approving Clark County's amended fugitive dust rules, and for deleting the TSP designation for Las Vegas Valley.

II. Public Comments

Our July 21, 2014 proposed rule provided a 30-day public comment period, which closed on August 20, 2014. We received no comments on our proposal during this period.

III. Final Action

Under CAA section 110(k)(3), and for the reasons set forth in our July 21, 2014 proposed rule, EPA is taking final action to approve NDEP's submittal dated September 7, 2012 of the *Redesignation Request and Maintenance Plan for Particulate Matter (PM_{10}), Clark County, Nevada* (August 2012) (''Las Vegas Valley PM_{10} Maintenance Plan'') as a revision to the Nevada SIP. EPA finds that the maintenance demonstration showing how the area will continue to attain the 24-hour PM_{10} NAAQS for 10 years beyond redesignation, and the contingency provisions describing the actions that Clark County will take in the event of a future monitored violation, meet all applicable requirements for maintenance plans and related contingency provisions in CAA section 175A. EPA is also finding adequate and approving the motor vehicle emissions budgets in the Las Vegas Valley PM_{10} Maintenance Plan

[1] In our proposed approval, EPA stated that ''SLAMS data for 2014 are not yet available . . . but will be reviewed prior to final action to ensure that they are consistent with continued attainment.'' 79 FR at 42263. We have now reviewed 2014 data, submitted to AQS as of September 12, 2014, and have found it to be consistent with continued attainment.

(i.e., 141.14 tons per day in 2008, 2015, and 2023) because we find they meet the applicable transportation conformity requirements under 40 CFR 93.118(e).

Second, under CAA section 107(d)(3)(D), we are taking final action to grant NDEP's request, which accompanied the submittal of the maintenance plan, to redesignate the Las Vegas Valley PM_{10} nonattainment area to attainment for the 24-hour PM_{10} NAAQS. We are doing so based on our conclusion that the area has met the five criteria for redesignation under CAA section 107(d)(3)(E). Our conclusion in this regard is in turn based on our determination that the area has attained the 24-hour PM_{10} NAAQS, that relevant portions of the Nevada SIP are fully approved, that the improvement in air quality is due to permanent and enforceable reductions in emissions, that Nevada has met all requirements applicable to the Las Vegas Valley PM_{10} nonattainment area with respect to section 110 and part D of the CAA, and based on our approval as part of this action of the Las Vegas Valley PM_{10} Maintenance Plan. Our determination that the area has attained the 24-hour PM_{10} NAAQS is based in part on our concurrence with Clark County DAQ that the exceedances monitored in Las Vegas Valley on July 3, 2011 were caused by a high wind exceptional event and our related exclusion of the exceedances from the attainment determination.

Third, EPA is taking final action to approve revisions to Clark County fugitive dust rules sections 41, and 90 through 93 that were submitted on May 27, 2014 as a revision to the Nevada SIP because we find that they ensure continued implementation of the rules after redesignation of Las Vegas Valley to attainment and because they meet all other applicable requirements.[2]

Lastly, EPA is taking final action to delete the area designation for Las Vegas Valley for the revoked national standard for total suspended particulate because the designation is no longer necessary.

IV. Statutory and Executive Order Reviews

Under the CAA, redesignation of an area to attainment and the accompanying approval of a maintenance plan under section 107(d)(3)(E) are actions that affect the status of a geographical area and do not impose any additional regulatory requirements on sources beyond those imposed by State law. Redesignation to attainment does not in and of itself create any new requirements, but rather results in the applicability 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 Clean Air Act. Accordingly, these actions merely approve a State plan and redesignation request as meeting Federal requirements and do not impose additional requirements beyond those 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) and Executive Order 13563 (76 FR 3821, January 21, 2011);
- 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 a 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 disproportionate human health or environmental effects with practical, appropriate, and legally permissible methods under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this rule does not have Tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the State, and EPA notes that it will not impose substantial direct costs on Tribal governments or preempt Tribal law. Nonetheless, EPA has discussed the action with the one Tribe, the Las Vegas Paiute Tribe, located within the Las Vegas Valley PM_{10} nonattainment area.

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 December 5, 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, Nitrogen dioxide, Particulate matter, Reporting and recordkeeping requirements, Sulfur dioxide.

40 CFR Part 81

Environmental protection, Air pollution control, National parks, Wilderness areas.

[2] Approval of Clark County amended sections 41, and 90 through 93 will supersede the following existing rules in the applicable Nevada SIP: Section 41 as approved at 46 FR 43141 (August 27, 1981); section 90 as approved at 71 FR 63250 (October 30, 2006); section 91 as approved at 69 FR 32272 (June 9, 2004); section 92 as approved at 71 FR 63250 (October 30, 2006); and section 93 as approved at 71 FR 63250 (October 30, 2006).

Dated: September 17, 2014.

Jared Blumenfeld,

Regional Administrator, Region IX.

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 DD—Nevada

■ 2. Section 52.1470 is amended:

■ a. In paragraph (c), Table 3, by revising the entries for ''Section 41: Subsections 41.1–41.4,'' ''Section 90,'' ''Section 91,'' ''Section 92,'' and ''Section 93''; and

■ b. By adding in paragraph (e), under the table heading ''Air Quality Implementation Plan for the State of Nevada'' an entry for ''Redesignation Request and Maintenance Plan for Particulate Matter (PM_{10}), Clark County, Nevada (August 2012)'' after the entry for ''Pages 4–125 and 4–126 and appendix R (of the PM–10 State Implementation Plan for Clark County).''

The revisions and additions read as follows:

§ 52.1470 Identification of plan.

* * * * *

(c) * * *

TABLE 3—EPA-APPROVED CLARK COUNTY REGULATIONS

County citation	Title/Subject	County effective date	EPA Approval date	Additional explanation
*	* *	*	*	* *
Section 41	Fugitive Dust	4/29/14	[Insert **Federal Register** citation], 10/6/14.	Adopted by Clark County on April 15, 2014 and submitted by NDEP on May 27, 2014.
*	* *	*	*	* *
Section 90	Fugitive Dust from Open Areas and Vacant Lots.	4/29/14	[Insert **Federal Register** citation], 10/6/14.	Adopted by Clark County on April 15, 2014 and submitted by NDEP on May 27, 2014.
Section 91	Fugitive Dust from Unpaved Roads, Unpaved Alleys, and Unpaved Easement Roads.	4/29/14	[Insert **Federal Register** citation], 10/6/14.	Adopted by Clark County on April 15, 2014 and submitted by NDEP on May 27, 2014.
Section 92	Fugitive Dust from Unpaved Parking Lots, Material Handling & Storage Yards, & Vehicle & Equipment Storage Yards.	4/29/14	[Insert **Federal Register** citation], 10/6/14.	Adopted by Clark County on April 15, 2014 and submitted by NDEP on May 27, 2014.
Section 93	Fugitive Dust from Paved Roads & Street Sweeping Equipment.	4/29/14	[Insert **Federal Register** citation], 10/6/14.	Adopted by Clark County on April 15, 2014 and submitted by NDEP on May 27, 2014.
*	* *	*	*	* *

* * * * *

(e) * * *

EPA-APPROVED NEVADA NONREGULATORY PROVISIONS AND QUASI-REGULATORY MEASURES

Name of SIP provision	Applicable geographic or non-attainment area	State submittal date	EPA Approval date	Explanation
Air Quality Implementation Plan for the State of Nevada [1]				
* *	*	*	*	* *
Redesignation Request and Maintenance Plan for Particulate Matter (PM_{10}), Clark County, Nevada (August 2012).	Las Vegas Valley, Clark County.	9/7/12	[Insert **Federal Register** citation], 10/6/14.	Excludes appendix B (''Documentation of the Public Review Process'').
* *	*	*	*	* *

* * * * * * *

[1] The organization of this table generally follows from the organization of the State of Nevada's original 1972 SIP, which was divided into 12 sections. Nonattainment and maintenance plans, among other types of plans, are listed under Section 5 (Control Strategy). Lead SIPs and Small Business Stationary Source Technical and Environmental Compliance Assistance SIPs are listed after Section 12 followed by nonregulatory or quasi-regulatory statutory provisions approved into the SIP. Regulatory statutory provisions are listed in 40 CFR 52.1470(c).

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.*

Subpart C—Section 107 Attainment Status Designations

■ 4. Section 81.329 is amended by:

■ a. Removing in the table under ''Nevada—TSP,'' the entry for ''Las Vegas Valley (212) (15–24S, 56–64E)''; and

■ b. Revising in the table under ''Nevada—PM–10,'' the entry for ''Clark County'' to read as follows:

§ 81.329 Nevada.

* * * * *

NEVADA—PM–10

Designated area	Designation		Classification	
	Date	Type	Date	Type
* * *	*		*	* *
Clark County:				
Las Vegas planning area	November 5, 2014	Attainment		
Hydrographic area 212				
* * *	*		*	* *

* * * * *

[FR Doc. 2014–23623 Filed 10–3–14; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 81

[EPA–R03–OAR–2014–0148; FRL–9917–39–Region–3]

Approval and Promulgation of Air Quality Implementation Plans; District of Columbia, Maryland, and Virginia; Approval of the Redesignation Requests and Maintenance Plan of the Washington, DC–MD–VA Nonattainment Area for the 1997 Annual Fine Particulate Matter Standard

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving the requests from the District of Columbia (the District), the State of Maryland (Maryland), and the Commonwealth of Virginia (Virginia) (collectively ''the States'') to redesignate to attainment their respective portions of the Washington, DC–MD–VA nonattainment area (hereafter ''the Washington Area'' or ''the Area'') for the 1997 annual fine particulate matter ($PM_{2.5}$) National Ambient Air Quality Standard (NAAQS or standard). EPA is also approving, as a revision to their respective State Implementation Plans (SIPs), the common maintenance plan submitted by the States to show maintenance of the 1997 annual $PM_{2.5}$ NAAQS through 2025 for the Washington Area. The Washington Area maintenance plan includes motor vehicle emissions budgets (MVEBs) for $PM_{2.5}$ and nitrogen oxides (NO_X) for the Area for the 1997 annual $PM_{2.5}$ standard, which EPA is approving for transportation conformity purposes. These actions are being taken under the Clean Air Act (CAA).

DATES: This final rule is effective on November 5, 2014.

ADDRESSES: EPA has established a docket for this action under Docket ID Number EPA–R03–OAR–2014–0148. All documents in the docket are listed in the *www.regulations.gov* Web site. Although listed in the electronic docket, some information is not publicly available, i.e., confidential business information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through *www.regulations.gov* or in hard copy for public inspection 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 submittals are available at District of Columbia, Department of the Environment, Air Quality Division, 1200 1st Street NE., 5th Floor, Washington, DC 20002; Maryland Department of the Environment, 1800 Washington Boulevard, Suite 705, Baltimore, Maryland 21230; and Virginia Department of Environmental Quality, 629 East Main Street, Richmond, Virginia 23219, respectively.

FOR FURTHER INFORMATION CONTACT: Emlyn Vélez-Rosa, (215) 814–2038, or by email at *velez-rosa.emlyn@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

The District of Columbia Department of the Environment (DDOE), the Maryland Department of the Environment (MDE), and the Virginia Department of Environmental Quality (VADEQ) worked together in developing a combined document to address the requirements for the redesignation to attainment of the Washington Area for the 1997 annual $PM_{2.5}$ NAAQS. The States also developed a common maintenance plan as a revision to their respective SIPs to ensure continued attainment of the 1997 annual $PM_{2.5}$ standard in the Washington Area throughout 2025. The 1997 annual $PM_{2.5}$ redesignation requests and maintenance plans for the Washington Area were submitted to EPA by DDOE on June 3, 2013, by MDE on July 10, 2013, and by VADEQ on June 3, 2013. The emissions inventories included in the Washington Area maintenance plans were subsequently supplemented by the States to provide for emissions estimates of VOC and ammonia. The supplemental inventories were submitted to EPA on July 22, 2013 by DDOE, on July 26, 2013 by MDE, and on July 17, 2013 by VADEQ. In addition, the maintenance plan includes the 2017 and 2025 $PM_{2.5}$ and NO_X MVEBs used for transportation conformity purposes for the entire Washington Area for the 1997 annual $PM_{2.5}$ NAAQS.

On August 8, 2014 (79 FR 45735), EPA published a notice of proposed rulemaking (NPR), proposing to take several rulemaking actions related to the redesignation of the Washington Area to

attainment for the 1997 annual $PM_{2.5}$ NAAQS. First, EPA proposed to find that the States met the requirements for redesignation of the Washington Area for the 1997 annual $PM_{2.5}$ NAAQS under section 107(d)(3)(E) of the CAA. Second, EPA proposed to approve the Washington Area's maintenance plan for the Area as a revision to the District, Virginia, and Maryland SIPs for the 1997 annual $PM_{2.5}$ NAAQS. Third, EPA proposed to approve the MVEBs for $PM_{2.5}$ and NO_X emissions for the 1997 annual $PM_{2.5}$ standard, which are included as part of the Washington Area's maintenance plan. Finally, EPA proposed to find that the Washington Area continues to attain the 1997 annual $PM_{2.5}$ standard.

In the August 8, 2014 NPR, EPA considered the effects of three legal decisions on the approval of the redesignation requests and maintenance plan: (1) Collectively, the decisions in *EME Homer City Generation, L.P.* v. *EPA,* 696 F.3d 7 (D.C. Cir. 2012), *rev'd,* No. 12–1182 (S. Ct. April 29, 2014) from the United States Court of Appeals for the District of Columbia (D.C. Circuit Court) and the United States Supreme Court with respect to the Cross-State Air Pollution Rule (CSAPR); and (2) the January 4, 2013, D.C. Circuit decision remanding to EPA the ''Final Clean Air Fine Particle Implementation Rule'' (72 FR 20586, April 25, 2007) and the ''Implementation of the New Source Review (NSR) Program for Particulate Matter Less than 2.5 Micrometers ($PM_{2.5}$)'' final rule (73 FR 28321, May 16, 2008) (collectively, ''1997 $PM_{2.5}$ Implementation Rule''). *Natural Resources Defense Council (NRDC)* v. *EPA,* 706 F.3d 428 (D.C. Cir. 2013).

Specific details of the States' submittals and the rationale for EPA's proposed actions are explained in the NPR and will not be restated here. No adverse public comments were received on the NPR.

II. General Information Pertaining to SIP Submittals From the Commonwealth of Virginia

In 1995, Virginia adopted legislation that provides, subject to certain conditions, for an environmental assessment (audit) ''privilege'' for voluntary compliance evaluations performed by a regulated entity. The legislation further addresses the relative burden of proof for parties either asserting the privilege or seeking disclosure of documents for which the privilege is claimed. Virginia's legislation also provides, subject to certain conditions, for a penalty waiver for violations of environmental laws when a regulated entity discovers such violations pursuant to a voluntary compliance evaluation and voluntarily discloses such violations to the Commonwealth and takes prompt and appropriate measures to remedy the violations. Virginia's Voluntary Environmental Assessment Privilege Law, Va. Code Sec. 10.1–1198, provides a privilege that protects from disclosure documents and information about the content of those documents that are the product of a voluntary environmental assessment. The Privilege Law does not extend to documents or information that: (1) Are generated or developed before the commencement of a voluntary environmental assessment; (2) are prepared independently of the assessment process; (3) demonstrate a clear, imminent and substantial danger to the public health or environment; or (4) are required by law.

On January 12, 1998, the Commonwealth of Virginia Office of the Attorney General provided a legal opinion that states that the Privilege law, Va. Code Sec. 10.1–1198, precludes granting a privilege to documents and information ''required by law,'' including documents and information ''required by Federal law to maintain program delegation, authorization or approval,'' since Virginia must ''enforce Federally authorized environmental programs in a manner that is no less stringent than their Federal counterparts. * * *'' The opinion concludes that ''[r]egarding § 10.1–1198, therefore, documents or other information needed for civil or criminal enforcement under one of these programs could not be privileged because such documents and information are essential to pursuing enforcement in a manner required by Federal law to maintain program delegation, authorization or approval.''

Virginia's Immunity law, Va. Code Sec. 10.1–1199, provides that ''[t]o the extent consistent with requirements imposed by Federal law,'' any person making a voluntary disclosure of information to a state agency regarding a violation of an environmental statute, regulation, permit, or administrative order is granted immunity from administrative or civil penalty. The Attorney General's January 12, 1998 opinion states that the quoted language renders this statute inapplicable to enforcement of any Federally authorized programs, since ''no immunity could be afforded from administrative, civil, or criminal penalties because granting such immunity would not be consistent with Federal law, which is one of the criteria for immunity.''

Therefore, EPA has determined that Virginia's Privilege and Immunity statutes will not preclude the Commonwealth from enforcing its program consistent with the Federal requirements. In any event, because EPA has also determined that a state audit privilege and immunity law can affect only state enforcement and cannot have any impact on Federal enforcement authorities, EPA may at any time invoke its authority under the CAA, including, for example, sections 113, 167, 205, 211 or 213, to enforce the requirements or prohibitions of the state plan, independently of any state enforcement effort. In addition, citizen enforcement under section 304 of the CAA is likewise unaffected by this, or any, state audit privilege or immunity law.

III. Final Action

EPA is approving the requests submitted by the District of Columbia, the Commonwealth of Virginia, and the State of Maryland to redesignate from nonattainment to attainment their respective portions of the Washington Area for the 1997 annual $PM_{2.5}$ NAAQS. EPA has evaluated the States' redesignation requests and determined that they meet the redesignation criteria set forth in section 107(d)(3)(E) of the CAA for the 1997 annual $PM_{2.5}$ standard. In this final rulemaking action, EPA finds that the Washington Area is attaining and will continue to attain the 1997 annual $PM_{2.5}$ NAAQS. EPA is also approving the common maintenance plan for the Washington Area submitted by the States as revisions to their respective SIPs for the 1997 annual $PM_{2.5}$ standard, as the plan meets the requirements of CAA section 175A for the standard. Furthermore, EPA is approving the 2017 and 2025 MVEBs for $PM_{2.5}$ and NO_X submitted by the States for the Washington Area for transportation conformity determinations with respect to the 1997 annual $PM_{2.5}$ NAAQS. Final approval of the redesignation requests will change the official designations of the Washington Area, from nonattainment to attainment as found at 40 CFR part 81, for each of the States for the 1997 annual $PM_{2.5}$ NAAQS, and will incorporate into the States SIPs the maintenance plan ensuring continued attainment of the 1997 annual $PM_{2.5}$ NAAQS in the Area for the next 10 years, until 2025.

IV. Statutory and Executive Order Reviews

A. General Requirements

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 that reason, this action:

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

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

B. Submission to Congress and the Comptroller General

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).

C. Petitions for Judicial Review

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by December 5, 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, in which EPA is approving the redesignation requests and maintenance plan submitted by the District of Columbia, the Commonwealth of Virginia, and the State of Maryland for the 1997 annual $PM_{2.5}$ NAAQS Washington Area, 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, Nitrogen oxides, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

40 CFR Part 81

Air pollution control, National parks, Wilderness areas.

Dated: September 15, 2014.

William C. Early,

Acting Regional Administrator, Region III.

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 J—District of Columbia

■ 2. In § 52.470, the table in paragraph (e) is amended by adding an entry for the 1997 Annual $PM_{2.5}$ Maintenance Plan for the District of Columbia Portion of the Washington, DC–MD–VA Area at the end of the table to read as follows:

§ 52.470 Identification of plan.

* * * * *

(e) * * *

Name of non-regulatory SIP revision	Applicable geographic area	State submittal date	EPA approval date	Additional explanation
* * *	*	*	*	*
Maintenance plan for the District of Columbia Portion of the Washington, DC–MD–VA Nonattainment Area for the 1997 annual fine particulate matter ($PM_{2.5}$) National Ambient Air Quality Standard.	District of Columbia	06/03/13 07/22/13	10/6/14 [Insert **Federal Register** Citation].	See § 52.477(b).

■ 3. Section 52.477 is revised to read as follows:

§ 52.477 Control strategy: Particular matter.

(a) *Determination of Attainment.* EPA has determined, as of January 12, 2009, that the District of Columbia portion of the Metropolitan Washington, DC–MD–VA nonattainment area for the 1997 $PM_{2.5}$ NAAQS has attained the 1997 $PM_{2.5}$ NAAQS. This determination, in accordance with 40 CFR 52.1004(c), suspends the requirements for this area to submit an attainment demonstration and associated reasonably available control measures, a reasonable further progress plan, contingency measures, and other planning SIPs related to attainment of the standard for as long as the area continues to attain the 1997 $PM_{2.5}$ NAAQS.

(b) *Maintenance Plan and Transportation Conformity Budgets.* EPA approves the maintenance plan for the District of Columbia portion of the Washington, DC–MD–VA nonattainment area for the 1997 annual $PM_{2.5}$ NAAQS submitted by the District of Columbia for the entire Area on June 3, 2013 and supplemented on July 22, 2013. The MVEBs are based on a tiered approach: Tier 1 MVEBs are effective as EPA has determined them adequate for transportation conformity purposes; Tier 2 mobile budgets will become effective upon the completion of the interagency consultation process and fully documented within the first conformity analysis that uses the Tier 2 MVEBs.

WASHINGTON, DC–MD–VA $PM_{2.5}$ AREA'S TIER 1 MOTOR VEHICLE EMISSIONS BUDGETS FOR THE 1997 ANNUAL $PM_{2.5}$ NAAQS, (TPY)

Type of control strategy SIP	Year	NO_X	$PM_{2.5}$	Effective date of SIP approval
Maintenance Plan	2017 2025	41,709 27,400	1,787 1,350	11/5/14

WASHINGTON, DC–MD–VA $PM_{2.5}$ AREA'S TIER 2 MOTOR VEHICLE EMISSIONS BUDGETS FOR THE 1997 ANNUAL $PM_{2.5}$ NAAQS, (TPY)

Type of control strategy SIP	Year	NO_X	$PM_{2.5}$	Effective date of SIP approval
Maintenance Plan	2017	50,051	2,144	Contingent and effective upon interagency consultation.
	2025	32,880	1,586	

Subpart V—Maryland

■ 4. In § 52.1070, the table in paragraph (e) is amended by adding an entry for the 1997 Annual $PM_{2.5}$ Maintenance Plan for the Maryland portion of the Washington, DC–MD–VA Area at the end of the table to read as follows:

§ 52.1070 Identification of plan.

* * * * *

(e) * * *

Name of non-regulatory SIP revision	Applicable geographic area	State submittal date	EPA approval date	Additional explanation
*	*	*	*	*
Maintenance plan for the Maryland Portion of the Washington, DC–MD–VA Nonattainment Area for the 1997 annual fine particulate matter ($PM_{2.5}$) National Ambient Air Quality Standard.	Statewide	07/10/13 07/26/13	10/6/14 [Insert **Federal Register** Citation].	See § 52.1081(d).

* * * * *

■ 5. Section 52.1081 is amended by adding paragraph (d) to read as follows:

§ 52.1081 Control strategy: Particular matter.

* * * * *

(d) *Maintenance Plan and Transportation Conformity Budgets.* EPA approves the maintenance plan for the Maryland portion of the Washington, DC–MD–VA nonattainment area for the 1997 annual $PM_{2.5}$ NAAQS submitted by the State of Maryland for the entire Area on July 10, 2013 and supplemented on July 26, 2013. The maintenance plan includes motor vehicle emission budgets (MVEBs) to be applied to all future transportation conformity determinations and analyses for the entire Washington, DC–MD–VA $PM_{2.5}$ Area for the 1997 $PM_{2.5}$ NAAQS. The MVEBs are based on a tiered approach: Tier 1 MVEBs are effective as EPA has determined them adequate for transportation conformity purposes; Tier 2 mobile budgets will become effective upon the completion of the interagency consultation process and fully documented within the first conformity analysis that uses the Tier 2 MVEBs.

WASHINGTON, DC–MD–VA $PM_{2.5}$ AREA'S TIER 1 MOTOR VEHICLE EMISSIONS BUDGETS FOR THE 1997 ANNUAL $PM_{2.5}$ NAAQS, (TPY)

Type of control strategy SIP	Year	NO_X	$PM_{2.5}$	Effective date of SIP approval
Maintenance Plan	2017 2025	41,709 27,400	1,787 1,350	11/5/14

WASHINGTON, DC–MD–VA $PM_{2.5}$ AREA'S TIER 2 MOTOR VEHICLE EMISSIONS BUDGETS FOR THE 1997 ANNUAL $PM_{2.5}$ NAAQS, (TPY)

Type of control strategy SIP	Year	NO_X	$PM_{2.5}$	Effective date of SIP approval
Maintenance Plan	2017 2025	50,051 32,880	2,144 1,586	Contingent and effective upon interagency consultation.

Subpart VV—Virginia

■ 6. In § 52.2420, the table in paragraph (e) is amended by adding an entry for the 1997 Annual $PM_{2.5}$ Maintenance Plan for the Virginia Portion of the Washington, DC–MD–VA Area at the end of the table to read as follows:

§ 52.2420 Identification of plan.

* * * * *

(e) * * *

Name of non-regulatory SIP revision	Applicable geographic area	State submittal date	EPA approval date	Additional explanation
*	*	*	*	*
Maintenance plan for the Virginia Portion of the Washington, DC–MD–VA Nonattainment Area for the 1997 Annual $PM_{2.5}$ National Ambient Air Quality Standard.	Statewide	06/03/13 07/17/13	10/6/14 [Insert **Federal Register** Citation].	See § 52.2429(b).

* * * * *

■ 7. Section 52.2429 is amended by designating the existing text as paragraph (a) and adding paragraph (b).

The addition reads as follows:

§ 52.2429 Control strategy: Particular matter.

* * * * *

(b) *Maintenance Plan and Transportation Conformity Budgets.* EPA approves the maintenance plan for the Virginia portion of the Washington, DC–MD–VA nonattainment area for the 1997 annual $PM_{2.5}$ NAAQS submitted by the Commonwealth of Virginia for the entire Area on June 6, 2013 and supplemented on July 17, 2013. The maintenance plan includes motor vehicle emission budgets (MVEBs) to be applied to all future transportation conformity determinations and analyses for the entire Washington, DC–MD–VA $PM_{2.5}$ Area for the 1997 $PM_{2.5}$ NAAQS. The MVEBs are based on a tiered approach: Tier 1 MVEBs are effective as EPA has determined them adequate for transportation conformity purposes; Tier 2 mobile budgets will become effective upon the completion of the interagency consultation process and fully documented within the first conformity analysis that uses the Tier 2 MVEBs.

WASHINGTON, DC–MD–VA $PM_{2.5}$ AREA'S TIER 1 MOTOR VEHICLE EMISSIONS BUDGETS FOR THE 1997 ANNUAL $PM_{2.5}$ NAAQS, (TPY)

Type of control strategy SIP	Year	NO_X	$PM_{2.5}$	Effective date of SIP approval
Maintenance Plan	2017 2025	41,709 27,400	1,787 1,350	11/5/14

WASHINGTON, DC–MD–VA $PM_{2.5}$ AREA'S TIER 2 MOTOR VEHICLE EMISSIONS BUDGETS FOR THE 1997 ANNUAL $PM_{2.5}$ NAAQS, (TPY)

Type of control strategy SIP	Year	NO_X	$PM_{2.5}$	Effective date of SIP approval
Maintenance Plan	2017 2025	50,051 32,880	2,144 1,586	Contingent and effective upon interagency consultation.

PART 81—DESIGNATION OF AREAS FOR AIR QUALITY PLANNING PURPOSES

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

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

■ 9. In § 81.309, revise the table for ''District of Columbia—1997 Annual $PM_{2.5}$ NAAQS [Primary and secondary]'' to read as follows:

§ 81.309 District of Columbia.

* * * * *

DISTRICT OF COLUMBIA—1997 ANNUAL $PM_{2.5}$ NAAQS

[Primary and secondary]

Designated area	Designation [a]		Classification	
	Date [1]	Type	Date	Type
Washington, DC–MD–VA:				
District of Columbia	10/6/14	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.

* * * * *

■ 10. In § 81.321, the table for Maryland—1997 Annual $PM_{2.5}$ NAAQS [Primary and secondary] is amended by removing footnote number 2 in the table and revising the entries for the Washington, DC–MD–VA Area to read as follows:

§ 81.321 Maryland.

* * * * *

MARYLAND—1997 ANNUAL $PM_{2.5}$ NAAQS

[Primary and secondary]

Designated area	Designation [a]		Classification	
	Date [1]	Type	Date	Type
* * * * *		*		*
Washington, DC–MD–VA:				
Charles County	10/6/14	Attainment		
Frederick County	10/6/14	Attainment		
Montgomery County	10/6/14	Attainment		
Prince George's County	10/6/14	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.

* * * * *

■ 11. In § 81.347, the table for Virginia—1997 Annual $PM_{2.5}$ NAAQS [Primary and secondary] is amended by removing footnote number 2 in the table and revising the entries for the Washington, DC–MD–VA Area to read as follows:

§ 81.347 Virginia.

* * * * *

VIRGINIA—1997 ANNUAL $PM_{2.5}$ NAAQS

[Primary and secondary]

Designated area	Designation [a]		Classification	
	Date [1]	Type	Date	Type
Washington, DC–MD–VA:				
Arlington County	10/6/14	Attainment		
Fairfax County	10/6/14	Attainment		
Loudoun County	10/6/14	Attainment		
Prince William County	10/6/14	Attainment		
Alexandria City	10/6/14	Attainment		
Fairfax City	10/6/14	Attainment		
Falls Church City	10/6/14	Attainment		
Manassas City	10/6/14	Attainment		
Manassas Park City	10/6/14	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. 2014–23624 Filed 10–3–14; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 312

[EPA–HQ–SFUND–2014–0474; FRL–9917–28–OSWER]

Amendment to Standards and Practices for All Appropriate Inquiries

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is amending the standards and practices for conducting all appropriate inquiries under the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) to remove the reference to ASTM International's E1527–05 standard practice. This 2005 standard practice was replaced with an updated standard, the E1527–13, by ASTM International, a widely recognized standards development organization. Specifically, EPA is amending the ''All Appropriate Inquiries Rule'' to remove the reference to ASTM International's E1527–05 ''Standard Practice for Environmental Site Assessments: Phase I Environmental Site Assessment Process.''

DATES: The effective date for this action is October 6, 2015.

ADDRESSES: Publicly available docket materials are available either electronically in *www.regulations.gov* or in hard copy at the HQ EPA Docket Center, EPA/DC, EPA WJC West, Room 3334, 1301 Constitution Ave. NW., Washington, DC. The Public Reading Room at this docket facility is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding Federal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the Superfund Docket is (202) 566–9744.

FOR FURTHER INFORMATION CONTACT: For general information, contact the CERCLA Call Center at 800–424–9346 or TDD 800–553–7672 (hearing impaired). In the Washington, DC metropolitan area, call 703–412–9810 or TDD 703–412–3323. For more detailed information on specific aspects of this rule, contact Patricia Overmeyer, Office of Brownfields and Land Revitalization (5105T), U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue NW., Washington, DC 20460–0002, 202–566–2774, *overmeyer.patricia@epa.gov.*

SUPPLEMENTARY INFORMATION:

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I. Regulated Entities
II. Statutory Authority
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IV. Summary of Comments and EPA Responses
V. Overview of Today's Action
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I. Regulated Entities

The EPA is removing the reference to the 2005 ASTM standard in the All Appropriate Inquiries Rule at 40 CFR part 312 (70 FR 66070, as amended). In November 2013, ASTM International replaced its 2005 standard (ASTM E1527–05 ''Standard Practice for Environmental Site Assessments: Phase I Environmental Site Assessment Process'') with an updated standard, ASTM E1527–13 ''Standard Practice for Environmental Site Assessments: Phase I Environmental Site Assessment Process.'' The updated 2013 standard is a currently recognized industry consensus-based standard to conduct all appropriate inquiries as provided under CERCLA. In December 2013, EPA published a final rule indicating that parties who acquire potentially contaminated properties and brownfields grantees using EPA brownfield grant funding to conduct site characterizations and assessments may use the ASTM E1527–13 standard practice when conducting all appropriate inquiries pursuant to CERCLA (78 FR 79319). Today's rule does not include any changes to the standards and practices included in the All Appropriate Inquiries Rule (AAI Rule). Any party who wants to meet the provisions under CERCLA to conduct all appropriate inquiries may follow the standards and procedures set forth in the AAI Rule at 40 CFR part 312 or use the new ASTM E1527–13 standard, as provided in the AAI Rule.

Persons potentially affected by this action are those who perform all appropriate inquiries, including public and private entities who intend to claim protection from CERCLA liability as bona fide prospective purchasers, contiguous property owners, or innocent landowners. In addition, any person conducting a site characterization or assessment on a property with a brownfields grant awarded under CERCLA section 104(k)(2)(B)(ii) may be affected by today's action. This includes state, local and tribal governments that receive brownfields site assessment grants. A summary of the potentially affected industry sectors (by North American Industry Classification System (NAICS) codes) is displayed in the table below.

Industry category	NAICS code
Real Estate	531
Insurance	52412
Banking/Real Estate Credit.	52292
Environmental Consulting Services.	54162
State, Local and Tribal Government.	926110, 925120
Federal Government.	925120, 921190, 924120

The list of potentially affected persons in the above table may not be exhaustive. Our aim is to provide a guide for readers regarding those entities that EPA is aware potentially could be affected by this action.

II. Statutory Authority

Today's action, which amends the AAI Rule at 40 CFR part 312 setting Federal standards for the conduct of ''all appropriate inquiries,'' is authorized under section 101(35)(B) of CERCLA (42 U.S.C. 9601), as amended by the Small Business Liability Relief and Brownfields Revitalization Act of 2002.

III. Background

On January 11, 2002, President Bush signed the Small Business Liability Relief and Brownfields Revitalization Act, Public Law 107–118 (''the Brownfields Amendments''), which amended CERCLA. In general, the Brownfields Amendments provide funds to assess and clean up brownfields sites; clarify CERCLA liability provisions related to certain purchasers of contaminated properties; and provide funding to enhance state and tribal cleanup programs. Subtitle B of the Brownfields Amendments added new limitations on CERCLA liability under section 107 for bona fide prospective purchasers and contiguous property owners and clarified the requirements necessary to establish the innocent landowner defense under CERCLA. The Brownfields Amendments also revised section 101(35) of CERCLA to provide that parties acquiring contaminated or potentially contaminated property must undertake ''all appropriate inquiries'' into prior ownership and use of the property prior

to acquisition to qualify for protection from CERCLA liability.

The Brownfields Amendments further directed EPA to develop regulations establishing standards and practices for conducting all appropriate inquiries. On November 1, 2005, EPA promulgated regulations that established standards and practices for all appropriate inquiries (70 FR 66070). In the AAI Rule, EPA referenced the existing ASTM E1527–05 ''Standard Practice for Environmental Site Assessments: Phase I Environmental Site Assessment Process'' and authorized its use to comply with the rule. On December 23, 2008, EPA revised the AAI Rule to recognize another ASTM International standard as compliant with the standards and practices set forth in the AAI Rule, ASTM E2247–08 ''Standard Practice for Environmental Site Assessments: Phase I Environmental Site Assessment Process for Forestland or Rural Property'' (73 FR 78716).

In November 2013, ASTM International published ASTM E1527–13, ''Standard Practice for Environmental Site Assessments: Phase I Environmental Site Assessment Process.'' In early 2013, at ASTM International's request, EPA reviewed this standard and determined that a person's use of the standard would be compliant with the AAI Rule.

On December 30, 2013, EPA published a final rule which provided that persons conducting all appropriate inquiries may use the procedures included in ASTM E1527–13 to comply with the AAI Rule (78 FR 79319). On June 17, 2014, EPA published a proposed rule (79 FR 34480) proposing to amend the AAI Rule to remove the reference to ASTM E1527–05 Phase I Environmental Site Assessment Standard.

IV. Summary of Comments and EPA Responses

In response to the June 17, 2014 proposed rule (79 FR 34480), EPA received five comments. Four of the comments were supportive of the proposed rule. The sole negative comment asserted that the principal difference between the E1527–05 standard and the E1527–13 standard is the inclusion of a requirement to evaluate the potential presence of vapor releases under the E1527–13 standard. The commenter further stated that because vapor releases are not by themselves a CERCLA concern, EPA should continue to allow for the use of the E1527–05 standard. EPA disagrees with this comment. The scope of the AAI Rule and the ASTM E1527–05 standard always included the requirement to identify all indications of releases and threatened releases of hazardous substances, or ''recognized environmental conditions (RECs),'' including indications of vapor migration or vapor releases. With the updates included in the 2013 version of the ASTM E1527 standard, ASTM modified the definition of migration to specifically include vapor migration and remove any confusion regarding the need to identify all RECs, or all indications of releases or threatened releases of hazardous substances, when conducting an AAI investigation.

Two of the commenters who supported EPA's proposed rule recommended in their comments that EPA delay the effective date of the final rule until six months after the publication date, rather than the one year delay proposed by EPA. Although EPA agrees with the commenters' statements that most environmental professionals are likely already using the updated E1527–13 standard, the Agency believes it is prudent to provide for the one year delay in the effective date. The AAI Rule requires that AAI investigations be conducted within one year prior to the date of acquisition of the subject property (see 40 CFR 312.20(a)). In addition, the AAI Rule requires that certain aspects of the AAI investigation be conducted or updated within 180 days prior to the date of acquisition of the subject property (40 CFR 312.20(b)). Given these requirements, EPA determined that delaying the effective date for the final rule by only six months may be burdensome for some parties. Therefore, the effective date for this final rule, which removes the reference to the ASTM E1527–05 standard, will be October 6, 2015 allowing sufficient time for AAI investigations initiated or on-going at the time of publication of today's rule to be completed or updated prior to the effective date.

V. Overview of Today's Action

EPA is amending the AAI Rule at 40 CFR 312 to remove the reference to ASTM International's E1527–05 ''Standard Practice for Environmental Site Assessments: Phase I Environmental Site Assessment Process.'' In November 2013, ASTM International designated this standard a ''historical standard'' and replaced it with the updated ASTM E1527–13 ''Standard Practice for Environmental Site Assessments: Phase I Environmental Site Assessment Process.''

Today's action does not prevent parties from continuing to use other standards, methods, or customary business practices for conducting all appropriate inquiries, so long as they comply with the standards and practices set forth in the AAI Rule. Instead, today's proposed action removes the reference to a standard that ASTM International no longer recognizes as current since it no longer represents the most recent consensus-based standard.

EPA is taking this action because the Agency wants to reduce any confusion associated with the regulatory reference to a historical standard that is no longer recognized by its originating organization as meeting its standards for good customary business practice. In addition, we believe that today's final rule will promote the use of the 2013 standard currently recognized by ASTM International as the consensus-based, good customary business standard.

Today's action includes no further changes to the AAI Rule other than to remove the reference to the historical ASTM E1527–05 standard. It does not impact the reference to the recently revised ASTM standard, E1527–13 in the AAI Rule. It also does not impact parties who acquired properties between November 1, 2005 and the effective date of this final rule and used the 2005 ASTM standard (ASTM E1527–05) to comply with the AAI Rule, as it was in effect at the time the property was acquired.

VI. Effective Date of Final Action

Today's action is a final rule. The EPA anticipates that some parties, at this time may still be using the historical standard (ASTM E1527–05) to comply with the provisions of the AAI Rule. Therefore, the Agency is delaying the effective date of today's final action for one year to provide parties with an adequate opportunity to complete AAI investigations that may be ongoing and to become familiar with the updated industry standard (ASTM E1527–13). The effective date of today's final rule, which will remove the reference to ASTM E1527–05 in the AAI rule, is October 6, 2015.

VII. Statutory and Executive Order Reviews

A. Executive Order 12866: Regulatory Planning and Review

This action is not a ''significant regulatory action'' under Executive Order (EO) 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 will 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). The current regulation does not have an information collection burden and today's action's only change to the regulation is to delete the reference to a historical standard that recently was replaced with an updated version of the standard. A final rule referencing the updated version of the standard was published by EPA on December 30, 2013 (78 FR 79319).

C. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) generally requires an agency to prepare a regulatory flexibility analysis for 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 business, small organizations, and small governmental jurisdictions.

Today's action does not change the current regulatory status quo and does not impose any regulatory requirements. After considering the economic impacts of today's final rule on small entities, I certify that this action will not have a significant economic impact on a substantial number of small entities.

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 private sector. This action imposes no enforceable duty on any state, local or tribal governments or the private sector. This action merely removes a reference to a historical voluntary consensus standard. The final rule imposes no new regulatory requirements and will result in no additional burden to any entity. Therefore, this action is not subject to the requirements of sections 202 or 205 of UMRA.

As stated above, this final rule also is not subject to the requirements of section 203 of UMRA because it contains no new regulatory requirements that might significantly or uniquely affect small governments.

E. Executive Order 13132: Federalism

This action does not have federalism implications. Today's final rule will not substantially change the current regulation; it merely removes a reference to a historical voluntary consensus standard. 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 EO 13132. Thus, EO 13132 does not apply to this rule.

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

This action does not have tribal implications, as specified in EO 13175 (65 FR 67249, November 9, 2000). This action merely removes a reference to a historical voluntary consensus standard. Today's final rule does not change any current regulatory requirements and therefore will not impose any impacts upon tribal entities. Thus, EO 13175 does not apply to this action.

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

EPA interprets EO 13045 (62 FR 19885, April 23, 1997) as applying only to those regulatory actions that concern health or safety risks, such that the analysis required under section 5–501 of the EO has the potential to influence the regulation. This action is not subject to EO 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

Today's final rule is not subject to EO 13211 (66 FR 28355, May 22, 2001), because it is not a significant regulatory action under EO 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 EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by voluntary consensus standards bodies. The NTTAA directs EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable voluntary consensus standards.

This action involves technical standards. Therefore, the requirements of section 12(d) of the NTTAA (15 U.S.C. 272) apply. The NTTAA was signed into law on March 7, 1996 and, among other things, directs the National Institute of Standards and Technology (NIST) to bring together federal agencies as well as state and local governments to achieve greater reliance on voluntary standards and decreased dependence on in-house standards. It states that use of such standards, whenever practicable and appropriate, is intended to achieve the following goals: (a) Eliminate the cost to the government of developing its own standards and decrease the cost of goods procured and the burden of complying with agency regulation; (b) provide incentives and opportunities to establish standards that serve national needs; (c) encourage long-term growth for U.S. enterprises and promote efficiency and economic competition through harmonization of standards; and (d) further the policy of reliance upon the private sector to supply Government needs for goods and services. The Act requires that federal agencies adopt private sector standards, particularly those developed by standards developing organizations (SDOs), wherever possible in lieu of creating proprietary, non-consensus standards.

Today's final rule complies with the NTTAA as it allows persons conducting all appropriate inquiries to use the procedures included in the updated ASTM International standard known as Standard E1527–13 and entitled ''Standard Practice for Environmental Site Assessments: Phase I Environmental Site Assessment Process'' to comply with the AAI Rule. The rule also deletes reference to a standard that is no longer recognized as current by the standards developing organization responsible for its development.

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

Executive Order 12898 (59 FR 7629, Feb. 16, 1994), establishes federal executive policy on environmental justice. Its main provision directs federal agencies, to the greatest extent practicable and permitted by law, to make environmental justice part of their mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of their programs, policies, and activities on minority populations and low-income populations in the United States.

EPA has determined that this final 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. Today's action merely removes a reference to a historical voluntary consensus standard and does not impose any new requirements.

K. Congressional Review Act

The Congressional Review Act, 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). This rule is effective on October 6, 2015.

List of Subjects in 40 CFR Part 312

Environmental protection, Administrative practice and procedure, Hazardous substances.

Dated: September 19, 2014.

Mathy Stanislaus,

Assistant Administrator, Office of Solid Waste and Emergency Response.

For the reasons set out in the preamble, title 40, chapter I, of the Code of Federal Regulations is amended as follows:

PART 312—INNOCENT LANDOWNERS, STANDARDS FOR CONDUCTING ALL APPROPRIATE INQUIRIES

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

Authority: Section 101(35)(B) of CERCLA, as amended, 42 U.S.C. 9601(35)(B).

Subpart B—Definitions and References

§ 312.11 [Amended]

■ 2. Section 312.11 is amended by removing paragraph (a) and redesignating paragraphs (b) and (c) as paragraphs (a) and (b).

[FR Doc. 2014–23399 Filed 10–3–14; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 54

[WC Docket Nos. 10–90, 14–58; FCC 14–98]

Connect America Fund, ETC Annual Reports and Certifications

AGENCY: Federal Communications Commission.

ACTION: Final rule, correction.

SUMMARY: This document corrects errors in the supplementary information portion of a **Federal Register** document finalizing decisions to use, on a limited scale, Connect America funding for rural broadband experiments in price cap areas that will deploy new, robust broadband to consumers. The Commission will use these rural broadband experiments to explore how to structure the Phase II competitive bidding process in price cap areas and to gather valuable information about interest in deploying next generation networks in high-cost areas. The summary was published in the **Federal Register** on August 6, 2014.

DATES: Effective October 6, 2014.

FOR FURTHER INFORMATION CONTACT: Alexander Minard, Wireline Competition Bureau, (202) 418–7400.

SUPPLEMENTARY INFORMATION: This summary contains corrections to the supplementary information portion of a **Federal Register** summary, 79 FR 45705 (August 6, 2014). The full text of the Commission's Report and Order in WC Docket Nos. 10–90, 14–58; FCC 14–98, released on July 14, 2014 is available for public inspection during regular business hours in the FCC Reference Center, Room CY–A257, 445 12th Street SW., Washington, DC 20554.

In Final rule FR Doc. 2014–18328, published August 6, 2014 (79 FR 45705), make the following corrections.

1. On page 45711, in the first column, in paragraph 44, third and fourth lines, replace ''eligible locations determined by the model'' with ''funded locations and extremely high-cost locations.''

2. On page 45726, in the first column, in paragraph 155, eleventh and twelfth lines, replace ''eligible locations determined by the model'' with ''funded locations and extremely high-cost locations.''

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. 2014–23781 Filed 10–3–14; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 14–1357]

Radio Broadcasting Services; Various Locations

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Audio Division amends the FM Table of Allotments, to remove certain vacant FM allotments that were auctioned in FM Auction 91 that are currently considered authorized stations. FM assignments for authorized stations and reserved facilities will be reflected solely in Media Bureau's Consolidated Database System (CDBS).

DATES: Effective October 6, 2014.

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

SUPPLEMENTARY INFORMATION: This is a summary of the *Report and Order,* DA 14–1357, adopted September 18, 2014, and released September 19, 2014. The full text of this document is available for inspection and copying during normal business hours in the Commission's Reference Center 445 12th Street SW., Washington, DC 20554. The complete text of this document may also be purchased from the Commission's duplicating contractor, Best Copy and Printing, Inc., 445 12th Street SW., Room CY–B402, Washington, DC, 20054, telephone 1–800–378–3160 or *www.BCPIWEB.com.* The Commission will not send a copy of this *Report and Order* pursuant to the Congressional Review Act, *see* 5 U.S.C. 801(a)(1)(A), because the adopted rules are rules of particular applicability. 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 proposed 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).

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 BROADCASTING 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. Amend § 73.202(b), the Table of FM Allotments, as follows:

■ a. Remove Coosada, under Alabama, Channel 226A; and Livingston, Channel 242A.

■ b. Remove Palmer, under Alaska, Channel 238C1.

■ c. Remove Ajo, under Arizona, Channel 295A.

■ d. Remove Clarendon, under Arkansas, Channel 281A; Gassville, Channel 224A.

■ e. Remove Cedarville, under California, Channel 260A; Coachella, Channel 278A; Kerman, Channel 224A; King City, Channel 275A; Tecopa, Channel 288A; Trona, Channel 247A; Twentynine Palms, Channel 270A; and Waterford, Channel 294A.

■ f. Remove Blanca, under Colorado, Channel 249C2; Crested Butte, Channel 246C3; Channel 299C3 at Gunnison; Orchard Mesa, Channel 249C3; and Silverton, Channel 281A.

■ g. Remove Daytona Beach Shores, under Florida, Channel 258A; Islamorada, Channel 283C2; and Key Largo, Channel 237C3.

■ h. Remove Calhoun, under Georgia, Channel 233A.

■ i. Remove Kihei, under Hawaii, Channel 264C2.

■ l. Remove Worthington, under Indiana, Channel 231A.

■ k. Remove Dulac, under Louisiana, Channel 230A; and St. Joseph, Channel 257C3.

■ l. Remove Adams, under Massachusetts, Channel 255A; East Harwich, Channel 254A; and Nantucket, Channel 249A.

■ m. Remove Ferrysburg, under Michigan, Channel 226A; Onaway, Channel 292C2; and Pentwater, Channel 280A.

■ n. Remove Red Lake, under Minnesota, Channel 231C1.

■ o. Remove Vaiden, under Mississippi, Channel 271A.

■ p. Remove Bourbon, under Missouri, Channel 231A.

■ q. Remove Charlo, under Montana, Channel 251C3; and Whitehall, Channel 274A.

■ r. Remove Humboldt, under Nebraska, Channel 272C3.

■ s. Remove Beatty, under Nevada, Channel 259A; Elko, Channels 274C3 and 284C3; Fallon Station, Channel 287C; Goldfield, Channel 262C1; and Pahrump, Channel 272C3.

■ t. Remove Alamogordo, under New Mexico, Channel 240C2 and Clayton, Channel 248C1.

■ u. Remove Celoron, under New York, Channel 237A; and Montauk, Channel 235A.

■ v. Remove Lone Wolf, under Oklahoma, Channel 224A; Muldrow, Channel 286A; and Valliant, Channel 234C3.

■ w. Remove Butte Falls, under Oregon, Channel 290A; Clatskanie, Channel 225C3; Diamond Lake, Channel 299A; Netarts, Channel 232C3; and Channel 299C3 at Prineville.

■ x. Remove Lawrence Park, under Pennsylvania, Channel 224A.

■ y. Remove Williston, under South Carolina, Channel 260A.

■ z. Remove Channel 246A, under Texas, Big Lake; Blanket, Channel 284A; Blossom, Channel 224C2; Colorado City, Channel 257A; Channel 289A at Cotulla; Dilley, Channel 291A; Elkhart, Channel 265A; Marquez, Channel 296A; Channel 287C3 at Menard; O'Brien, Channel 261A; Ozona, Channel 275C3; Panhandle, Channel 291C3; Rotan, Channel 290A; Shamrock, Channel 271A; Snyder, Channel 235C3; Stamford, Channel 233A; Wellington, Channel 248A; and Wheeler, Channel 280C2.

■ aa. Remove Albany, under Vermont, Channel 233A.

■ bb. Remove Wardensville, under West Virginia, Channel 239A.

■ cc. Remove Basin, under Wyoming, Channel 300C3; and Ten Sleep, Channel 267A.

■ dd. Remove Dededo, under Guam, Channel 243C1.

[FR Doc. 2014–23657 Filed 10–3–14; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MB Docket No. 13–282; RM–11706; DA 14–1014]

Radio Broadcasting Services; Bruce, Mississippi

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Audio Division is reinstating Channel 233A in Bruce, Mississippi, and dismissing the Petition for Rule Making (''Petition'') filed by Telesouth Communications, Inc., proposing the substitution of Channel 284A for vacant Channel 233A for failure to comply with the Commission's rules, and the associated ''hybrid'' application (''Application'') for Station WTNM (FM) to operate on Channel 234A rather than Channel 288A at Water Valley, Mississippi. We also dismiss the Counterproposal filed by Elijah Mondy, proposing the allotment of Channel 284A at New Houlka, Mississippi, as the community's first local service, for failure to comply with the Commission's rules.

DATES: Effective October 6, 2014.

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

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

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's *Report and Order,* MB Docket No. 13–282, DA 14–1014, adopted July 17, 2014, and released July 18, 2014. The full text of this document 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 the Web site *www.BCPIWEB.com.* This document does not contain information collection requirements subject to the Paperwork Reduction Act of 1995, Public Law 104–13.

Synopsis

The Petition requested the substitution of Channel 284A for vacant Channel 233A at Bruce, Mississippi. Channel 233A at Bruce, Mississippi, a vacant allotment resulting from the cancellation of the license for Station WCMR–FM, is not currently listed in the FM Table of Allotment. Accordingly, we reinstate Channel 233A at Bruce, Mississippi in the FM Table of the Allotments. This action constitutes an editorial change in the FM Table of Allotments. The reference coordinates for Channel 233A at Bruce, Mississippi are 34–01–17 NL and 89–20–06 WL.

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.

§ 73.202 [Amended]

■ 2. Section 73.202(b), the Table of FM Allotments under Mississippi, is amended by adding Bruce, Channel 233A.

[FR Doc. 2014–23779 Filed 10–3–14; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 95

[ET Docket No. 08–59; FCC 14–124]

Medical Body Area Network

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document addresses an Order on Reconsideration and Second Report and Order in which the Commission takes further actions to foster the development and deployment of new and innovative Medical Body Area Network (MBAN) devices. In addressing petitions for reconsideration of the First Report and Order in this proceeding, the Commission provides MBAN users with additional flexibility to enable the implementation of technical standards being developed for MBAN devices, and clarify and modify portions of its rules to facilitate the coordination, deployment, and use of MBAN systems. In the Second Report and Order portion in this proceeding, the Commission finalizes the process for selecting a MBAN Coordinator. This coordinator will facilitate use of the MBAN frequencies, which operate in shared-use bands. Collectively, our actions will allow the development of new and innovative health care applications.

DATES: Effective November 5, 2014, except for § 95.1225(c), which contains information collection requirements that have not been approved by the Office of Management and Budget (OMB). The Commission will publish a document in the **Federal Register** announcing the effective date of § 95.1225(c).

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SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Order on Reconsideration and Second Report and Order, ET Docket No. 08–59, FCC 14–124, adopted August 20, 2014 and released August 21, 2014. The full text of this document is available for inspection and copying during normal business hours in the FCC Reference Center (Room CY–A257), 445 12th Street SW., Washington, DC 20554. The complete text of this document also may be purchased from the Commission's copy contractor, Best Copy and Printing, Inc., 445 12th Street SW., Room, CY–B402, Washington, DC 20554. The full text may also be downloaded at: *www.fcc.gov.* People with Disabilities: 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).

Summary of Order on Reconsideration

1. In the Order on Reconsideration and Second Report and Order, the Commission took further actions to foster the development and deployment of new and innovative Medical Body Area Network (MBAN) devices. MBAN technology provides a platform for the wireless networking of multiple body-worn sensors used for measuring and recording physiological parameters and other patient information or for performing diagnostic or therapeutic functions, primarily in health care facilities. By addressing petitions for reconsideration of the First Report and Order in this proceeding, we provided MBAN users with additional flexibility to enable the implementation of technical standards being developed for MBAN devices, and clarified and modified portions of our rules to facilitate the coordination, deployment, and use of MBAN systems.

Authorized Locations

2. *Health Care Facilities.* The Commission revised § 95.1203 of its rules to limit use of the 2360–2390 MHz band to hospitals and other establishments that offer services, facilities and beds for use beyond a 24-hour period in rendering medical treatment. It eliminated a portion of the definition that included institutions and organizations regularly engaged in providing medical services through clinics, public health facilities, and similar establishments, including government entities and agencies such as Veterans Administration hospitals. By limiting the types (and, thus, the numbers) of medical institutions in the 2360–2390 MHz band, the Commission intended to make it easier for both the MBAN and AMT coordinators to establish, implement and enforce efficient and effective coordination procedures. Further, it found that limiting potential locations would simplify their efforts to identify and remedy any harmful interference in the extremely unlikely event it occurs.

3. Although GE Healthcare, Phillips Healthcare, and the Aerospace and Flight Test Radio Coordinating Council (AFTRCC) (the'' Joint Parties'') had suggested this approach as part of their comprehensive set of proposed rules, they had not discussed the rationale for this limitation until the filing of their Petition for Reconsideration. Because the Petition for Reconsideration stated with particularity the reasons why the Commission should adopt their proposed authorized locations definition, it found that the public interest would be it served by taking the Joint Parties' facts and arguments into consideration.

4. As part of this decision, the Commission determined that, because the existing MBAN standard will support numerous patients in the 2390–2400 MHz band, and because frequency reuse techniques can augment that capacity in many situations, no health care facilities—including those that do not qualify for use of the 2360–2390 MHz band—will be precluded from operating MBAN systems. For this reason, the Commission disagreed with SmartEdgeNet that health care providers will be ''denied the benefits of MBAN'' if the Commission limited the authorized locations as requested.

5. *Antenna Locations.* In their Petition for Reconsideration, the Joint Parties claimed that § 95.1213, titled ''Antennas,'' appeared to exclude the installation of outdoor antennas for the 2390–2400 MHz band at locations above a building's first floor, such as balconies and roof terraces, and that this was not the intent of the rule. Upon reconsideration, the Commission agreed and expressly found that it was not necessary to apply antenna height restrictions—which were originally intended as a constraint on temporary outdoor use of MedRadio antennas regardless of the band in which the transmitter operated—to antennas used for MedRadio transmitters operating in the 2390–2400 MHz band.

6. The Commission concluded that, based on the permissible outdoor use in this band and the relatively low power operations of MBAN transmitters (which effectively limits any gain in

coverage that is often associated with increased antenna height), there is no need to prescribe a specific antenna height limit (for either permanent or temporary outdoor antennas used for this band) and revised § 95.1213 as set forth in the rules.

MBAN Definition and Permissible Communications

7. *MBAN Configurations with a Single Body-Worn Device.* The Commission amended Appendix 1 to subpart E of part 95 (''Glossary of Terms'') to define an MBAN as a low power network consisting of a MedRadio programmer/control transmitter and *one or more* medical body-worn devices. The Commission found the argument of the Joint Parties that the pairing of a programmer/control transmitter with a single body-worn device ''will likely be common'' was plausible, concluding that there could be times where best treatment practices could require the use of only a single body-worn device.

8. *Use of Bedside Devices.* Under the Commission's rules as adopted in the *First Report and Order,* a medical body-worn device is defined as an apparatus that is placed on or in close proximity to the human body (*e.g.,* within a few centimeters) for the purpose of performing diagnostic or therapeutic functions. The Commission clarified that bedside devices, which would require a physical attachment to the patient (*e.g.* by wire or tube), would meet the definition even though there are other parts of the apparatus that are located away from the body. The Commission further clarified that the ''few centimeters'' language in the rule should be read as a general example and not the codification of a specific distance requirement. Based on this clarification, the Commission did not grant the Joint Parties request to modify the rule to remove the ''few centimeters'' language.

9. *Allowing Greater Flexibility in Designing MBAN Systems.* Together § 95.1209(g) (''Permissible Communications'') and the MBAN definition contained in Appendix 1, subpart E of the part 95 Rules (''Glossary of Terms'') established the MedRadio programmer/control transmitter and the medical body-worn device as distinct elements that must be present in every MBAN; allow body-worn transmitters to relay information in the 2360–2400 MHz band only to a programmer/control transmitter that is part of the same MBAN; and prohibit a programmer/control transmitter from using the 2360–2400 MHz band to relay information to another programmer/control transmitter.

10. The Commission modified existing rule § 95.1209(g) to provide an exception to permit communications between programmer/control transmitters of different MBAN systems for the sole purpose of avoiding interference to each other, based on the text of the existing MedRadio rules for Medical Micropower Networks. It recognized that allowing MBAN systems in the 2360–2390 MHz band (as well as the 2390–2400 MHz band) to coordinate use among themselves of the available MBAN frequencies could promote efficient spectrum use. The Commission emphasized that it considered the modified requirement to be a limited exception to the general rule and, in agreement with the Joint Parties, noted that programmer/control transmitters would continue to be barred from relaying the control message to each other. It retained the prohibition on programmer/control transmitters relaying other information (such as medical data) to each other.

11. The Commission amended § 95.1209 of the rules to eliminate the language that precludes body-worn devices from communicating with other body-worn devices in the 2360–2400 MHz band. It recognized that doing so could potentially enhance patient welfare by preserving battery life and enhancing signal strength in situations that may adversely affect the reception of data. Further, the Commission noted that the adoption of industry standards, it may have made it both feasible and practical to produce such equipment.

12. Additionally, the Joint Parties asked that the Commission allow either a programmer/control transmitter or a body-worn device to perform as a ''coordinator node'' in an MBAN system. According to the Joint Parties, coordinator node is the ''. . . term used in IEEE 802.15.6 for the node responsible for coordinating the MAC function (*e.g.,* assigning TDMA slots to other nodes) and being the main routing hub for communication with all other nodes in the MBAN star topology.'' As an example, the Joint Parties described a scenario in which a body-worn device serves as a coordinator node to transmit information related to the technical operation of the network (*e.g.,* what communication protocols to use) to other body-worn devices within the MBAN system and aggregate the patient data that it receives from other body-worn devices. Because the Commission decided to permit a body-worn device within an MBAN system to communicate with another body-worn device, it concluded that the Joint Parties would be able to design MBAN systems consistent with their request under the existing rules and that no rule modifications were necessary.

13. *2390–2400 MHz band.* The Commission denied the Joint Parties' request to eliminate all restrictions on MBAN systems that operate in the 2390–2400 MHz band. Such a change would have allowed networks that consist of multiple programmer/control transmitters, networks that do not include any programmer/control transmitters, and networks in which different groups of programmer/control transmitters and body-worn devices communicate between and among each other. The Commission disagreed with the Joint Parties' assertion that the rationale for the MBAN system design requirements in § 95.1209(g) related exclusively to concerns in the 2360–2390 MHz band and applying the restriction to the 2390–2400 MHz band served no purpose. Instead, it noted that entities operating in the 2360–2390 MHz band may need to default to the 2390–2400 MHz band and found that it would be unwise to further complicate such transitions by allowing the band to be populated by medical devices operating under many different system designs. Nevertheless, the Commission did note that the *First Report and Order* left open the potential to revisit the permissible use restrictions after gaining further experience with MBAN operations and it deemed continuing this approach to be reasonable and appropriate to the circumstances.

Device Operation

14. In the *First Report and Order,* the Commission adopted transmission requirements for the component parts of an MBAN—the programmer/control transmitters and body-worn devices. The Commission applied much of the existing MedRadio rule on ''Permissible Communications,'' 47 CFR 95.1209, to MBAN operation. Among these requirements, § 95.1209(b), in pertinent part, addresses the operation of body-worn devices by stating that no MedRadio implant or body-worn transmitter shall transmit except in response to a transmission from a MedRadio programmer/control transmitter or in response to a non-radio frequency actuation signal generated by a device external to the body with respect to which the MedRadio implant or body-worn transmitter is used.

Additionally, with regard to programmer/control transmitters, § 95.628(c) states that a MedRadio programmer/control transmitter shall not commence operating and shall automatically cease operating in the 2360–2390 MHz band if it does not receive, in accordance with the

protocols specified by the manufacturer, a control message permitting such operation. Additionally, a MedRadio programmer/control transmitter operating in the 2360–2390 MHz band shall comply with a control message that notifies the device to limit its transmissions to segments of the 2360–2390 MHz band or to cease operation in the band.

15. The Joint Parties asserted that § 95.1209 as adopted in the *First Report and Order* permitted only a polled media access control (MAC) protocol—that is, that the only time a body-worn device can operate is immediately after the receipt of a transmission from the programmer/control transmitter. The Commission found that this assertion was based upon an overly narrow reading of the rule and was inconsistent with the language of the *First Report and Order.* It stated that while a polled access scenario would comply with the rules, other access modes are permissible provided that the body-worn devices operate in response to whatever instructions are transmitted by their associated programmer/control transmitter. The Commission thus determined that the rules allow sufficient flexibility to account for the Joint Parties' concerns and made no changes to the rule.

16. The Commission modified § 95.628(c) of the rules, as shown below, to clearly state that body-worn transmitters must be capable of ceasing transmissions when necessary to avoid interference in the 2360–2390 MHz band. It agreed that it is ''critical that all MBAN devices . . . cease operation in 2360–2390 MHz in the absence of a control message,'' and noted that, because the rules adopted in the *First Report and Order* require a programmer/control transmitter operating in the 2360–2390 MHz that fails to receive a control message to cease operation and allow body-worn transmitters to transmit only in response to a transmission from the programmer/control transmitter, such a requirement was already implicit.

Coordination and Registration

17. *Registration Requirement for the 2390–2400 MHz Band.* In the *First Report and Order,* the Commission adopted a registration requirement for the 2360–2390 MHz band to facilitate coordination with AMT operations in that band, but it did not adopt a registration requirement for the 2390–2400 MHz band. On reconsideration, the Commission amended its rules to require that entities preparing to use the 2390–2400 MHz band with equipment that is capable of also operating in the 2360–2390 MHz band and who are eligible to operate MBAN systems in the 2360–2390 MHz band register the MBAN system—regardless of whether they have any current intent to eventually use the 2360–2390 MHz band capacity of their equipment. The Commission agreed with ASHE that such a requirement will give the coordinator and health care facilities a more complete understanding of the current and potential local spectrum environment for MBANs and will allow qualifying health care facilities (and their equipment vendors and installers) to better plan their facilities with respect to appropriate efficient network architecture and systems planning and implementation. The Commission further noted that the modified registration requirement is more limited and less burdensome than a more comprehensive requirement that the Commission rejected in the *First Report and Order,* and concluded that the benefits of providing the MBAN coordinator with this important additional information outweigh the fairly slight increase in registration costs for the limited number of MBAN operators discussed.

18. *Registration Requirement for the 2360–2390 MHz Band.* In the *First Report and Order,* the Commission required all MBAN devices operating in the 2360–2390 MHz band to be registered with a frequency coordinator, and adopted § 95.1223 addressing MBAN registration and coordination. Upon reconsideration, the Commission agreed with the Joint Parties that the language in § 95.1223(a) that required registration of all MBAN devices a health care facility proposes to operate in the 2360–2390 MHz band was broader than necessary. It also noted that, while the introductory text in § 95.1223(a) suggests that all MBAN devices should be registered, the registration information specified in subparts (1) through (7) of the rule does not address body-worn devices. Furthermore, subparts (3) and (5) specifically speak to ''control transmitter[s]'' (which we are updating to read ''MedRadio programmer/control transmitter'' to provide clarity and consistency). Because the existing rule construction may create confusion in that it could appear to be inconsistent or ambiguous, the Commission amended the introductory text of § 95.1223(a) as shown below. Under the revision, the Commission did not require that the MBAN user provide the coordinator with unique identifying data (*e.g.,* a serial number) for each programmer/control transmitter. The Commission agreed with the Joint Parties that it will be sufficient to provide the quantity and type (*i.e.* equipment that may have different technical characteristics) of programmer/control transmitters at each MBAN installation. The Commission accomplished this objective by retaining the requirement in § 95.1223(a)(3) that programmer/control transmitter information include the manufacturer name, model number and FCC identification number. The practical effect of the revised rules is that health care facilities will be able to account for large groups of devices under a single filing.

19. Finally, the Commission clarified that replacement of programmer/control transmitters having the same technical characteristics as those reported on the health care facility's registration (*i.e.,* the manufacturer name, model number and FCC identification number) will not trigger additional notification requirements under § 95.1223(b) of the rules.

20. *Interaction between MBAN and AMT Coordinators.* Under § 95.1225(b)(2) of the Commission's rules, the MBAN Coordinator is required to determine if an MBAN is within line of sight of an AMT receive facility in the 2360–2390 MHz band, and coordinate MBAN operations with the designated AMT coordinator. Additionally, the MBAN coordinator must approve any changes made to an authorized MBAN installation before operation could begin with the altered parameters. Accordingly, § 95.1223(b) states, in pertinent part, that a health care facility must notify the MBAN coordinator of any material change to the MBAN's location or operating parameters, and that it may not operate under changed operating parameters until the frequency coordinator determines whether such changes require coordination with the AMT coordinator. The Joint Parties had suggested edits to the coordinator duties listed in § 95.1225 of the rules. The Commission concluded that the Joint Parties' proposed edits to § 95.1225(b) were already addressed in § 95.1223(c) and concluded that it would be unnecessarily repetitive to make the requested edits.

21. The Commission determined that it would be beneficial to further clarify the procedures for how the AMT coordinator is consulted before an MBAN location or operation is changed. Specifically, the Commission found the need to provide clarification as to whether coordination with or notification to the AMT coordinator would be required if the modified

MBAN facility would operate beyond line-of-sight of an AMT receive facility. It determined that the best course in such cases is to apply the existing procedures outlined in § 95.1223(c)(1), which requires the MBAN coordinator to approve operation without prior coordination with the AMT coordinator, but also requires the MBAN coordinator to notify the AMT coordinator and provide the AMT coordinator with the opportunity to concur that the MBAN facility is beyond line of sight. Accordingly, the Commission revised § 95.1223(b) of the rules to state that the MBAN coordinator must evaluate the proposed changes and comply with either (c)(1) or (c)(2), as appropriate, prior to authorizing a modified MBAN operation. Such a change satisfies the Joint Parties' request that the Commission clarify the advance consultation requirement for the AMT coordinator, and does so in a way that complements our existing rules for coordinating MBAN operations.

22. *Notification of Interference.* The Commission did not adopt a request by the Joint Parties to amend § 95.1223(a) of the rules to include a specific requirement that, if a health care facility or the MBAN coordinator is notified of MBAN interference to an AMT receive antenna, the MBAN user must cease transmissions on the frequencies causing interference. The Commission pointed out that § 95.1211(c) of the rules plainly states that MBAN devices may not cause harmful interference to authorized stations operating in the 2360–2400 MHz band which places the onus of avoiding such interference squarely on the operator of these devices. Accordingly, it is the MBAN user's responsibility to respond to interference complaints, and to be prepared to cease operation as necessary to avoid causing harmful interference. The Commission also emphasized that failure to abide by this rule will subject an MBAN user to appropriate Commission enforcement action. The existing rules give the MBAN coordinator the responsibility to identify the MBAN that is the source of interference and the authority to notify the registered health care facility to cease operation as may be appropriate to the circumstances. Moreover, any health care facility planning to operate MBAN devices in the 2360–2390 MHz band will have provided to the MBAN coordinator, pursuant to the rules, a point of contact in the event the MBAN user is directed to cease operation. Thus, the Commission concluded that, together, the rule defining the MBAN user responsibilities and the rule describing the functions of the 2360–2390 MHz band MBAN coordinator should provide for the prompt identification and resolution of any harmful interference caused by an MBAN to AMT operations.

23. *Testing of Installed MBAN Equipment.* The Joint Parties and ASHE requested the Commission to require hospitals or equipment vendors to certify to the MBAN coordinator that testing of the relevant 2360–2390 MHz MBAN equipment was conducted *in situ* and confirmed that the equipment does not operate outdoors. The Commission found that its existing rules and processes are sufficient to address such concerns. It noted that all MBAN equipment capable of operating in the 2360–2390 MHz band is certified to be under the equipment authorization process to demonstrate compliance with the indoor operation restrictions and that, under the existing rules, MBAN users must acknowledge when registering with an MBAN coordinator the need to comply with these requirements. In this regard, the Commission noted that it has given MBAN coordinators broad discretion to implement coordination procedures to ensure that MBAN operations are permitted only when and where they will not interfere with AMT operations. Thus, if an MBAN coordinator determines that the type of testing and certification the Joint Parties and ASHE seeks is warranted, it may ask a hospital or equipment vendor to provide such information as part of the coordination process.

Equipment Authorization

24. *Attached Antennas and Operation in the 2360–2390 MHz Band.* The Commission did not adopt the Joint Parties' request that § 95.1213 of the rules, which describes MBAN antenna placement, be modified ''to clarify that an antenna must be permanently affixed to its MBAN transmitter'' for devices operating in the 2360–2390 MHz portion of the band. The Commission determined that there was little risk that MBAN users will make post-market device modifications, noting that it was not aware of any issues with unauthorized modification of the existing base of MedRadio devices, nor had the Joint Parties provided any supporting evidence that this is a common occurrence that would support additional rules tailored to MBAN operation in the 2360–2390 MHz band. It also found that the existing rules already protect against the potential harm described by the Joint Parties. Specifically, § 95.639(f)(5) of the rules states that the antenna associated with any MedRadio transmitter must be supplied with the transmitter and shall be considered part of the transmitter subject to equipment authorization.

25. *Equipment Labeling Requirement.* The labeling requirement for MBAN devices states that MedRadio programmer/control transmitters operating in the 2360–2400 MHz band shall be labeled as provided in part 2 of the chapter and shall bear the following statement in a conspicuous location on the device:

> This device may not interfere with stations authorized to operate on a primary basis in the 2360–2400 MHz band, and must accept any interference received, including interference that may cause undesired operation.

The statement may be placed in the instruction manual for the transmitter where it is not feasible to place the statement on the device.

26. The Commission denied the Joint Parties' request that, in the event that the warning is not included on the device label, the Commission should require that the warning be placed on the front page of the instruction manual in capital letters. On reconsideration, the Commission found that the Joint Parties had not offered any reason for it to question this analysis the Commission undertook in the *First Report and Order,* or to convince it that additional steps were needed to ensure that ''all personnel are fully aware'' of the status of MBAN devices.

27. *Publication of Equipment Authorization Requirements.* The Joint Parties asked that the Commission take steps to ensure that the requirements for equipment authorization of MBAN devices be ''clear for all to follow.'' They did not propose any specific rule modifications, but instead submitted a list of ''expected attestation and certification requirements for MBAN equipment. While the Commission declined to codify the Joint Parties' specific requirements, it indicated that it will draw on existing resources (for example, the OET Laboratory Division's Knowledge Database (KDB)) and staff will continue to be available to ensure that information regarding authorization procedures for MBAN equipment is published in a readily accessible manner, and that MBAN equipment is authorized in compliance with Commission rules.

Second Report And Order

28. The Commission's rules require that MBAN operations in the 2360–2390 MHz be registered and coordinated to ensure that AMT operations in this band are protected from harmful interference.

The registration and coordination functions are to be performed by a frequency coordinator to be designated by the Commission. An MBAN coordinator will be required to maintain a database of MBAN registrations that includes the locations of MBAN systems that operate in the 2360–2390 MHz band, determine when MBAN transmitters are within line-of-sight of AMT receive facilities, coordinate MBAN operations with the coordinator for AMT services, notify registered MBAN users when they must change frequencies or cease operations consistent with a coordination agreement between the MBAN and AMT coordinator, and develop procedures to ensure that MBAN users operate consistent with the coordination requirements.

29. In the *Second Report and Order,* the Commission determined that it will select only one MBAN coordinator for a ten-year term. After the ten-year term, the coordinator will serve until either it elects not to continue as coordinator or is removed by the Commission. The MBAN coordinator may rely on a third-party consultant for technical services necessary to fulfill its responsibilities, but will be required to disclose information about the technical qualifications of the third-party consultant and the contractual arrangement it has with the consultant. The MBAN coordinator will be required to provide service on a non-discriminatory basis to all eligible health care institutions and will be permitted to charge reasonable fees that reflect only its actual costs (including the costs associated with coordination, such as the AMT coordinator's cost and the expense of any third-party technical consultant). The Wireless Telecommunications Bureau (Bureau), acting under delegated authority as provided in the Commission's rules, will select the MBAN coordinator. The Bureau will execute a Memorandum of Understanding (MOU) with the selected coordinator, which will describe the duties and responsibilities of the coordinator and provide for removal of the coordinator if circumstances warrant. These requirements are described in further detail in the following paragraphs.

30. *Single Coordinator.* The Commission found it appropriate to select only one MBAN coordinator at this time given the characteristics of the MBAN service. The health care community represents a small part of the radiofrequency user ecosystem and the number of MBAN registrants is likely to be proportionally small. A single coordinator will simplify MBAN registration for health care institutions because there will be a single point of contact and the registration process will be analogous to the Wireless Medical Telemetry Service (WMTS) registration process that is familiar to many entities in this specialized group, and will make coordination with AMT coordinator simpler. The Commission noted that the authority already delegated to the Bureau to certify frequency coordinators for the services it administers allows it to introduce competitive coordination into a service with an exclusive coordinator, and noted that the Bureau will consider, in the future, whether to certify one or more additional coordinators if it determines that such an action would serve the public interest.

31. *Term of Service.* The Commission required that the MBAN coordinator agree to serve a ten-year term. After the initial ten-year term, the MBAN coordinator will continue to serve until the coordinator acts to vacate the role or the Commission acts to remove the coordinator under the procedures discussed. The Commission also adopted the proposal in the *Further Notice* to require that the MBAN coordinator transfer the MBAN registration data to another entity designated by the Commission if the coordinator cannot or chooses not to continue as coordinator. The Commission directed the Bureau to incorporate this requirement into the MOU that it will execute with the MBAN coordinator. As part of the MOU, the Bureau should also address what notice the MBAN coordinator must give the Commission to provide adequate time to select a replacement coordinator, in the event that the coordinator intends to vacate the coordinator role. This notice will have to provide sufficient time for the Bureau to select a replacement coordinator, for the replacement coordinator to establish a registration and coordination system, and for the incumbent MBAN coordinator to transfer the registration data to the replacement coordinator. The Commission also recognized that it is possible that the coordinator would not continue in its role at some point. In such a case, these notice and transfer requirements will be necessary to ensure an effective transition of coordinators. The provisions will help avoid having a period of time during which there would be no functioning MBAN registration and coordination regime or creating a re-registration burden on MBAN licensees.

32. Because the role of the MBAN coordinator is essential to prevent harmful interference to a primary service, the Commission indicated that it is important to allow the MBAN coordinator to be replaced by the Commission if necessary. Consistent with the existing procedures for the WMTS coordinator, the Commission delegated to the Bureau the authority to remove the MBAN coordinator after giving adequate notice if it determines that such an action would serve the public interest. The Bureau can include specific provisions in the MOU, including the notice it will give the coordinator.

33. *Qualifying Criteria.* In the *Further Notice,* the Commission sought comment on the minimum qualifying criteria that should be established for selecting an MBAN coordinator and proposed that parties interested in being designated an MBAN coordinator must, at a minimum, demonstrate that they meet the following criteria:

- Ability to register and maintain a database of MBAN transmitter locations and operational parameters;
- Knowledge of or experience with medical wireless systems in health care facilities (*e.g.,* WMTS);
- Knowledge of or experience with AMT operations;
- Ability to calculate and measure interference potential between MBAN and AMT operations and to enter into mutually satisfactory coordination agreements with the AMT coordinator based on the requirements in § 95.1223(c);
- Ability to develop procedures to ensure that registered health care facilities operate an MBAN consistent with the requirements in § 95.1223.

34. In the *Second Report and Order,* the Commission required applicants applying to become the MBAN coordinator to demonstrate that they meet these five criteria. It determined that these criteria ''ensure that the designated coordinator can successfully accomplish the functions required by our rules.'' The Commission declined to add the additional criteria suggested by ASHE and Philips/GE to the core criteria that it adopted, noting that some of these elements are already addressed by the five criteria it adopted and determining that other elements of the proposed criteria described qualities that would likely be useful for an MBAN coordinator to possess but did not appear essential for performing the coordination obligations required by the rules that it adopted, were insufficiently concrete to warrant certification, or would be expected to attend compliance with the criteria it has specified.

35. The Commission also found that the MBAN coordinator should be able to rely on a contract with a third party for

technical expertise, and it will consider such arrangements as part of a candidate's demonstration that it satisfies the core qualifying criteria. The Commission recognized that it may be difficult to identify a single entity that satisfies all the minimum qualifying criteria that it has adopted, and stated that a candidate that lacks expertise in the core criteria may choose to rely on a third party for technical support to demonstrate that it would be able to provide all of the MBAN registration and coordination functions with minimal delay. The Commission noted that the Bureau may exercise its authority to terminate the tenure of the MBAN coordinator if the third-party technical consultant stops providing service to the MBAN coordinator and the Bureau is not persuaded that either the MBAN coordinator can perform these necessary duties without assistance of a third-party consultant or use of a replacement consultant will allow the coordinator to meet its obligations under our rules.

36. The Commission found that MBAN coordinator candidates that rely on third party contracts to demonstrate compliance with the core qualifying criteria will need to disclose certain information about such contracts. The Commission found that demonstration of the core qualifying criteria will require the disclosure of more detailed information because the relationship between the MBAN coordinator and a third-party technical expert will affect both the coordinator's ability to carry out its responsibilities and the program's ability to continue if either the coordinator or the third-party expert must relinquish its role. The Commission therefore directed the Bureau to require that applicants for the MBAN coordinator role relying on a third party consultant make a number of attestations regarding the consultant and the contract between the consultant and the applicant, and to take this information into account when judging the suitability of applicants for the MBAN coordinator position. This information must include the identity and qualifications of any third-party technical consultant the MBAN coordinator will rely on, the length of time that the contract between the MBAN coordinator and the third-party consultant would be in effect, and under what circumstances that contract could terminate.

37. The Commission also indicated that the MOU should also recognize the possibility that the technical consultant would stop providing service to the MBAN coordinator. Upon such an occurrence, the MBAN coordinator would need time to employ a replacement consultant who meets the Commission's high standards and, if such a coordinator is not found, the Commission needs time to replace the MBAN coordinator. The Commission provided the Bureau with the discretion to include such requirements in the MOU it executes with the MBAN coordinator.

38. *Fees for Service.* The Commission decided to permit the MBAN coordinator to set fees for MBAN registration and coordination (as opposed to having the Commission or the Bureau prescribe fees. The Commission required that the fees charged for MBAN registration and coordination be reasonable and reflect only the MBAN coordinator's actual costs of providing the coordination and registration functions. The MBAN coordinator will be required to provide the coordination and registration functions on a not-for-profit basis. The Commission determined that requiring that the MBAN coordinator provide services on a not-for-profit basis was necessary because, with likely only one MBAN coordinator, it cannot rely on competitive market forces to serve as a check on the fees associated with MBAN registration and coordination. If competitive forces are introduced and more than one coordinator is selected, however, the Commission recognized that the need for such regulations may no longer exist and may need to be reconsidered. The Commission also required that the MBAN coordinator must provide services on a non-discriminatory basis to all eligible health care institutions.

39. The Commission concluded that the MBAN coordinator should establish MBAN user fees that include all costs associated with MBAN registration and coordination, including the cost of any third-party technical consultant employed by the MBAN coordinator and the fees of the AMT coordinator. This approach establishes a single pay point for MBAN users and will simplify the registration and coordination process for them, and is supported by the record. As with the other costs for which the MBAN user is responsible, the cost of any third-party technical consultant must be reasonable. This cost can include only the MBAN coordinator's actual costs for such consultation services. The amount of the payment to the AMT coordinator should be determined by agreement between the AMT and MBAN coordinators, and would be incorporated into the overall coordination fee that an MBAN user incurs. The Commission indicated that it expects the AMT coordinator to pass on only its actual coordination costs, on a not-for-profit basis, to the MBAN coordinator. This cost may include the actual cost to the AMT coordinator of coordinating Federal AMT operations, but may not include charges for work performed by Federal employees such as the Federal Government Area Frequency Coordinators. Because the costs incurred by the AMT coordinator will be charged to the MBAN user as part of the registration and coordination fees paid to the MBAN coordinator, the Commission found that there is no need to place a requirement in our rules that the MBAN user bear direct responsibility for the AMT coordinator's cost.

40. On the matter of how reasonable costs should be evaluated and what oversight the Commission should exercise over AMT–MBAN coordination fees, the Commission observed that the Bureau has the authority to investigate the reasonableness of the MBAN registration and coordination fees, and it will do so as appropriate, either in response to complaints or on its own motion. The MBAN coordinator will be required to provide the Bureau with any information it requests in the course of conducting such an investigation. In judging the reasonableness of MBAN registration and coordination fees the Bureau should consider the customary practices in other bands where registration or coordination is required under the Commission's rules. The Commission also required the MBAN coordinator to provide the Bureau with its fee schedule upon request. This fee notification requirement coupled with the ability to investigate the reasonableness of fees will provide a necessary incentive for the MBAN and AMT coordinators to maintain the fee structure for MBAN registration and coordination at a reasonable level.

41. *MBAN Coordinator Selection.* The Commission directed the Bureau, acting under its existing delegated authority, to select the MBAN coordinator. Because the procedures the Bureau used in selecting the WMTS coordinator were successful, it directed it to employ a similar process to select the MBAN coordinator, including releasing a Public Notice to announce procedures for interested parties to submit applications for consideration as an MBAN coordinator, issuing an Order to designate the MBAN coordinator, and executing a MOU on behalf of the Commission with the selected coordinator that will set forth the coordinator's authority and responsibilities. The Commission anticipated that the MBAN coordinator

would assume its duties upon the execution of this MOU.

42. The Commission agreed with Philips/GE that the MBAN coordinator and AMT coordinator should quickly reach agreement on mutually agreeable procedures to create coordination agreements. Until such procedures are in place, no registered MBAN system can be deployed. Hence, the Commission required the selected MBAN coordinator to report to the Commission when it has procedures in place with the AMT coordinator allowing coordination agreements for MBAN systems to be made. If no such report is made within six months of selection of the MBAN coordinator, the Commission directed the Bureau to take all necessary action to promote such an agreement.

43. The Commission declined to adopt AFTRCC's suggestion that selection of the MBAN coordinator be contingent on executing a coordination agreement with AFTRCC. The Commission emphasized that it is the responsibility of both the selected MBAN coordinator and AFTRCC to cooperate in good faith in developing procedures for MBAN coordination.

44. *Petition for Rulemaking.* Ben Bartlett, who identifies himself as a law student at the University of California Hastings College of Law, filed a Petition for Rulemaking requesting that the Commission allocate spectrum for MBAN use in an unused portion of the television frequency bands. Bartlett claimed that the 2360–2400 MHz band is unsuitable for MBAN use because interference between MBAN systems and the AMT and amateur services would put patients at risk and interfere with the operation of these services, that the amount of spectrum available for MBAN operations was not sufficient to meet the future demand for medical applications, and that the current MBAN frequencies have limited propagation characteristics compared to the TV bands. He envisioned an expanded role for MBAN devices where patients will not be tied to a hub because the wireless link will be able to traverse long distances and pass through buildings and other obstacles.

45. The Commission concluded that the petition does not warrant further consideration at this time and dismissed it without prejudice. First, the Commission pointed out that MBAN systems are designed to provide wireless monitoring of patients over short distances to provide patients with mobility in hospitals and other health care facilities. In the *First Report and Order,* the Commission concluded that the 2360–2400 MHz band is well suited for this purpose given the ability of MBAN devices to share with spectrum with the incumbent users. Nothing in the petition gave the Commission reason to question this conclusion. Second, the petition asserted that the amount of spectrum the Commission has allocated for MBAN use would not be sufficient to meet future demand. The Commission found this claim to be speculative at best, particularly given that no MBAN devices have been deployed. Finally, the petition did not provide the technical details necessary to draw conclusions as to the feasibility of the long-range medical wireless devices that Bartlett envisions. The Commission concluded that deployment of these types of devices may be possible under its existing rules in other frequency bands.

Procedural Matters

46. *Final Regulatory Flexibility Certification.* The Regulatory Flexibility Act of 1980, as amended (RFA) [1] requires that a regulatory flexibility analysis be prepared for rulemaking proceedings, unless the agency certifies that ''the rule will not have a significant economic impact on a substantial number of small entities.'' [2] The RFA generally defines ''small entity'' as having the same meaning as the terms ''small business,'' ''small organization,'' and ''small governmental jurisdiction.'' [3] In addition, the term ''small business'' has the same meaning as the term ''small business concern'' under the Small Business Act.[4] A small business concern is one which: (1) Is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the Small Business Administration (SBA).[5]

47. In the *Order on Reconsideration and Second Report and Order,* the Commission addressed a number of issues related to designating the MBAN coordinator for the 2360–2390 MHz band. Among other actions, the Commission concludes to only designate one MBAN coordinator, but delegates to the Wireless Telecommunication Bureau (Bureau) the authority to possibly designate more than one coordinator at a later date. The Commission adopts a number of qualifying criteria to guide the Bureau in selecting the coordinator, such as the ability to register and maintain a database of MBAN transmitter locations, knowledge of wireless systems in healthcare facilities and of AMT operations, and the ability to calculate and measure interference potential between MBAN and AMT operations. The Commission also adopts a rule requiring that the MBAN coordinator provide registration and coordination to all eligible healthcare facilities on a non-discriminatory basis, provide the registration and coordination services on a not-for-profit basis, notify the Commission six months prior to ceasing to perform the functions of frequency coordinator, and transmit the MBAN registration data in a usable form to another coordinator designated by the Commission if it ceases to be the frequency coordinator. While the decisions made and rules adopted in the *Order on Reconsideration and Second Report and Order* could have a significant economic impact on the MBAN coordinator, the Commission has decided to designate only one MBAN coordinator. Although the Commission does allow the Bureau to possibly designate multiple coordinators at a later date, it does not foresee there ever being more than a couple of MBAN coordinators.

48. The Commission also addresses several issues related to MBAN users. First, the revisions to the authorized location rule will not increase the number of health care facilities that can use the 2360–2390 MHz band, and therefore will not impose regulatory burdens on any new small entities. Second, in the Report and Order, the Commission originally declined to require registration for the 2390–2400 MHz band users because it concluded that such a requirement ''would unnecessarily burden hospitals that do not need assistance from the MBAN coordination.'' Under the revised registration requirement we are adopting, the scope is narrower and it targets only those hospitals that may eventually need to interact with MBAN coordinator. We find that the benefit of providing the MBAN coordinator with this additional information outweighs the slight increase in registration costs for this limited number of MBAN

[1] The RFA, *see* section 5 U.S.C. S 601 *et. seq.,* has been amended by the Contract With America Advancement Act of 1996, Public Law 104–121, 110 Stat. 847 (1996) (CWAAA). Title II of the CWAAA is the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA).

[2] 5 U.S.C. 605(b).

[3] 5 U.S.C. 601(6).

[4] 5 U.S.C. 601(3) (incorporating by reference the definition of ''small business concern'' in Small Business Act, 15 U.S.C. S 632). Pursuant to 5 U.S.C. 601(3), the statutory definition of a small business applies ''unless an agency, after consultation with the Office of Advocacy of the Small Business Administration and after opportunity for public comment, establishes one or more definitions of such term which are appropriate to the activities of the agency and publishes such definition(s) in the **Federal Register**.''

[5] Small Business Act, section 15 U.S.C. S 632.

operators. In addition, we find that the increase in registration costs is minor, and therefore will not have a significant economic impact on a substantial number of small entities. Lastly, the remaining revisions to § 95.1223 do not change the regulatory burden on small business health care facilities; they merely clarify the rules and do not have a significant economic impact on any new small entities.

49. Therefore, the Commission certifies that the requirements of this *Order on Reconsideration and Second Report and Order* will not have a significant economic impact on a substantial number of small entities. The Commission will send a copy of the *Order on Reconsideration and Second Report and Order* including a copy of this final certification, in a report to Congress pursuant to the Small Business Regulatory Enforcement Fairness Act of 1996, *see* 5 U.S.C. 801(a)(1)(A). In addition, the *Order on Reconsideration and Second Report and Order* and this certification will be sent to the Chief Counsel for Advocacy of the Small Business Administration, and will be published in the **Federal Register**. *See* 5 U.S.C. 605(b).

50. *Congressional Review Act.* The Commission will send a copy of this Order on Reconsideration and Second Report and Order to Congress and the Government Accountability Office pursuant to the Congressional Review Act, see 5 U.S.C. 801(a)(1)(A).

51. *Paperwork Reduction Act.* This document contains new and modified information collection requirements subject to the Paperwork Reduction Act of 1995 (PRA), Public Law 104–13. The requirements will be submitted to the Office of Management and Budget (OMB) for review under section 3507(d) of the PRA. The Commission will publish a separate notice in the **Federal Register** inviting comment on the revised information collection requirements adopted in this document. The requirements will not go into effect until OMB has approved them and the Commission has published a notice announcing the effective date of the information collection requirements.

Ordering Clauses

52. Pursuant to the authority contained in sections 4(i), 301, 302, 303(e), 303(f), 303(r), and 307(e) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 301, 302a, 303(e), 303(f), 303(r), and 307(e), this Order on Reconsideration and Second Report and Order *is adopted.*

53. The rules and requirements adopted herein will become effective November 5, 2014, except for 47 CFR 95.1225(c), which includes new or modified information collection requirements that require approval by Office of Management and Budget under the PRA and *will become effective* after such approval, on the effective date specified in a notice that the Commission publishes in the **Federal Register** announcing such approval and effective date.

54. Pursuant to the authority of section 5(c) of the Communications Act of 1934, as amended, 47 U.S.C. 155(c), the Commission delegate authority to the Wireless Telecommunications Bureau as set forth in this Second Report and Order.

55. The Petition for Rulemaking filed by Ben Bartlett in ET Docket Nos. 08–59 and 04–186 is *denied.*

56. The Joint Petition for Reconsideration of GE Healthcare, Phillips Healthcare, and the Aerospace and the Flight Test Radio Coordinating Council is *granted in part* and *denied in part.*

57. The Petition for Reconsideration of The American Society for Healthcare Engineering of the American Hospital Association is *granted.*

58. The Commission's Consumer and Governmental Affairs Bureau, Reference Information Center, *shall send* a copy of this *Order on Reconsideration and Second Report and Order,* including the Final Regulatory Certification, to the Chief Counsel for Advocacy of the Small Business Administration.

List of Subjects in 47 CFR Part 95

Communications equipment, Medical devices, Reporting and recordkeeping requirements.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

Final Rules

For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR part 95 as follows:

PART 95—PERSONAL RADIO SERVICES

■ 1. The authority citation for part 95 is revised to read as follows:

Authority: 47 U.S.C. 154, 301, 302(a), 303, and 307(e).

Subpart E—Technical Regulations

■ 2. Section 95.628 is amended by revising paragraph (c) to read as follows:

§ 95.628 MedRadio transmitters in the 413–419 MHz, 426–432 MHz, 438–444 MHz, and 451–457 MHz and 2360–2400 MHz bands.

* * * * *

(c) *Requirements for Medical Body Area Networks.* A MedRadio programmer/control transmitter and its associated medical body-worn transmitters shall not commence operating in, and shall automatically cease operating in, the 2360–2390 MHz band if the programmer/control transmitter does not receive, in accordance with the protocols specified by the manufacturer, a control message permitting such operation. Medical body-worn transmitters shall cease operating in 2360–2390 MHz if they lose communication with their associated programmer/control transmitter. Additionally, a MedRadio programmer/control transmitter and its associated medical body-worn transmitters operating in the 2360–2390 MHz band shall comply with a control message that notifies the devices to limit transmissions to segments of the 2360–2390 MHz band or to cease operation in the band.

* * * * *

■ 3. Appendix 1 to Subpart E is amended by revising the definition of ''Medical Body Network'' to read as follows:

Appendix 1 to Subpart E of Part 95—Glossary of Terms

* * * * *

Medical Body Area Network (MBAN). An MBAN is a low power network consisting of a MedRadio programmer/control transmitter and one or more multiple medical body-worn devices all of which transmit or receive non-voice data or related device control commands for the purpose of measuring and recording physiological parameters and other patient information or performing diagnostic or therapeutic functions via radiated bi- or uni-directional electromagnetic signals.

* * * * *

Subpart I—Medical Device Radiocommunications Service (MedRadio)

■ 4. Section 95.1203 is revised to read as follows:

§ 95.1203 Authorized locations.

MedRadio operation is authorized anywhere CB station operation is authorized under § 95.405, except that use of Medical Body Area Network devices in the 2360–2390 MHz band is restricted to indoor operation within a health care facility registered with the MBAN coordinator under § 95.1225. For the purposes of this subpart, health care facilities are limited to hospitals and

other establishments, both Federal and non-Federal, that offer services, facilities and beds for use beyond a 24 hour period in rendering medical treatment.

■ 5. Section 95.1209 is amended by revising paragraph (g) to read as follows:

§ 95.1209 Permissible communications.

* * * * *

(g) Medical body-worn transmitters may relay only information in the 2360–2400 MHz band to a MedRadio programmer/control transmitter or another medical body-worn transmitter device that is part of the same Medical Body Area Network (MBAN). A MedRadio programmer/control transmitter may not be used to relay information in the 2360–2400 MHz band to other MedRadio programmer/controller transmitters. Wireless retransmission of all other information from an MBAN transmitter to a receiver that is not part of the same MBAN shall be performed using other radio services that operate in spectrum outside of the 2360–2400 MHz band. Notwithstanding the above restriction, a MedRadio programmer/control transmitter in the 2360–2400 MHz band may communicate with another MedRadio programmer/control transmitter in the 2360–2400 MHz band to coordinate transmissions so as to avoid interference between the two Medical Body Area Networks.

* * * * *

■ 6. Section 95.1213 is revised to read as follows:

§ 95.1213 Antennas.

(a) An antenna for a MedRadio transmitter shall not be configured for permanent outdoor use.

(b) Any MedRadio antenna used outdoors shall not be affixed to any structure for which the height to the tip of the antenna will exceed three (3) meters (9.8 feet) above ground.

(c) Paragraphs (a) and (b) of this section do not apply to MedRadio operations in the 2390–2400 MHz band.

■ 7. Section 95.1223 is amended by revising the section heading, paragraph (a) introductory text, and paragraphs (a)(3), (a)(5), and (b) to read as follows:

§ 95.1223 Registration and frequency coordination.

(a) *Registration.* Prior to operating MBAN devices that are capable of operation in the 2360–2390 MHz band, a health care facility, as defined by § 95.1203, must register with a frequency coordinator designated under § 95.1225. Operation of MBAN devices in the 2360–2390 MHz band is prohibited prior to the MBAN coordinator notifying the health care facility that registration and coordination (to the extent coordination is required under paragraph (c) of this section) is complete. The registration must include the following information:

* * * * *

(3) Number of MedRadio programmer/control transmitters in use at the health care facility as of the date of registration including manufacturer name(s) and model numbers and FCC identification number;

* * * * *

(5) Location of MedRadio programmer/control transmitters (*e.g.,* geographic coordinates, street address, building);

* * * * *

(b) *Notification.* A health care facility shall notify the frequency coordinator whenever an MBAN programmer/control transmitter in the 2360–2390 MHz band is permanently taken out of service, unless it is replaced with transmitter(s) using the same technical characteristics and locations as those reported on the health care facility's registration which will cover the replacement transmitter(s). A health care facility shall keep the information contained in each registration current and shall notify the frequency coordinator of any material change to the MBAN's location or operating parameters. In the event that the health care facility proposes to change the MBAN's location or operating parameters, the MBAN coordinator must first evaluate the proposed changes and comply with paragraph (c) of this section, as appropriate, before the health care facility may operate the MBAN in the 2360–2390 MHz band under changed operating parameters.

* * * * *

■ 8. Section 95.1225 is amended by revising paragraphs (a) and (b)(1) and adding paragraph (c) to read as follows:

§ 95.1225 Frequency coordinator.

(a) The Commission will designate a frequency coordinator(s) to manage the operation of medical body area networks by eligible health care facilities.

(b) * * *

(1) Register health care facilities that operate MBAN transmitters, maintain a database of these MBAN transmitter locations and operational parameters, and provide the Commission with information contained in the database upon request;

* * * * *

(c) The frequency coordinator shall:

(1) Provide registration and coordination of MBAN operations to all eligible health care facilities on a non-discriminatory basis;

(2) Provide MBAN registration and coordination services on a not-for-profit basis;

(3) Notify the Commission of its intent to no longer serve as frequency coordinator six months prior to ceasing to perform these functions; and

(4) Transfer the MBAN registration data in usable form to a frequency coordinator designated by the Commission if it ceases to be the frequency coordinator.

[FR Doc. 2014–23519 Filed 10–3–14; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

23 CFR Part 771

Federal Transit Administration

49 CFR Part 622

[Docket No. FHWA–2013–0049]

FHWA RIN 2125–AF59]
FTA RIN 2132–AB14

Environmental Impact and Related Procedures—Programmatic Agreements and Additional Categorical Exclusions

AGENCY: Federal Highway Administration (FHWA), Federal Transit Administration (FTA), Department of Transportation (DOT).

ACTION: Final rule.

SUMMARY: This final rule amends the FHWA and FTA joint procedures that implement the National Environmental Policy Act (NEPA) by adding new categorical exclusions (CE) for FHWA and FTA; allowing State departments of transportation (State DOT) to process certain CEs without FHWA's detailed project-by-project review and approval as long as the action meets specific constraints; and adding a new section on programmatic agreements between FHWA and State DOTs that allow State DOTs to apply FHWA CEs on FHWA's behalf, as described in section 1318 of the Moving Ahead for Progress in the 21st Century Act (MAP–21).

DATES: Effective on November 5, 2014.

FOR FURTHER INFORMATION CONTACT: For the FHWA: Owen Lindauer, Ph.D., Office of Project Delivery and Environmental Review (HEPE), (202) 366–2655, or Jomar Maldonado, Office of the Chief Counsel (HCC), (202) 366–1373, Federal Highway Administration,

1200 New Jersey Ave. SE., Washington, DC 20590–0001. For the FTA: Megan Blum, Office of Planning and Environment (TPE), (202) 366–0463, or Nancy-Ellen Zusman, Office of Chief Counsel (TCC), (312) 353–2577. Office hours are from 8:00 a.m. to 4:30 p.m. e.t., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

General Background

On July 6, 2012, President Obama signed into law MAP–21 (Pub. L. 112–141, 126 Stat. 405), which contains new requirements that the FHWA and the FTA, hereafter referred to as the ''Agencies,'' must meet related to the NEPA (42 U.S.C. 4321 et seq.). The Agencies' joint procedures at 23 CFR part 771 describe how the Agencies comply with NEPA and the Council on Environmental Quality (CEQ) regulations implementing NEPA; and include CEs that identify actions the Agencies have determined do not normally have the potential for significant environmental impacts and therefore do not require the preparation of an environmental assessment (EA) or environmental impact statement (EIS), pursuant to 40 CFR 1508.4. Section 771.117 establishes CEs for FHWA actions and § 771.118 establishes CEs for FTA actions. Sections 771.117(c) and 771.118(c) establish specific lists of categories of actions, or ''(c)-list'' CEs, that the Agencies have determined normally do not individually or cumulatively have a significant effect on the human environment and do not require an EA or EIS. Sections 771.117(d) and 771.118(d) list examples of actions that may be categorically excluded from further NEPA review but require additional documentation demonstrating that the specific criteria for a CE are satisfied and that no significant environmental impacts will result from the action. The list of examples of actions that may be excluded as ''(d)-list'' CEs is not exclusive and the authority may be used for actions that are not included in the list of examples. Additionally, §§ 771.117 and 771.118 include the requirement for considering unusual circumstances, which is how the Agencies consider extraordinary circumstances, in accordance with the CEQ regulations. The presence of ''unusual circumstances'' requires that the Agencies ''conduct appropriate environmental studies to determine if the CE classification is proper'' pursuant to §§ 771.117(b) or 771.118(b). The potential for unusual circumstances for a project does not automatically trigger an EA or EIS. The FTA requires Agency approval for all CEs. The FHWA requires detailed project-by-project review and approval only for (d)-list CEs.

Section 1318 of MAP–21 requires the Secretary of Transportation to: (1) survey and publish the results of the use of CEs for transportation projects since 2005 and solicit requests for new CEs; (2) publish a notice of proposed rulemaking (NPRM) to propose new CEs received by the Secretary to the extent that the CEs meet the criteria for a CE under 40 CFR 1508.4 and 23 CFR part 771; and (3) issue an NPRM to move three actions found in 23 CFR 771.117(d)(1) through (3) to paragraph (c) to the extent that such movement complies with the criteria for a CE under 40 CFR 1508.4. In addition, section 1318(d) directs the Secretary to seek opportunities to enter into programmatic agreements, including agreements that would allow a State to determine, on behalf of FHWA, whether a project is categorically excluded. The Agencies are carrying out this rulemaking on behalf of the Secretary.

This final rule contains a description of the notice of NPRM issued on September 19, 2013 (78 FR 57587), a summary of public comments received on that NPRM and responses to those comments, and a description of the final regulatory text at the end of this rule. Changes to the regulatory text not described in the summary and response to comments are described in the Section-by-Section Analysis. Following the Section-by-Section Analysis, this rule explains the various rulemaking requirements that apply and how they have been met.

Notice of Proposed Rulemaking

On September 19, 2013, the Agencies published an NPRM proposing amendments to 23 CFR 771.117 and 771.118 as mandated by sections 1318 of MAP–21. The Agencies proposed to: (1) add four new CEs for FHWA and five new CEs for FTA, (2) allow FHWA to process CEs in § 771.117(d)(1) through (3) as (c)-list CEs when the action meets specified constraints, and (3) add a new section allowing programmatic agreements between FHWA and State DOTs to permit State DOTs to apply FHWA CEs on the Agency's behalf. The NPRM sought comments on how the Agencies proposed to interpret and implement the provision.

The public comment period closed on November 18, 2013. The Agencies considered all comments received when developing this final rule.

Summary of and Responses to Comments

The Agencies received comments from a total of 30 entities, which included 12 State DOTs (Alaska, California, Colorado, Florida, Ohio, Oklahoma, Oregon, Pennsylvania, Texas, Virginia, Wyoming, and Washington), 6 transit and rail agencies (Los Angeles County Metropolitan Transportation Authority, Metropolitan Transportation Authority of New York, New Jersey Transit, San Francisco Bay Area Rapid Transit District, Southern California Regional Rail Authority, and Utah Transit Authority), 4 public interest groups (National Trust for Historic Preservation, Natural Resources Defense Council, Southern Environmental Law Center, and Transportation Transformation Group), 3 professional associations (American Association of State Highway and Transportation Officials, American Public Transportation Association, and American Road and Transportation Builders Association), 2 Federal agencies (U.S. Army Corps of Engineers and U.S. Department of the Interior), 1 Indian tribe (Osage Nation Historic Preservation Office), 1 regional transportation consortium (Alameda Corridor-East Construction Authority, Orange County Transportation Authority, San Bernardino Associated Governments, and Southern California Regional Rail Authority) and 1 anonymous comment. The majority of commenters suggested additional clarifications on the use of CEs, including expanding or limiting their scope. The comments submitted have been organized by theme or topic.

General

The FTA received 11 comments generally in support of the proposed rule change. Six of the comments provided overall support for all changes, while one comment specifically supported the new CEs added at § 771.118(c)(14), (15), and (16). Four comments supported the changes made to § 771.118(d), one of which offered additional supporting information.

The FHWA received two comments that supported the consideration of programmatic CE agreements in § 771.117(g). Two comments supported the statement in the preamble that early acquisitions of rights-of-way under Section 108(d) may be approved as (d) list CEs. One comment supported the six conditional constraints in 771.117(e) to condition the move of (d)-listed CE actions to the (c)-list. The FHWA reviewed 109 comments on the new CEs, including the former (d)-list CEs

moved to the (c)-list. Additionally, FHWA received 28 comments on programmatic agreements in § 771.117(g).

The FTA and FHWA appreciate the comments received on the proposed rule.

The FTA received a comment that suggested the numbering of the new CEs was incorrect. The numbering presented in the NPRM (i.e., the new CEs begin with § 771.118(c)(14)) is correct as FTA recently added two new CEs at § 771.118(12) and (13) through a separate rulemaking (see 79 FR 2107).

CE Development

Five State DOTs and two professional associations noted that only a handful of the new CEs proposed by transportation agencies were considered appropriate to include and additional effort should have been expended to identify more.

The Agencies are guided by their experience with CEs and considered the current administrative process for CE NEPA compliance. The Agencies also considered the survey results made public in the U.S. Department of Transportation National Environmental Policy Act Categorical Exclusion Survey Review (*http://www.fhwa.dot.gov/map21/reports/sec1318report.cfm*). The FHWA evaluated the results of the CE survey to determine which requested actions would be appropriate as CEs according to the criteria for a CE under 40 CFR 1508.4 and 23 CFR 771.117(a). The FHWA did not pursue requests for new CEs for actions that would duplicate already existing CEs, requests for new CEs that would not involve a FHWA action (e.g., projects ineligible for FHWA funding assistance), requests that would not meet the criteria for a CE under 40 CFR 1508.4 and 23 CFR 771.117(a), or requests for new CEs for actions that would not have independent utility. The FHWA also eliminated proposed new CEs that would be covered by a statutorily mandated CE rulemaking under other MAP–21 provisions (e.g., emergency actions (section 1315), operational right-of-way actions (section 1316), limited Federal assistance actions (section 1317), and the revision mandated by section 1318(c) for moving modernization of highways actions, highway safety actions, and bridge rehabilitation, reconstruction, or replacement actions from the (d)-list to the (c)-list)). The FHWA evaluated the remaining actions proposed as CEs to eliminate those that did not meet the 40 CFR 1508.4 definition and those that were so broad that they could include actions with significant environmental effects. The FHWA determined that 13 requests of a total of 86 were appropriate for consideration. These 13 requests were grouped into 5 CEs. Four of the five CEs could be substantiated as new CEs. No additional information was provided during the comment period to substantiate new CEs.

One professional association asked the Agencies to involve the regulated community as new CEs are developed. The commenter requested the Agencies to use stakeholder meetings as a forum to discuss the creation and implementation of CEs.

The Agencies have involved State DOTs, transit authorities, metropolitan planning organizations, and other governmental agencies in the development of the new CEs in this rule. For example, the Agencies' new CEs created in this final rule are a direct response to the requests received for new CEs under the section 1318(a) survey process. The Agencies also relied on the public notification and comment process required in the rulemaking process, 40 CFR 1507.3, and the CEQ's guidance ''Establishing, Applying, and Revising Categorical Exclusions under the National Environmental Policy Act'' (75 FR 75628). The Agencies will provide outreach and training to their stakeholders such as State DOTs and transit agencies to ensure the appropriate implementation of the CEs. The FHWA is not planning to provide training to the public but FTA will be hosting a public Webinar that focuses on FTA's portion of the rule.

Environmental Review Process Efficiency

Three State DOTs and one professional association expressed concern that the NPRM proposed little to help expedite project delivery and did not fully embrace flexibilities emphasized in MAP–21. Two State DOTs and one professional association indicated that the proposed rule was overly prescriptive and could limit States' flexibility. Two transit agencies and one professional association indicated that the rule will save time and costs and streamline the environmental review process. One State DOT and one professional association suggested re-writing the rule in a manner that is consistent with congressional intent to streamline process and reduce cost, and remove language that is not specifically required for compliance with the statute. One professional association stated that all newly created CEs must be implemented in a programmatic fashion, with no further agency review. A federally recognized Tribe indicated that a shortened review period for evaluation of highway projects may cause tribal governments hardship.

The Agencies have undertaken various initiatives that are consistent with the mandates in MAP–21 to expedite project delivery and reduce project costs. These include flexibilities developed through FHWA's Every Day Counts initiative (*http://www.fhwa.dot.gov/everydaycounts*), FHWA and State DOTs' revisions and refinements of programmatic CE (PCE) agreements to process projects qualifying for CEs, and FTA's creation of its list of CEs (78 FR 8964). The Agencies also revised their lists of CEs to include new CEs pursuant to MAP–21 Sections 1315 (78 FR 11593), 1316, and 1317 (79 FR 2107), which provide further flexibility to the environmental review process, expedite project delivery, and reduce project costs. This rulemaking continues the Agencies' implementation of the MAP–21 provisions to ensure efficient and effective planning. The Agencies have relied on their experience implementing NEPA for surface transportation projects and their experience in using tools to implement this review process efficiently (e.g., FHWA is relying on its 25-year experience of using PCE agreements as a tool to expedite the NEPA review processes (see FHWA's 1989 PCE Memorandum)). The Agencies determined that the language adopted in this final rule appropriately balanced the goal of providing flexibility and expeditious project delivery with the need to satisfy the Agencies' environmental review requirements and responsibilities. The Agencies must continue to meet their legal obligations for a project even if the project qualifies for a CE, which includes the Agencies' responsibilities to consult with Tribes.

The U.S. Army Corps of Engineers (USACE) noted that Nationwide Permit 23 (NWP 23)—the Clean Water Act (CWA) section 404 Nationwide Permit for actions that qualify for CEs approved by the USACE—is an example of efficient regulatory review consistent with the goals of MAP–21. The USACE noted that it had previously approved FHWA CEs for this purpose but has not approved the new FHWA CEs or any of the FTA's CEs for use with NWP 23. As a result, those FHWA CEs moved from the (d)-list to the (c)-list would continue to require submittal of a pre-construction notification. Lastly, USACE noted that if FTA would like their CEs to be covered under the permit, FTA would need to request USACE review and receive approval prior to using any of its CEs with NWP 23.

The Agencies agree that until the USACE approves the new CEs for use under NWP 23, the CEs could not be used to meet NWP 23 and a pre-construction notification would be needed. The FTA understands that its categorically excluded actions under § 771.118 are not currently covered under the USACE NWP 23. The FTA has formally requested that USACE review FTA's CEs in order to utilize NWP 23 and FTA will communicate with the USACE further concerning the application of NWP 23 to FTA actions.

Other Requirements

One federally recognized Tribe indicated that the exemption from further review and permit requirements for a project did not eliminate the need for establishing the area of potential effect for that project under section 106 of the National Historic Preservation Act (NHPA), particularly for projects in areas that have not been previously surveyed. The Tribe indicated that historic preservation requirements under section 106 of NHPA are considered satisfied if treatment has been agreed upon in a memorandum of agreement but there was no provision to ensure that federally recognized tribes are included in the development of the agreement. The Tribe commented that the new rulemaking may authorize a State to use State review and approval laws and procedures in lieu of Federal laws and regulations, which has the potential to significantly worsen consistency issues.

Requirements under other Federal and State laws and regulations still apply, such as the CWA, Clean Air Act, NHPA, General Bridge Act of 1946, and Endangered Species Act (ESA). In the case of projects affecting historic properties (which includes properties of religious and cultural significance for Tribes that are listed on or eligible for the National Register), the Agencies must follow the section 106 procedures outlined in 36 CFR part 800. This includes the initiation of the section 106 process (identifying the parties such as federally recognized Tribes), identification of historic properties (including defining the area of potential effect), evaluation of effects, and resolution of adverse effects. The final rule does not authorize a State to use or rely on State environmental review and approval laws in lieu of the Federal environmental requirements.

The U.S. Department of the Interior (DOI) indicated that it transfers surplus Federal lands and buildings to State and local agencies for parks and recreation use in perpetuity, and these transfers include deeds with perpetual use requirements and perpetual Federal agency oversight. The DOI expressed concern that with the rulemaking the States might overlook consultation with DOI in situations where property at issue was acquired through DOI and the deed contained perpetual use requirements.

The Agencies emphasize that the rule does not exempt a project that qualifies for a CE from compliance with all other requirements applicable to the action. The CE determination does not exempt a State from consultation requirements with the appropriate Federal land management agency if the project involves a property that has perpetual use requirements imposed by the Federal land management agency.

Documentation

Five State DOTs, one regional transportation consortium, one professional association, one Federal agency, and one public interest group requested clarification in the final rule of the documentation necessary to ensure that the criteria for the CEs are satisfied. One professional association expressed concern that additional documentation beyond a project description is unnecessary. Two State DOTs expressed the opinion that some aspects of the NPRM will actually increase CE analysis and documentation. Two public interest groups appreciated the Agencies' reassertion that application of the new CEs must still take into account unusual circumstances. One public interest group suggested that any reduction in the documentation requirements, as advocated by a number of the State DOTs, would increase the potential for inconsistent and erroneous application of the new CEs. The public interest group urged the Agencies to actively monitor and audit the use of the CEs for the first few years to evaluate whether additional guidance is necessary.

The final rule does not prescribe the specific amount of documentation needed to determine if a project qualifies for a CE or whether unusual circumstances exist such that additional environmental studies are needed to determine if the CE classification is proper. It is important to note that all projects that qualify for CE determinations require the consideration of unusual circumstances. Unusual circumstances include substantial controversy on environmental grounds or significant impacts on properties protected by section 4(f) of the Department of Transportation Act (23 U.S.C. 138 and 49 U.S.C. 303) or section 106 of the NHPA, or inconsistencies with any Federal, State, or local law, requirement or administrative determination relating to the environmental aspects of the action (23 CFR 771.117(b); 23 CFR 771.118(b)). This list of unusual circumstances is not all-inclusive and the finding that there are unusual circumstances will depend on the context of the project. For example, the presence of listed species or critical habitat designated under ESA within the project area could signal unusual circumstances that require the Agencies and the applicant to conduct appropriate studies to determine if the CE classification is proper. In the Federal endangered species, threatened species or critical habitat context, early coordination with the appropriate agency (U.S. Fish and Wildlife Service or National Marine Fisheries Service) and the results of the consultation process under section 7 of ESA would be critical in the final assessment of whether the CE classification is proper.

The amount of documentation needed for a project depends on the context in which the project takes place. Some actions may carry little risk of triggering unusual circumstances such that there is no practical need for or benefit from obtaining and preparing documentation other than the project's description. Other actions may have the potential to raise unusual circumstances or may raise questions about a potential CE determination due to their more environmentally invasive nature and would, therefore, warrant sufficient documentation (like information on studies, analyses, or surveys conducted) to prove that the CE classification is appropriate. The Agencies' regulations establish a presumption that the types of actions that qualify for a (c)-list CE typically do not require much more than the project description to make a determination that the CE covers the proposed project and that there are no unusual circumstances that require additional environmental studies to determine if the CE determination is proper. The presumption for actions that qualify for (d)-list CEs is that they require additional information to make an appropriate CE determination because they are types of actions that are more environmentally invasive and have a higher potential to trigger one or more unusual circumstances.

In section 1318(c) of MAP–21, Congress required the Agencies treat actions that the Agencies have determined have a higher potential of triggering unusual circumstances as actions that do not have that higher potential to the extent that such movement complies with the criteria for a CE under 40 CFR 1508.4. The final

rule reflects the Agencies' reconciliation of this requirement with their experience and the CEQ regulations. Specifically for FHWA, this reconciliation resulted in the creation of constraints that allow a subgroup of those actions to be treated as having a reduced risk of triggering unusual circumstances or challenges to the determination. Documentation and any review considerations would need to demonstrate that the constraints for the use of the CE (i.e., those in paragraph (e)) have been met. Documentation may consist of checklists or other simplified reviews that address how the project meets constraints listed in § 771.117(e).

The Agencies received an anonymous comment that suggested CEs should be made available to the public and CEQ if they contain mitigation measures or if there are unresolved issues. The anonymous commenter, cited a court case (*California v. Norton,* 311 F.3d 1162, 1176 (9th Cir. 2002)) that stated that it was ''difficult to determine if the application of an exclusion is arbitrary and capricious where there is no contemporaneous documentation to show that the agency considered the environmental consequences of its action and decided to apply a CE to the facts of a particular decision.'' The anonymous commenter also noted that the Agencies' regulations do not provide recommended courses of action, whether advanced as a categorical exclusion or a categorical exclusion created through imposition of a mitigation measure, for any proposal that involves unresolved conflicts concerning alternative uses of available resources (42 U.S.C. 4332(2)(E)).

The Agencies typically do not post CEs publicly as they issue a very large number each year and the process is designed to be expeditious and simple. In accordance with the CEQ NEPA implementing regulations, a categorical exclusion is a ''category of actions which do not individually or cumulatively have a significant effect on the human environment *and which have been found to have no such effect* in procedures adopted by a Federal agency . . .'' (*emphasis added*) (40 CFR 1508.4). The Agencies generally have to demonstrate that any proposed CE changes are supported by past Agency experience and do not result in significant environmental impacts; this is done by examining past environmental documents and practices. Actions that can be categorically excluded tend to be straightforward and supported by past Agency actions, so posting them publicly is not deemed appropriate. On occasion, CEs may be posted publicly, such as when there is high public interest in the action or there are substantial mitigation measures included pursuant to other environmental laws. In these cases, the FHWA Division Office or FTA Regional Office determines whether to post the CE, in coordination with the project sponsor/applicant. In addition, the Agencies may engage in public involvement for certain CEs if it is determined that it would be appropriate or needed for compliance with requirements other than NEPA. In response to the comment that the Agencies' regulations do not provide a recommended course of action when there are unresolved issues concerning alternative uses of available resources, the Agencies believe that the process for considering unusual circumstances would take these into account and provide opportunities to address them as needed. As noted above, and in §§ 771.117(b) and 771. 118(b), potential issues are addressed through the consideration of unusual circumstances, and in the cases of FHWA CEs a detailed project-by-project review, which involve conducting studies to determine whether a CE is appropriate.

The FTA received a comment that requested clarification on the documentation requirements for § 771.118(c) CEs and § 771.118(d) CEs. The commenter further suggested that the following language from the preamble of the NRPM be included in the regulatory text of the final rule: ''The project description [for a (c)-list CE] typically contains all of the information necessary to determine if the action fits the description of the CE and that no unusual circumstances exist that would require further environmental studies.''

The FTA does not believe clarifying documentation requirements for the (c)-list CEs (§ 771.118(c)) versus the (d)-list examples (§ 771.118(d)) in the regulatory text is necessary because it is more appropriate to provide clarity in FTA's ''Guidance for Implementation of FTA's Categorical Exclusions'' (23 CFR 771.118). In general, grant applicants should include sufficient information for FTA to make a CE determination. Generally, a description of the project in the grant application, as well as any maps or figures typically included with the application or as requested by the FTA Regional Office is sufficient for FTA. Submission of this information through the FTA grant application process or through other means does not mean an action that otherwise meets the conditions for a CE under § 771.118(c) needs to be converted to a § 771.118(d) action. Given the nature of the CEs listed under § 771.118(c), documentation demonstrating compliance with environmental requirements other than NEPA, such as section 106 of the NHPA, or section 7 of ESA, may be necessary for the processing of the grant. That supporting documentation can be included in FTA's grant management system or kept in the FTA Regional Office's project files, and applicants should consult with their FTA Regional Office to determine which is preferred. Other applicable environmental requirements must be met regardless of the applicability of the CE under NEPA, but compliance with and documentation of other environmental requirements do not necessarily elevate an action that otherwise is categorically excluded under § 771.118(c) to § 771.118(d).

Section 771.118(d), which is an open-ended categorical exclusion authority, lists example actions and requires documentation to verify the application of a CE is appropriate (i.e., the action meets the criteria established in § 771.118(a) and (b)).

Outreach for New Rule

Two professional associations recommended FHWA develop centralized training for CE determinations and processing or promote the new CEs that are now available. One of the professional associations suggested FHWA develop a centralized data base for guidance and frequently asked questions (FAQ) to increase consistency in the application of these new rules. The commenter urged that the new CEs be implemented in a uniform manner, without differences among offices. The commenter also opposed the issuance of regional guidance. One federally recognized Tribe commented that the new rulemaking has the potential to significantly worsen consistency issues. The FTA received three comments that provided suggestions how to best engage in outreach and communicate with the public on the new rule. The comments specifically suggested training for Federal staff and State DOTs and a centralized resource that includes guidance and FAQs.

The Agencies provide consistency through national training and guidance. The Agencies support the National Highway Institute and the National Transit Institute, which conduct NEPA courses across the nation for employees of the Agencies, State DOTs, transit agencies, consultants, and other Federal, State, and local entities involved in transportation NEPA processes. The Agencies and their training institute partners update the NEPA-related courses to address new regulations,

policy, and guidance, including those related to CEs, as needed. The Agencies also have guidance on their NEPA processes, including CEs and ensure that training is consistent with the latest procedures and guidance. The Agencies will provide information on the availability of the new CEs to their environmental and field staff. To keep the public informed, FTA will update its ''Guidance for Implementation of FTA's Categorical Exclusions'' (23 CFR 771.118) to reflect the new CEs and post it on FTA's public Web site (*www.fta.dot.gov /12347_15129.html*). The FTA also plans to hold a public Webinar to provide additional guidance on the CE changes. The FHWA will provide information about these CEs through its Division Offices, Resource Centers, and the Office of Project Development and Environmental Review, as necessary.

Agency Procedures

The Agencies received an anonymous comment suggesting that because the FHWA and FTA have their own missions, programs, and unique experiences, each agency should have its own separate NEPA procedures, not limited to just the CEs.

The Agencies are more similar than they are dissimilar with respect to the environmental review process and are therefore not pursuing separate procedures at this time. The Agencies have, however, separated their procedures where appropriate due to their individual programs. For example, each Agency has separate public involvement procedures identified in § 771.111 based on each Agency's experience.

Section 771.117(c)

Six State DOTs and one professional association asked FHWA to add or adopt the FTA CEs for bridge removal and for preventative maintenance because those CEs would be beneficial to provide coverage for bridge removal projects in situations where the bridge replacement CE does not apply. Four of the State DOTs and the professional association suggested that bridge removal activities do not depend on whether they are being carried out as part of a highway project or a transit project. Four State DOTs and one professional association said that it would be beneficial to provide a CE specifically for preventative maintenance activities in culverts and channels because it would eliminate uncertainty about whether these types of activities are covered by other CEs. One State DOT expressed concern with a FHWA bridge removal CE due to the amount of impacts that could occur in a typically sensitive habitat area. This same commenter asked whether a road realignment would be covered under the bridge removal CE if the removal requires a road realignment to the new bridge or whether the bridge construction CE would cover this action. One State DOT indicated that it has a PCE agreement that identifies bridge removal as a CE action.

The FHWA carefully considered whether to propose new CEs for bridge removal and for preventative maintenance activities and decided against it at this time. The FHWA was not able to identify projects that were limited to the act of removing the bridge with no additional action being taken (e.g., construction of a new water crossing). One possible scenario could be the removal of a bridge for safety purposes, but this action would qualify for the new CE in paragraph (c)(27) (highway safety or traffic operation improvements) if the constraints can be met, or the CE under paragraph (d)(13) if the constraints cannot be met.

The FHWA does not believe that a preventative maintenance CE is needed at this time. In FHWA's experience preventative maintenance actions typically take place within the operational right-of-way and would qualify for the recently created CE under existing paragraph (c)(22) (79 FR 2107).

Two State DOTs, one transit agency, and one professional association urged FHWA to move expeditiously to adopt a CE that specifically covers early right-of-way acquisitions under 23 U.S.C. 108(d), in order to clarify that these types of activities, like hardship and protective acquisitions (23 CFR 771.117(d)(12)), are covered by a CE. The professional association commented that the mere acquisition of property does not impact the environment.

The FHWA elected not to propose the requested CE because the Agency has not completed procedures to implement the amendments to 23 U.S.C. 108 introduced by section 1302 of MAP–21. Early acquisition projects for hardship and protective purposes that meet the statutory conditions in 23 U.S.C. 108(d) may be processed as CEs under § 771.117(d)(12), so long as no unusual circumstances exist that would lead FHWA to require the preparation of an EA or EIS. Early acquisition projects, depending on total estimated cost, also may meet the conditions specified by the CE for actions receiving limited Federal assistance in § 771.117(c)(23).

Sections 771.117(c)(24) and 771.118(c)(16)

Three State DOTs, one transit agency, one professional association, and one public interest group supported the addition of the new CE in § 771.117(c)(24) for geotechnical studies and investigations for preliminary design. Three State DOTs and one professional association commented that this new CE could cause confusion by implying that these activities would trigger NEPA when there is no Federal action involved. Four State DOTs questioned the need for the CE because it implies that two NEPA approvals are needed (one for the preliminary investigation and one for the project itself) increasing documentation requirements and requiring reviewers to engage in environmental review for activities typically associated with the review itself. Some of the comments also applied to the FTA CE proposed for § 771.118(c)(16).

The Agencies' intent is to create new CEs for geotechnical and other investigations for preliminary design that involve ground disturbance. This can occur, for example, when these investigations or studies are undertaken to determine the suitability of a location for a project but the project itself is not ripe for analysis. The CEs apply when there is a Federal action involved, such as when FHWA undertakes the investigations (Federal Lands Highway programs) or when Federal-aid is used for these preliminary study actions. It is not intended to federalize actions taken by the applicants in furtherance of their applications without the use of Federal funds (see 40 CFR 1506.1(d) stating that the procedural requirements in NEPA are not intended to preclude the development by applicants of plans, designs, or performance of other work necessary to support an application for Federal, State, or local permits or assistance).

Two State DOTs asked for clarification on the breadth of the new CEs in §§ 771.117(c)(24) and 771.118(c)(16). One of the State DOTs requested the inclusion of paleontological studies as one of the activities covered by the CEs. Another State DOT asked the Agencies to limit the use of the CEs to stand-alone surveys that involve ground disturbing activities only or specify that the CEs are not needed if the area has no previously identified archeological resources. The State DOT also requested the Agencies to establish a scale to the CEs so that they apply for more than a few hand-dug shovel probes.

The CEs cover geotechnical and other investigations for preliminary design that involve ground disturbance. The actions listed in the NPRM for these CEs were examples and are not an inclusive list. Paleontological studies would be covered by the CEs. The Agencies decided not to establish a scale for the CEs' applicability to provide for maximum flexibility for their use.

Three State DOTs and one professional association requested the Agencies to allow the use of the CE in § 771.117(c)(24) for all activities associated with preliminary investigations of a project instead of requiring the application of the CE for each individual investigation required for the project.

The Agencies believe that the CE in § 771.117(c)(24), as well as the CE in § 771.118(c)(16), should be used for all activities associated with preliminary investigation that involve ground disturbance when there is a Federal action involved such as when FHWA undertakes the investigations (Federal Lands Highway programs) or when Federal-aid is used for these preliminary study actions.

Section 771.117(c)(25)

Three State DOTs, two public interest groups, and one transit agency expressed support for the new CE in § 771.117(c)(25) for environmental restoration and pollution abatement actions. One State DOT indicated that it interprets this CE as covering projects that exclusively install, repair, or replace culverts designed to allow fish passage. One State DOT requested the addition of ''overall watershed management'' to the language of the CE. One Federal agency asked that the constraint found in § 771.117(e)(3) be applied to this proposed CE. One State DOT commented that it would gain little value from the CE because it normally designs projects to minimize and/or mitigate impacts to waterways and ecosystems.

The new CE in § 771.117(c)(25) is intended to cover actions that involve returning a habitat, ecosystem, or landscape to a productive condition that supports natural ecological functions. Restoration actions serve to re-establish the basic structure and function associated with natural, productive conditions. This may include culverts designed for fish passage. The CE in § 771.117(c)(25) also covers both pollution abatement practices and control measures designed to retrofit existing facilities or minimize stormwater quality impacts from highway projects and watershed management actions that fit these groups and are eligible for Federal-aid highways. The actions listed in the NPRM for this CE were examples and are not an inclusive list. The FHWA does not believe that the CE needs a restriction similar to § 771.117(e)(3) because in the FHWA's experience the typical highway actions associated with this CE do not result in adverse effects to historic properties, a use of a section 4(f) property other than a *de minimis* impact, or a finding that the action is likely to adversely affect a threatened or endangered species or critical habitat. The FHWA notes that this CE requires an evaluation of unusual circumstances, just as for any CE, and this evaluation would capture situations where an activity that otherwise qualifies for § 771.117(c)(25) could result in adverse effects to historic properties or threatened and endangered species or critical habitat, or the use of section 4(f) properties that are not *de minimis.*

Section 771.117(c)(26)

Three State DOTs and one professional association suggested that the CE in § 771.117(c)(26) be divided into two parts: one for highway resurfacing, restoration, rehabilitation, and reconstruction (4R) projects without the constraints applied, and the other for all other projects with constraints applied. The commenters indicated that 4R projects often have no environmental impacts or have *de minimis* impacts because the projects do not expand the footprint of the travel surface. Two public interest groups opposed the shift of this CE from the (d)-list to the (c)-list even with the constraints proposed because: (1) This CE requires a case-by-case analysis to take into account the surrounding environment and particular context; (2) the constraints miss other environmental resources; and (3) adding more constraints would confuse the purpose of the (c)-list. Another public interest group urged the DOT to conclude that the wholesale transfer is simply not consistent with CEQ regulations at 40 CFR 1508.4. One State DOT suggested that § 771.117(c)(26) actions should accommodate adding capacity to a highway as long as the project disturbance ''widens less than a single lane width.'' Another State DOT asked that the term ''passing lanes'' be included in § 771.117(c)(26) to clarify that the construction of intermittent passing lanes is an activity that FHWA has historically approved as a § 771.117(d)(1) CE. One State DOT pointed out that the activities most likely to have the potential for significant impacts are the addition of shoulders and auxiliary lanes. A public interest group sought clarification on whether the term reconstruction included adding additional capacity or whether it simply meant reconstruction of an existing facility. The commenter recommended that only reconstruction that did not add capacity be moved to the (c)-list CE list.

The FHWA agrees with the commenters that a wholesale transfer without qualifications would be inconsistent with 40 CFR 1508.4. However, FHWA found that, based on its experience, a transfer with qualifications (i.e., the constraints in paragraph (e)) would be consistent with 40 CFR 1508.4. (See NPRM preamble, 47 FR 57587, 57590–91). The FHWA's proposed approach to moving the first three actions on the (d)-list to the (c)-list preserves the original (d)-listed CE actions through § 771.117(d)(13) and acknowledges that the actions in § 771.117(c)(26), (27), and (28) are identical except that those actions processed under § 771.117(d)(13) do not meet the constraints in § 771.117(e). The FHWA believes this approach meets the statutory requirements for the move and will result in greater consistency in application and fewer errors than further dividing the actions. Highway modernization actions, § 771.117(c)(26), would not include actions that add capacity because in FHWA's experience such actions require a review of the context in which the project takes place, which means a detailed project-by-project review. The addition of auxiliary lanes such as climbing, turning, passing lanes, and other purposes supplementary to through-traffic movement (see definition in *http://www.ops.fhwa.dot.gov/freewaymgmt/hovguidance/glossary.htm*) rather than adding capacity, serves primarily to increase safety, which could qualify for CE in § 771.117(c)(27) for safety projects. The FHWA notes that some actions formerly processed under § 771.117(d)(1), (2), and (3) may also qualify for the recently created CE in § 771.117(c)(22) (if they are limited to the existing operational right-of-way), or § 771.117(c)(23) (if the total costs and Federal investments in the project meet the criteria for that CE).

Section 771.117(c)(27)

Two public interest groups opposed the shift of the new CE in § 771.117(c)(27) for highway safety projects from the (d)-list to the (c)-list even with the constraints proposed because (1) the CE requires a case-by-case analysis to take into account the surrounding environment and particular context, (2) the constraints miss other environmental resources, and (3) adding more constraints would confuse the

purpose of the (c)-list. Another public interest group urged the Department of Transportation to conclude that the wholesale transfer is simply not consistent with CEQ regulations at 40 CFR 1508.4.

The FHWA's proposed approach to moving the first three actions on the (d)-list to the (c)-list preserves the original (d)-listed actions in § 771.117(d)(13) and acknowledges that the actions in section 771.117(c)(26), (27), and (28) are identical except that those actions processed under § 771.117(d)(13) do not meet the constraints in the new § 771.117(e). The FHWA believes this approach meets the statutory requirements for the move and will result in greater consistency in application and fewer errors than further dividing the actions. The constraints in § 771.117(e) are intended to take into account considerations with regards to the surrounding environment and particular context that would necessitate additional documentation and oversight or approval by FHWA. The FHWA did not intend to cover all potential scenarios and issues that could raise these concerns, rather the decision to limit the constraints to those resource areas addressed was based on FHWA past experience in implementing these types of projects and the areas of concern that most frequently come up with these types of projects.

Section 771.117(c)(28)

Two public interest groups opposed the shift of the new CE in § 771.117(c)(28) for bridge rehabilitation, reconstruction, and replacement activities from the (d)-list to the (c)-list even with the constraints proposed because: (1) The CE requires a case-by-case analysis to take into account the surrounding environment and particular context; (2) the constraints miss other environmental resources; and (3) adding more constraints would confuse the purpose of the (c)-list. One public interest group indicated that, in the absence of adequate constraints or conditions, these projects could include destruction and replacement of historic bridges, or the construction of massive new elevated bridge structures for grade-separated railroad crossings within historic districts. The commenter indicated that strong safeguards are needed to ensure that these CEs are not applied when the projects involve potentially significant impacts. The commenter also suggested that a more refined approach of separating out the activities that are truly unlikely to cause any sort of significant impact, such as a bridge rehabilitation and repair projects, and shifting those to the (c)-list and keeping in the (d)-list the more destructive projects like those that would require destroying an existing bridge structure or constructing a new one where none currently exists. One State DOT requested the addition of a qualification to cover ''design modification to meet current design standards.''

The FHWA believes this approach meets the statutory requirements for the move and will result in greater consistency in application and fewer errors than further dividing the actions. The constraints in § 771.117(e) are intended to take into account those considerations with regards to the surrounding environment and particular context that experience has shown necessitate additional documentation and oversight or approval by FHWA. The FHWA did not intend to cover all potential scenarios and issues that could raise these concerns, rather the decision to limit the constraints to those resource areas addressed was based on FHWA past experience in implementing these types of projects and the areas of concern that most frequently come up with these types of projects. In addition to these constraints, the CE for bridge-related actions is subject to an evaluation of unusual circumstances that would take into account the potential for the action to result in significant environmental impacts. The FHWA considered the refined approach of segregating the activities covered in the CEs as suggested by the public interest group and decided against it because in the Agency's experience all activities mentioned can be classified as a CE as long as the constraints in § 771.117(e) are met. Removing and disposing of a bridge or the construction of a new bridge at a new location (to replace an old bridge) would not typically result in significant impacts and there would not be a need for additional documentation and project-by-project approval by FHWA for the CE determination if the constraints are met. Finally, the FHWA notes that a rehabilitation, reconstruction, or replacement of a bridge would take into account current codes and design standards. However, the FHWA recognizes there may be situations where the modification of the bridge to accommodate current codes and design standards could result the failure to meet a constraint under § 771.117(e). In these situations other CEs may be available for the project, such as the new CE in § 771.117(d)(13).

Section 771.117(c)(29)

Two State DOTs, one public interest group, and one transit agency supported the addition of the new CE in § 771.117(c)(29) (ferry vessels).

The Agencies will adopt this CE as proposed.

Section 771.117(c)(30)

Two State DOTs, one public interest group, and one transit agency supported the addition of the new CE in § 771.117(c)(30) for rehabilitation or reconstruction of ferry facilities. One State DOT asked that the phrase ''substantial increase in users'' be replaced with ''substantial increase in that facility's capacity'' as a constraint for the ferry facilities rehabilitation and reconstruction. The State DOT indicated that the constraint that facilities ''do not result in a substantial increase in users'' would be difficult to predict because of year-to-year fluctuation in ferry users. In the State DOT's experience it is nearly impossible to predict whether a particular ferry terminal project will result in an increase in users. The State DOT indicated that the term ''users'' is imprecise and can be interpreted in many ways. The commenter suggests using a more precise phrase, such as ''substantial increase in that facility's capacity.''

The FHWA agrees with the commenter stating that an increase of users is not as accurate as capacity to apply in the rehabilitation or reconstruction of existing ferry facilities CE. The intent of this constraint in applying this CE is to ensure that project impacts undergo an appropriate level of review and capacity reflects this distinction better than users. The FHWA considered this comment and modified the constraint to state: ''does not result in a substantial increase in the existing facility's capacity.''

Section 771.117(d)

Three State DOTs and one professional association supported the retention of the three (d)-listed CEs in the proposed rule as possible documented CE actions to retain flexibility.

The FHWA will retain all of the actions formerly listed in § 771.117(d)(1), (2), and (3) via paragraph (d)(13). This will provide notice that such actions may be processed as (d)-list CEs if any of the constraints in § 771.117(e) cannot be met for those actions, and it is determined with additional documentation that a CE classification is proper. It is also possible for those actions to be processed under

§ 771.117(c)(22) (if the actions are confined to the existing operational right-of-way) or § 771.117(c)(23) (if the action meets the funding conditions specified in that CE).

Section 771.117(e)

Constraints Applicability

Five State DOTs and one professional association commented that the constraints for the three moved (d)-list CEs were unnecessary and would preclude the use of CEs for projects with minor impacts. Two State DOTs and one professional association expressed concern with the constraints because they reflect a one-size-fits-all approach: all States would be subject to the same list of constraints, regardless of the unique circumstances in each State. These same commenters proposed that FHWA could alternatively issue guidance for determining whether additional documentation needs to be prepared to assess the potential for ''unusual circumstances.'' This approach would build on the existing requirement in 23 CFR 771.117(b), which requires ''appropriate environmental studies to determine if the CE classification is proper'' for any action that ''could involve unusual circumstances.'' Two State DOT commenters stated that moving the first three actions from the (d)-list to the (c)-list need not include the six constraints because of consideration of extraordinary circumstances was sufficient. One public interest group agreed with the Agencies that an ''unconditional'' move to the (c)-list was not warranted and that it supported, at the very least, the six ''constraints'' that were proposed for the move. One Federal agency supported the Agencies' efforts to condition the move of the three (d)-list CEs to the (c)-list and indicated that in their experience these types of projects could have greater than minimal impacts on aquatic resources.

The FHWA believes the final regulation strikes a reasonable balance between taking into account the environmental context in which a project takes place with reducing documentation and promoting administrative expediency. The list of constraints was derived from a list originally established in a 1989 FHWA memorandum (FHWA Memorandum—Categorical Exclusion (CE) Documentation and Approval, Mar. 30, 1989, *http://environment.fhwa.dot.gov/projdev/docuceda.asp*) (hereinafter FHWA's 1989 PCE Memorandum) on how to develop PCE agreements and refined based on the Agency's experience with these programmatic approaches. The FHWA's experience with State DOTs that use PCE agreements indicates that these constraints are appropriate for determining when a CE determination may be processed without project-by-project review by FHWA. The constraints for § 771.117(c)(26), (27), and (28) help to focus attention on projects with particular environmental concerns while speeding the approval of projects with minor or trivial environmental impacts.

The constraints in § 771.117(e) are different than the unusual circumstances specified in § 771.117(b). Per § 771.117(b), ''any action which normally would be classified as a CE but could involve unusual circumstances will require the FHWA, in cooperation with the applicant, to conduct appropriate environmental studies to determine if the CE classification is proper.'' This means that when unusual circumstances may be present, documentation is expected to demonstrate there are no unusual circumstances that warrant a higher level of NEPA review even when the project does not require detailed documentation and Agency review. However, the potential for unusual circumstances for a project does not automatically trigger an EA or EIS. The constraints are not another articulation of the unusual circumstances; rather they are conditions that, if followed, would eliminate the need for detailed project-by-project review from FHWA. Failure to meet one or more of the constraints would mean that the project could not be processed with a (c)-list CE. The action may be approved as a (d)-list CE after detailed review of the project and appropriate documentation. However, failure to meet one or more of the constraints does not mean that the project has unusual circumstances that warrant the start of an EA or EIS process. The FHWA defined all the constraints in § 771.117(e) in such a way that it is possible to assess whether the constraints can be met by considering the available information about a project's context and location. Preferably, available information could be assessed through a review of existing maps and databases without having to conduct field reviews or studies. For many CE actions, it should be similarly possible to consider unusual circumstances by reviewing maps and databases, but some projects may require field review or environmental analysis.

Two public interest groups indicated that the decision to place conditions on the transfer of the CEs was appropriate but insufficient to properly protect environmental resources and to fully account for the nature of the (c)-list. The commenters indicated that the six constraints provided safeguards for impacts to species, wetlands, floodplains, historic places, and resources protected by section 4(f), but not others such as impacts to streams, air quality, non-endangered or threatened species, and light and noise pollution. The commenters and one other public interest group urged the DOT to conclude that the wholesale transfer to the (c)-list CEs from the (d)-list was simply not consistent with the CEQ regulations (40 CFR 1508.4), and therefore should be rejected. One of the public interest groups commented that the transfer of these three categories of actions to the (c)-list with the proposed six constraints would undoubtedly lead to violations of 40 CFR 1508.4, as projects with significant impacts would be processed as a CE without any analysis. The commenter also stated that to safeguard against this concern, additional constraints would need to be placed in § 771.117(e) to ensure that environmental resources will be sufficiently protected, but this would confuse the purpose of the (c)-list, which has in the past been purely a list of activities that do not require case-by-case review. One State DOT suggested that these constraints ''encourage minimizing certain environmental impacts'' rather than avoiding detailed project-by-project FHWA review.

The FHWA believes the constraints listed in § 771.117(e) are appropriate for ensuring consideration of certain impacts occurs given a project's context and location. The FHWA's experience with the three (d)-list CE actions is very broad and includes projects that involve potentially significant effects. The FHWA's experience with State DOTs that use PCE agreements indicates that these constraints are appropriate for determining when a CE determination may be processed without detailed project-by-project review by FHWA. The FHWA disagrees that the six constraints are insufficient to appropriately consider project impacts for purposes of (c)-list classification. The constraints in § 771.117(e) are intended to take into account considerations with regards to the surrounding environment and particular context that would otherwise necessitate additional documentation and detailed project-by-project review by FHWA. The FHWA did not intend to cover all potential scenarios and issues that could raise these concerns; the decision to limit the constraints to the listed resource areas was based on FHWA past experience in implementing

these types of projects and the areas of concern frequently associated with these types of projects. Although no FHWA regulatory requirements apply for controlling light pollution, such impacts would be considered, if applicable, in the evaluation of unusual circumstances. For example, artificial illumination of the night sky by a project in a context where darkness is necessary (such as where there is an observatory) would trigger a consideration of light pollution as an unusual circumstance.

Constraints' Purpose

Two State DOTs requested more explanation on the purpose of the constraints for actions listed in § 771.117(c)(26), (27), and (28). They asked whether the constraints were motivated to ensure that regulatory obligations were met (for example, section 404 of the CWA or section 106 of the NHPA compliance) rather than ensuring that project classification (significance of impacts) is correct and whether a project that does not meet the constraints could be processed as a CE, although it would be subject to a higher level of review. They noted that as long as all appropriate permits are obtained, and impacts are not found to be significant, then there is no need for this constraint.

The FHWA list of constraints to actions listed in § 771.117(c)(26), (27), and (28) is meant to distinguish actions that normally would require a higher level of documentation and detailed project-by-project review by FHWA through a (d)-list CE compared to actions that should be processed as (c)-listed CEs. Some of the constraints exclude projects from a (c)-list CE for FHWA when they trigger a permit because the information needed for the permit requires additional environmental studies, documentation, and review. Such studies, review, and documentation are expected for FHWA (d)-list CEs to assist in the detailed project-by-project review. The constraints in § 771.117(e) were based on FHWA past experience in implementing these types of projects and the areas of concern frequently associated with these types of projects. Projects that satisfy all constraints may be processed as (c)-list CEs. If one or more of the constraints cannot be met, the action could still be processed as a (d)-list CE under § 771.117(d)(13).

Section 771.117(e)

Two State DOTs and one professional association remarked that some of the constraints involve subjective determinations (e.g., ''more than a minor amount of right-of-way'' and ''major traffic disruptions or substantial environmental impacts''). One State DOT and one professional association remarked on the level of specificity of the constraints. Another State DOT suggested that FHWA should establish standard definitions, such as for a minor amount of right-of-way, for use by Division Offices and States for greater consistency of application. In contrast, one professional association recommended clarifying in the final rule that Division Offices and States may adopt specific thresholds for determining whether an action meets these criteria. Adopting specific thresholds, on a State-by-State basis, the commenter indicates, will help to simplify the process for determining that the criteria are met.

The list of constraints was derived from a list originally established in the FHWA's 1989 PCE Memorandum. This list has been refined by experience over time and in most State DOTs' PCE agreements with FHWA. The FHWA recognizes for three of the constraints that each State's unique environmental context should be considered in determining whether an action meets these criteria. For constraints in § 771.117(e)(1), (4), and (5), State DOTs and Division Offices may adopt specific thresholds for determining what is more than a minor amount of right-of-way (§ 771.117(e)(1)), what defines major traffic disruption or substantial environmental impacts from an existing road, bridge, or ramp closure or the construction of a temporary access (§ 771.117(e)(4)), and how to distinguish changes in access control that deserve further evaluation from ones that do not (§ 771.117(e)(5)), as appropriate.

Section 771.117(e)(1) Right-of-way

The FHWA has substituted the term ''non-residential'' for ''commercial'' in this constraint to be consistent with terminology in the Uniform Relocation Assistance and Real Property Acquisition for Federal and Federally-assisted Programs regulations (49 CFR part 24). Any displacement of persons within the meaning of the Uniform Act must be taken into account in determining whether the action meets the constraint. The text now reads ''[a]n acquisition of more than a minor amount of right-of-way or that would result in any residential or non-residential displacement.''

Section 771.117(e)(2) Permits

One State DOT recommended that flexibility be provided with the constraint in § 771.117(e)(2) for a situation where a State DOT and FHWA Division Office enter into an agreement with the U.S. Coast Guard (USCG) and/or USACE that programmatically merges their respective permitting processes with actions on the (c)-list. Another State DOT suggested that the constraint in subparagraph (e)(2) is tied to regulatory compliance with other laws and would be satisfied independent of the CE classification and indicates it is unnecessary. Another State DOT said that forcing a State DOT to come up with documentation and a review process for each project that requires a CWA section 404 permit is burdensome and time consuming.

Sufficient information about a project's proposed scope, location, and context should be available during planning and initial project scoping to indicate whether an individual section 404 permit by the USACE or a USCG permit would be needed. It is not necessary to fully develop information or documentation for such permits to determine whether this condition is met. An FHWA detailed project-by-project review is needed if, based on preliminary project information, a CWA section 404 individual permit is likely going to be required. If agencies can collaborate to develop programmatic approaches that more efficiently satisfy the requirements instead of completing individual permits, such approaches should also satisfy this constraint.

The USACE stated that correlating the use of the three (c)-list CEs with activities that would generally comply with the terms and conditions of a nationwide or regional general permit (i.e., paragraph (e)(2)) would indirectly encourage transportation agencies to minimize impacts to aquatic resources while protecting the integrity of the CE). The USACE was supportive of the message that USACE would make the ultimate determination whether an action complies with the terms and conditions of a nationwide or regional general permit, as well as the appropriate NEPA class of action to qualify for NWP 23. The USACE suggested that the final rule recommend transportation agencies contact them when conducting re-evaluations or providing supplemental documentation in support of review under a (d)-list CE to properly address those issues which triggered an Individual Permit review process.

The FHWA concurs with the USACE that correlating the use of the CEs with activities that comply with the terms and conditions of a nationwide or regional general permit would encourage transportation agencies to minimize impacts to aquatic resources. The USACE is in the best position to

make the final determination that an activity qualifies for a nationwide or regional general permit. Section 771.129(c) (re-evaluations) would apply when an action affecting waters of the U.S. is initially determined to qualify for a CE under § 771.117(c)(26), (c)(27), or (c)(28) but later is determined not to qualify for verification under a nationwide or regional general permit. Although the action may no longer qualify for the (c)-list CEs, it may qualify for a (d)-list CE (such as a CE under § 771.117(d)(13)). In engaging in the re-evaluation process under § 771.129(c), transportation agencies should communicate with the USACE to properly address those issues which triggered a section 404 Individual Permit review process.

Section 771.117(e)(3) ESA, Section 106, Section 4(f)

One State DOT suggested providing additional flexibility to satisfy the constraint in § 771.117(e)(3) by allowing for ''programmatic'' agreements to address section 4(f), Land and Water Conservation Fund section 6(f), NHPA section 106, and the ESA. Another State DOT suggested that this constraint is tied to regulatory compliance of other laws and would be satisfied independently of the CE classification, making it unnecessary. A Federal agency asked that this constraint include compliance with the Bald and Golden Eagle Protection Act (BGEPA) and the Migratory Bird Treaty Act (MBTA).

Section 4(f) programmatic evaluations include an alternatives analysis to avoid the use of a section 4(f) resource, which necessitates additional documentation and an FHWA finding, and often requires a detailed FHWA review. The FHWA has limited experience with programmatic agreements under section 6(f) of the Land and Water Conservation Fund Act and as a result, the FHWA decided not to develop a constraint around that threshold at this time. Programmatic approaches for section 106 of NHPA and section 7 of ESA may be considered in the evaluation of the constraints as long as the programmatic approaches meet the specified constraint thresholds. An example is when a State DOT relies on an existing section 106 programmatic agreement that establishes conditions to prevent an undertaking from resulting in adverse effects to historic properties. The State DOT may not rely on a section 106 programmatic agreement that establishes treatment measures for adverse effects. Another example would be reliance on a programmatic approach under section 7 of the ESA that would allow projects to be determined to ''not likely to adversely affect'' threatened or endangered species or critical habitat. The FHWA considered the request to include compliance with other wildlife laws, such as the BGEPA and MBTA, and decided that consideration of the ESA was adequate based on past experience with PCE agreements. A factor in making this determination was that the BGEPA and MBTA do not have similar review thresholds as ESA (i.e., ''no effect,'' ''may affect/not likely to adversely affect,'' or ''may affect/likely to adversely affect''). All other requirements applicable to the activity under other Federal and State statutes and regulations still apply regardless of the § 771.117(e) constraints, and must be met before the action proceeds, regardless of the availability of a CE for the transportation project under part 771.

Section 771.117(e)(4) Traffic Disruption

One State DOT asked for clarification of the word ''substantial'' in the § 771.117(e)(4) constraint especially as it relates to the overall improvements that the project would allow and as those impacts are mitigated during construction (such as providing public information that would help mitigate traffic disruption during construction). One State DOT noted that the constraint meant that the action could not be processed as a CE if road closures or the construction of temporary access to existing roads would result in major traffic disruptions. The commenter indicated that this would severely limit the application of these CEs, especially in heavily urbanized areas where traffic congestion is usually high and the transportation improvement project is more than likely needed to relieve existing congestion. The commenter disagreed that temporary access could result in major traffic disruptions. The commenter indicated that the construction of temporary access is typically used to provide temporary relief from traffic disruptions and are temporary in nature; therefore, it should not be equated with road closures or considered an exception to the use of a CE. Another commenter stated that this constraint was unnecessary as traffic disruption would be considered as part of unusual circumstances.

In FHWA's experience, temporary road, bridge, detour, or ramp closures deserve a higher level of scrutiny and detailed project-by-project review because they are the types of activities that have merited additional review given their potential to have substantial adverse impacts. The FHWA sees the value in allowing Division Offices and State DOTs to adopt specific criteria for the ''substantial'' threshold. The FHWA has revised the constraint to focus on the activity involved (i.e., the closure or construction) and further change is not warranted. This constraint would not automatically eliminate the use of the (d)-list CE.

Section 771.117(e)(5) Access Control

Two State DOTs and one professional association recommended revising the constraint in § 771.117(e)(5) to be limited to changes in access control ''that raise major concerns regarding environmental effects.'' They also asked that the final rule clarify that the Division Office and State DOTs can adopt specific criteria for determining if this constraint is met. Two State DOTs asked that the constraint for changes in access control mirror the language in § 771.117(e)(1) so it would read ''more than minor changes in access control.'' One State DOT and one professional association suggested that some access changes were sufficiently ''minor'' (e.g., closing just one access) to allow a project to be processed as a (c)-list CE. Some examples include the installation of medians or a C-curb break in access control for maintenance or emergency access, minimal alterations, or adjustments to driveways. One State DOT asked that the constraint be clarified to say the changes in access control would need to affect traffic patterns for more documentation to be required.

Changing the text of the constraint to ''more than minor changes in access control'' or ''that raise major concerns regarding environmental effects'' would put this language at odds with the (d)-list CE for approvals of changes in access control (§ 771.117(d)(7)), which FHWA is not modifying at this time. The FHWA recognizes that some changes may raise minor concerns and result in no significant environmental impacts or no safety and operational performance issues, while others may raise concerns regarding their environmental effects and deserve a careful consideration of their safety and operational performance through further evaluation, but these decisions depend on the environmental context and regulatory framework of each State. The FHWA sees the value in allowing FHWA Division Offices and States to adopt specific criteria for the ''change in access control'' threshold. In establishing this threshold, State DOTs and FHWA Division Offices would focus on their experience with changes and access control and the range of impacts that result from the various changes in access that may occur in the

State. The State DOTs and FHWA Division Offices would establish, through a PCE agreement or other formalized programmatic agreement, which of those require detailed project-by-project review.

Section 771.117(e)(6) Floodplains and Wild and Scenic Rivers

Two State DOTs asked that the constraint in § 771.117(e)(6) regarding floodplains and wild and scenic rivers be removed because it may limit enhancement actions, or that it be revised to allow for some actions within the floodway. Two other State DOTs recommended revising this constraint to refer to projects with floodplain encroachment ''that adversely affect the function of the floodplain.'' One State DOT and one professional association asked that the final rule clarify that the State DOTs and Division Offices may adopt specific criteria for determining if this constraint is met. One State DOT suggested the constraint be limited to a floodplain encroachment that requires a ''Letter of Map Revision'' which they believe is alluded to in the discussion, but not in the proposed regulatory language. Another State DOT asked that FHWA consider replacing the text with a restriction against projects that ''result in an increase in the designated regulatory floodway, or may result in an increase of more than 1 foot of surface water elevation in the base floodplain when no regulatory floodway is designated, or may increase the risk of damage to property and loss of human life, or may result in modification of a watercourse.'' One State DOT suggested that the constraint be limited to ''a significant floodplain encroachment'' because if a simple auxiliary lane project pushes the roadway shoulder 1 foot into the floodplain for even just a few feet, the project could not be processed as a (c)-list CE. One State DOT indicated that floodplain encroachments and involvement of a wild and scenic river entail separate processing requirements, regardless of a CE class of action and therefore did not think this constraint was necessary.

The FHWA believes the § 771.117(e)(6) constraint is necessary to assess the level of documentation detail necessary for a CE classification when a project involves a floodplain encroachment or a wild and scenic river. After considering the suggestions from commenters on how to revise this constraint, the FHWA decided to retain the constraint language as proposed in the NPRM. A floodplain encroachment would trigger consideration of practicable alternatives under Executive Order 11988 and the FHWA implementing regulations at 23 CFR part 650, subpart A. It also indicates a higher risk of environmental impacts that deserve careful evaluation and consideration. This means that additional documentation, analysis, and detailed review is needed to meet the floodplain management requirements and, therefore, a (d)-list CE is more appropriate. The action could proceed as a (c)-list CE if it encroaches on floodplains but the action is for a functionally dependent use or an action that facilitates open space use. Functionally dependent uses are actions that must occur in close proximity to water (e.g., bridges).

Section 771.117(g)

Three State DOTs and one professional association stated the statute included no rulemaking requirements for PCE agreements. Four State DOTs indicated that imposing these requirements through rulemaking was inconsistent with the intent of the statute. The commenters recommended that FHWA release non-binding guidance, including a template agreement, rather than issue regulations on PCE agreements. Two State DOTs objected to the proposal to establish new requirements for all PCE agreements and the requirement for all existing agreements to be amended for consistency with the new requirements. One State DOT said existing agreements should be ''grandfathered'' and thus exempt from any new requirements and expressed concern that existing PCE agreements may be overturned.

The FHWA considers this rulemaking to be appropriate in light of the statutory change that allows for State DOTs to enter into agreements with FHWA to make CE determinations on FHWA's behalf. The FHWA has taken a careful look at the requirements that were proposed in the NPRM in light of the comments submitted to determine which were necessary in the regulatory text and which could be implemented administratively. The Agency decided that those requirements that were substantive (i.e., elements that the agreement must have) should be established through rulemaking and those that were either procedural (i.e., steps that must be met) or administrative (i.e., how FHWA processes the agreement internally) could be removed from the regulatory text and established through other means. As a result, the Agency decided to retain requirements in subparagraphs (g)(1) (State DOT's responsibilities), (g)(2) (five year term), (g)(3) (monitoring requirements), and (g)(4) (stipulations for amendments, termination, and public availability), but remove from the regulatory text the legal sufficiency and FHWA Headquarters review in subparagraph (g)(5) of the NPRM. The FHWA believes that its Headquarters program office and legal office should engage in review of these agreements, but establishing this requirement in the regulatory text is unnecessary because it is an internal process that is better established through internal administrative protocols.

Although FHWA disagrees with commenters expressing preference for guidance instead of rulemaking on this subject, the Agency is receptive to the suggestion of developing guidance including a template agreement on this topic. The FHWA disagrees with the commenters' proposal to exempt renewal of existing or certain future agreements from this rule because this would result in inconsistent development of PCE agreements. Finally, in an effort to provide more clarity to the regulatory text the FHWA has deleted the phrase ''[n]otwithstanding paragraph (d) of this section'' as proposed in the NPRM because it was unnecessary since the introductory paragraph of 771.117(d) now contemplates the use of programmatic agreements as an alternate method for approvals.

Five State DOTs and one professional association expressed concern that the proposed rule did not allow PCE agreements to include CEs that were not specifically listed in the regulations. The commenters also noted that State DOTs should be allowed to approve CEs that are not listed in FHWA's regulations, as long as those CEs are ''consistent with'' the criteria in the CEQ regulations.

The FHWA evaluated these comments and determined that new CEs not specifically listed in the regulations would not be allowed in the PCE agreements unless they are established in accordance with CEQ regulations and guidance (40 CFR 1507.3 and 1508.4, and Establishing, Applying, and Revising Categorical Exclusions under the National Environmental Policy Act (75 FR 75628, Dec. 6, 2010)). To make this clear, the FHWA has added additional language in the text of the rule specifying that this authority is limited to CEs specifically listed in 771.117(c) and the activities identified in (d).

One State DOT compared and contrasted the CE processing flexibilities for States under a PCE agreement with 23 U.S.C. 326 where the State has assumed responsibility and liability for FHWA decisions. The commenter suggested that a 23 U.S.C.

326 Memorandum of Understanding (MOU) should provide the opportunity for States to make CE approvals for actions not listed in regulation.

The Agencies considered this comment and found it not to directly relate to the MAP–21 section 1318 provisions. The provisions of paragraph (g) in § 771.117 do not apply to the section 326 program.

PCE Workload

One State DOT was concerned that PCE agreement monitoring and reporting requirements will increase the States' workload and may result in State DOTs requiring additional staff to ensure PCE compliance. The proposed oversight and quality control/quality assurance requirements are similar to those mandated by a CE Assumption MOU under 23 U.S.C. 326 (State assumption of responsibility for categorical exclusions). Under that program, the State DOT had to hire additional staff to successfully assume CE responsibilities. The State DOT also said it is foreseeable that States will be required to hire additional staff and revise procedures in order to comply with the proposed PCE requirements where the intent of MAP–21 was not to add additional staffing and workload requirements to CE approvals.

The comment expressing concern about the burden to State DOTs tied to monitoring PCE agreements did not distinguish between monitoring of PCE agreements or monitoring of MOUs executed pursuant to 23 U.S.C. 326 where a State is responsible and legally liable for the CE determinations it makes. The commenter's concern is based on its experience with the monitoring process under a section 326 MOU and not a PCE agreement. It may have been appropriate for the commenting State DOT to hire additional staff to assume CE responsibilities because they were not only making CE determinations, but also were assuming responsibilities for compliance with all associated environmental laws and regulations associated with that CE determination. The quality control and quality assurance requirement in § 771.117(g) for State DOTs may already be incorporated in existing CE processing procedures. This monitoring requirement should be comparable to the manner of monitoring existing PCE agreements.

Two public interest groups and one State DOT suggested that § 771.117(g)(3) be expanded to explain further what ''monitoring'' of PCE agreements should entail. The State DOT suggested that in the alternative the provision be removed. One public interest group requested a clarification of public disclosure requirements of PCE documents and suggested that citizens be allowed to monitor any PCE agreement.

The FHWA will retain the requirement for monitoring for all PCE agreements. The purpose of monitoring comes from FHWA's oversight obligation of the Federal-aid program to ensure that CE determinations are appropriate and that State DOTs comply with all environmental requirements. The approach for conducting monitoring should be determined between each State DOT and FHWA Division Office. Division Office staff should determine the frequency and level of detail for monitoring events as well as the composition of the monitoring team. This monitoring also should identify best practices and lead to the implementation of corrective actions based on report findings and observations. The State DOT and the FHWA Division Office will determine the extent to which monitoring information will be made available through posting on the Web.

Section 771.118(a) and (b)

The FTA received two comments that expressed concern over the potential impacts of the actions included in the new CEs on sensitive habitats and protected resources.

Sections 771.118(a) and (b) include the requirement for considering unusual circumstances, which is how the Agencies consider extraordinary circumstances in accordance with the CEQ regulations. These refer to circumstances in which a normally excluded action could have a significant environmental impact and, therefore, requires appropriate environmental studies to determine if the CE classification is proper. Examples of unusual circumstances include substantial controversy on environmental grounds, significant impacts on properties protected by section 4(f) of the DOT Act or section 106 of the NHPA, or inconsistencies with any Federal, State, or local law, requirement, or administrative determination relating to the environmental aspects of the action (23 CFR 771.118(b)). The unusual circumstances provisions contained in § 771.118(a) and (b) apply to all existing and newly proposed CEs, and serve as a safeguard to prevent significant impacts to sensitive habitats and protection resources, among other concerns. An example of this practice would be if sizeable swaths of habitat are impacted for an action, then that unusual circumstance would likely require FTA and the grant applicant to conduct appropriate environmental studies under § 771.118(b)(1) to determine whether the CE classification is proper.

Section 771.118(c)(14)

The FTA received two comments requesting clarification on how § 771.118(c)(14) differs from the existing CEs. Specifically, one comment requested clarification on the types of repair and replacement work applicable to this new CE versus those in § 771.118(c)(8) (maintenance, reconstruction, and rehabilitation of facilities). The second comment asks whether the necessary realignment of a road following a bridge removal would be covered under the new CE or another CE.

The new CE expands upon existing CEs to include permanent bridge removal and the resulting change to the associated transportation network. The CE further addresses the potential need to realign the transportation network connected to the bridge and any activities associated with the work not included in previously established CEs. These activities could include in-channel work, pier removal or reduction, and materials disposal. Section 771.118(c)(8) specifically focuses on the repair of existing facilities that do not change the facility's use, while this new CE includes permanent bridge removal that changes the end use.

The FTA received a comment requesting clarification on the circumstances where reducing pier height would serve to make in-water navigation safer when conducting a complete bridge removal.

In some instances, when removing a bridge, it is decided to leave piers in place, rather than remove them. The considerations in this decision are varied, but include cost considerations as well as environmental considerations (e.g., avoidance of exposure in cases of contaminated sediments and other CWA considerations, as well as cost considerations). In cases where piers are left in place, they are reduced in height to be below water level, but above sediment levels, to allow for water craft to safely traverse over the piers. The decision to leave piers in place is also based on coordination with stakeholders, permitting agencies, and project engineers, and depends on the project context (e.g., location, conditions, etc.).

Section 771.118(c)(15)

The FTA received three comments recommending the text of the CE be amended to include ''and drainage pipes'' at the end of the last sentence. The commenters noted that expanding existing culverts and existing drainage pipes would likely result in similar impacts, and since culverts often are used as drainage pipes, the language should be clarified by including drainage pipes so to avoid confusion and an unintended distinction.

The FTA agrees with the comment, and will amend § 771.118(c)(15) to read ''Preventative maintenance, including safety treatments, to culverts and channels within and adjacent to transportation right-of-way to prevent damage to the transportation facility and adjoining property, plus any necessary channel work, such as restoring, replacing, reconstructing, and rehabilitating culverts and drainage pipes; and, expanding existing culverts and drainage pipes.'' At times, this preventative maintenance may require expanding existing culverts or drainage pipes in order to properly manage the stormwater flow. The FTA reassessed its supporting documentation and found the addition of expanding existing ''drainage pipes'' is supported by FTA's record (see ''FTA Section 1318 Substantiation'' document). In practice, culverts and drainage pipes both provide or maintain stormwater drainage, with culverts typically being larger in diameter than drainage pipes. Due to their functional similarity and anticipated similar impacts, as well as the limitation to expanding only existing culverts or pipes, FTA listed both examples in the CE language in order to avoid confusion for practitioners, as suggested by the comments received.

The FTA received a comment that suggested the text of the new CE be broadened to read ''Preventative maintenance, including safety treatments, to drainage facilities, including culverts and channels . . .''

The intent of this CE is to focus on rainwater conveyance methods that can be useful in preventing future flooding at transit facilities. The FTA considered the suggestion to include drainage facilities, but FTA interprets drainage facilities to be a broad term that includes rainwater conveyance and treatment; therefore, if the CE language includes ''drainage facilities,'' the CE would cover a broader range of activities than proposed in the NPRM. Furthermore, FTA re-reviewed the benchmarking examples in the ''FTA Section 1318 Substantiation'' document, considered past experience and reviewed past EAs and findings of no significant impact in hopes of being able to support the broader language. The FTA does not have sufficient substantiation to cover the broader range of activities and, therefore, is not able to proceed with the proposed change (i.e., adding ''to drainage facilities, including'') at this time. If grantees would like to pursue stormwater management activities unconnected to a broader proposal and outside the scope of this CE, FTA recommends considering the use of the CEs at § 771.118(c)(3) or (d).

Section 771.118(c)(16)

The summary of comments on § 771.118(c)(16), and how they are addressed, is included in the discussion above on the FHWA § 771.117(c)(24) CE.

Rulemaking Analyses and Notices

The Agencies considered all comments received before the close of business on the comment closing date indicated above, and the comments are available for examination in the docket (FHWA–2013–0049) at Regulations.gov. The Agencies also considered comments received after the comment closing date and filed in the docket prior to this final rule.

Executive Orders 12866 and 13563 (Regulatory Planning and Review) and DOT Regulatory Policies and Procedures

Executive Orders 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). The Agencies determined that this action is not a significant regulatory action under section 3(f) of Executive Order 12866 nor is it significant within the meaning of Department of Transportation regulatory policies and procedures (44 FR 11032). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. It is anticipated that the economic impacts of this rulemaking are minimal. The changes to this rule are requirements mandated by MAP–21 to increase efficiencies in environmental review by making changes in the Agencies' environmental review procedures.

The activities in this final rule add § 771.117(c)(24), (c)(25), (c)(26), (c)(27), (c)(28), (c)(29), and (c)(30) and § 771.118(c)(14), (c)(15), (c)(16), (d)(7), and (d)(8), pursuant to section 1318 of MAP–21, and are inherently limited in their potential to cause significant environmental impacts because the use of the CEs is subject to the unusual circumstances provision in 23 CFR 771.117(b) and 23 CFR 771.118(b), respectively. The CE provisions require appropriate environmental studies, and may result in the reclassification of the NEPA evaluation of the project to an EA or EIS, if the Agencies determine that the proposal involves potentially significant or significant environmental impacts. The program changes in this final rule establish criteria for PCE agreements between State DOTs and FHWA. These agreements further expedite NEPA environmental review for highway projects and enable projects to move more expeditiously through the Federal environmental review process. The PCE changes will reduce the preparation of extraneous environmental documentation and analysis not needed for compliance with NEPA, and will ensure that projects are built in an environmentally responsible manner. The changes contained within this rule will not adversely affect, in any material way, any sector of the economy. In addition, these changes will not interfere with any action taken or planned by another agency, and will not materially alter the budgetary impact of any entitlements, grants, user fees, or loan programs. Consequently, a full regulatory evaluation is not required.

Regulatory Flexibility Act

Under the Regulatory Flexibility Act of 1980 (5 U.S.C. 601 et seq.), the Agencies must consider whether this final rule would have a significant economic impact on a substantial number of small entities. ''Small entities'' include small businesses, not for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations under 50,000. The Agencies do not believe this final rule will have a significant economic impact on entities of any size, and the Agencies received no comment in response to our request for any such information in the NPRM. These revisions could expedite environmental review and thus would be less of an impact on small business entities than any current impact on small business entities. Thus, the Agencies determined that this final rule will not have a significant economic impact on a substantial number of small entities.

Unfunded Mandates Reform Act of 1995

This final rule would not impose unfunded mandates as defined by the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4, 109 Stat. 48). This final rule will not result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $148.8 million or more in any one year (2 U.S.C. 1532).

Executive Order 13132 (Federalism Assessment)

Executive Order 13132 requires agencies to assure meaningful and timely input by State and local officials in the development of regulatory policies that may 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. The Agencies analyzed this final rule in accordance with the principles and criteria contained in Executive Order 13132 and determined that this action will not have a substantial direct effect on the States, the relationship between the Federal Government and the States, or the distribution of power and responsibilities among the various levels of government, and, therefore, does not have federalism implications. The Agencies also determined that this action would not preempt any State law or State regulation or affect the States' ability to discharge traditional State governmental functions. The NPRM invited State and local governments with an interest in this rulemaking to comment on the effect that adoption of specific proposals may have on State or local governments. No State or local governments provided comments on this issue.

Executive Order 13175 (Tribal Consultation)

Executive Order 13175 requires agencies to assure meaningful and timely input from Indian tribal government representatives in the development of rules that ''significantly or uniquely affect'' Indian communities and that impose ''substantial and direct compliance costs'' on such communities. The Agencies analyzed this action under Executive Order 13175, and determined that it will not have substantial direct effects on one or more Indian Tribes; will not impose substantial direct compliance costs on Indian tribal governments; and will not preempt tribal law.

The Agencies received one comment in response to their request in the NPRM for comments from Indian tribal governments on the effect that adoption of specific proposals might have on Indian communities. One federally recognized Indian Tribe commented that a tribal summary impact statement was in order. The Indian tribe indicated that it was concerned that a shortened review period for evaluation of highway projects may cause tribal governments hardship. The Indian Tribe also expressed concerns with exempting the highway projects from other laws and allowing states to use State reviews and approval laws and procedures in lieu of Federal laws and regulations.

In their response to the comments, the FHWA reiterated that the rule does not exempt a project that qualifies for a CE from compliance with all other requirements applicable to the action. The Agencies determined that the language adopted in this final rule appropriately balanced the goal of providing flexibility with the need to satisfy the Agencies' environmental review requirements and responsibilities. The Agencies must continue to meet their legal obligations for a project even if the project qualifies for a CE, which includes the Agencies' responsibilities to consult with Tribes. The final rule does not authorize a State to use or rely on State environmental review and approval laws in lieu of the Federal environmental requirements.

The rule does not preempt tribal law. Projects that qualify for CEs must meet the compliance requirements under other laws, including tribal laws if the project will take place within tribal lands. The rule would not impose substantial direct compliance costs on Indian tribal governments. The rule affects the environmental review process of projects that will receive Federal-aid from FHWA or FTA, or that would require an approval from those Agencies. It does not impose requirements on Indian tribal governments other than those that are typical for any other Federal agency grantee. Finally, the rule would not have substantial direct effects on one or more Indian Tribes. The final rule does not increase the burden of review more than what is already expected for these types of projects. Therefore, a tribal summary impact statement is not required.

Executive Order 13211 (Energy Effects)

The Agencies analyzed this action under Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use,'' dated May 18, 2001. The Agencies determined that this action is not a significant energy action under the order because it is not likely to have a significant adverse effect on the supply, distribution, or use of energy. Therefore, a Statement of Energy Effects under Executive Order 13211 is not required.

Executive Order 12372 (Intergovernmental Review)

The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to these programs and were carried out in the development of this rule.

Paperwork Reduction Act

Under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501, et seq.), no Federal agency shall conduct or sponsor a collection of information unless in advance the agency has obtained approval by and a control number from the Office of Management and Budget (OMB), and no person is required to respond to a collection of information unless it displays a valid OMB control number. The Agencies determined that this final rule does not contain collection of information requirements for the purposes of the PRA.

Executive Order 12988 (Civil Justice Reform)

This action 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.

Executive Order 12898 (Environmental Justice)

Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, and DOT Order 5610.2(a) (77 FR 27534) require DOT agencies to achieve environmental justice (EJ) as part of their mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects, including interrelated social and economic effects, of their programs, policies, and activities on minority populations and low-income populations in the United States. The DOT Order requires DOT agencies to address compliance with the Executive Order and the DOT Order in all rulemaking activities. In addition, both Agencies have issued additional documents relating to administration of the Executive Order and the DOT Order. On June 14, 2012, the FHWA issued an

update to its EJ order (FHWA Order 6640.23A, FHWA Actions to Address Environmental Justice in Minority Populations and Low Income Populations (available online at *www.fhwa.dot.gov/legsregs/directives/orders/664023a.htm*)). The FTA also issued an update to its EJ policy on July 17, 2012 (FTA Policy Guidance for Federal Transit Recipients (available online at *www.fta.dot.gov/legislation_law/12349_14740.html*)).

The Agencies evaluated this final rule under the Executive Order, the DOT Order, the FHWA Order, and the FTA Circular. The Agencies determined that designation of the new CEs and establishing procedures for PCE agreements through this rulemaking will not cause disproportionately high and adverse human health and environmental effects on minority or low income populations. This rule simply adds a provision to the Agencies' NEPA procedures under which they may decide in the future that a project or program does not require the preparation of an EA or EIS. The rule itself has no potential for effects until it is applied to a proposed action requiring approval by the FHWA or FTA.

At the time the Agencies apply a CE established by this rulemaking, the Agencies have an independent obligation to conduct an evaluation of the proposed action under the applicable EJ orders and guidance. The adoption of this rule does not affect the scope or outcome of that EJ evaluation nor does the new rule affect the ability of affected populations to raise any concerns about potential EJ effects at the time the Agencies consider applying a new CE. Indeed, outreach to ensure the effective involvement of minority and low income populations where there is potential for EJ effects is a core aspect of the EJ orders and guidance. For these reasons, the Agencies also determined that no further EJ analysis is needed and no mitigation is required in connection with the designation of the CEs and procedures for PCE agreements.

Executive Order 13045 (Protection of Children)

The Agencies analyzed this action under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. The Agencies certify that this action will not cause an environmental risk to health or safety that may disproportionately affect children.

Executive Order 12630 (Taking of Private Property)

The Agencies analyzed this final rule under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights and determined the rule will not affect a taking of private property or otherwise have taking implications under Executive Order 12630.

National Environmental Policy Act

This action will not have any effect on the quality of the human environment and does not require analysis under NEPA. Agencies are required to adopt implementing procedures for NEPA that establish specific criteria for, and identification of, three classes of actions: those that normally require preparation of an EIS; those that normally require preparation of an EA; and those that are categorically excluded from further NEPA review. The CEQ's requirements for establishing Agency NEPA procedures are set forth at 40 CFR 1505.1 and 1507.3. The CEQ regulations do not direct agencies to prepare a NEPA analysis or document before establishing Agency procedures (such as this regulation) that supplement the CEQ NEPA regulations. The CEs are one part of those agency procedures (40 CFR 1507.3(b)), and therefore establishing CEs or allowing for programmatic approaches to processing CEs does not require preparation of a NEPA analysis or document. Agency NEPA procedures are generally procedural guidance to assist agencies in the fulfillment of agency responsibilities under NEPA, but are not the agency's final determination of what level of NEPA analysis is required for a particular proposed action. The determination that establishing CEs does not require NEPA analysis and documentation was upheld in *Heartwood, Inc.* v. *U.S. Forest Service,* 73 F. Supp. 2d 962, 972–73 (S.D. Ill. 1999), *aff'd,* 230 F.3d 947, 954–55 (7th Cir. 2000).

Regulation Identification Number

A regulation identification number (RIN) is assigned to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. The RIN contained in the heading of this document can be used to cross reference this action with the Unified Agenda.

List of Subjects

23 CFR Part 771

Environmental protection, Grant programs—transportation, Highways and roads, Historic preservation, Public lands, Recreation areas, Reporting and record keeping requirements.

49 CFR Part 622

Environmental impact statements, Grant programs—transportation, Public transit, Public transportation, Recreation areas, Reporting and record keeping requirements.

In consideration of the foregoing, the Agencies are amending title 23, Code of Federal Regulations part 771, and title 49, Code of Federal Regulations part 622, as follows:

Title 23

PART 771—ENVIRONMENTAL IMPACT AND RELATED PROCEDURES

■ 1. The authority citation for part 771 is revised to read as follows:

Authority: 42 U.S.C. 4321 *et seq.;* 23 U.S.C. 106, 109, 128, 138, 139, 315, 325, 326, and 327; 49 U.S.C. 303; 40 CFR Parts 1500–1508; 49 CFR 1.81, 1.85, and 1.91; Pub. L. 109–59, 119 Stat. 1144, sections 6002 and 6010; Pub. L. 112–141, 126 Stat. 405, sections 1315, 1316, 1317, and 1318.

■ 2. Amend § 771.117 by:
■ a. Adding paragraphs (c)(24) through (30);
■ b. Revising paragraph (d) introductory text;
■ c. Removing and reserving paragraphs (d)(1) through (3);
■ d. Adding paragraph (d)(13);
■ e. Redesignating paragraph (e) as paragraph (f);
■ f. Adding new paragraph (e); and
■ d. Adding paragraph (g).

The additions and revisions read as follows:

§ 771.117 FHWA categorical exclusions.

* * * * *

(c) * * *

(24) Localized geotechnical and other investigation to provide information for preliminary design and for environmental analyses and permitting purposes, such as drilling test bores for soil sampling; archeological investigations for archeology resources assessment or similar survey; and wetland surveys.

(25) Environmental restoration and pollution abatement actions to minimize or mitigate the impacts of any existing transportation facility (including retrofitting and construction of stormwater treatment systems to meet Federal and State requirements under sections 401 and 402 of the Federal Water Pollution Control Act (33 U.S.C. 1341; 1342)) carried out to address water pollution or environmental degradation.

(26) Modernization of a highway by resurfacing, restoration, rehabilitation, reconstruction, adding shoulders, or adding auxiliary lanes (including

parking, weaving, turning, and climbing lanes), if the action meets the constraints in paragraph (e) of this section.

(27) Highway safety or traffic operations improvement projects, including the installation of ramp metering control devices and lighting, if the project meets the constraints in paragraph (e) of this section.

(28) Bridge rehabilitation, reconstruction, or replacement or the construction of grade separation to replace existing at-grade railroad crossings, if the actions meet the constraints in paragraph (e) of this section.

(29) Purchase, construction, replacement, or rehabilitation of ferry vessels (including improvements to ferry vessel safety, navigation, and security systems) that would not require a change in the function of the ferry terminals and can be accommodated by existing facilities or by new facilities which themselves are within a CE.

(30) Rehabilitation or reconstruction of existing ferry facilities that occupy substantially the same geographic footprint, do not result in a change in their functional use, and do not result in a substantial increase in the existing facility's capacity. Example actions include work on pedestrian and vehicle transfer structures and associated utilities, buildings, and terminals.

(d) Additional actions which meet the criteria for a CE in the CEQ regulations (40 CFR 1508.4) and paragraph (a) of this section may be designated as CEs only after Administration approval unless otherwise authorized under an executed agreement pursuant to paragraph (g) of this section. The applicant shall submit documentation which demonstrates that the specific conditions or criteria for these CEs are satisfied and that significant environmental effects will not result. Examples of such actions include but are not limited to:

* * * * *

(13) Actions described in paragraphs (c)(26), (c)(27), and (c)(28) of this section that do not meet the constraints in paragraph (e) of this section.

(e) Actions described in (c)(26), (c)(27), and (c)(28) of this section may not be processed as CEs under paragraph (c) if they involve:

(1) An acquisition of more than a minor amount of right-of-way or that would result in any residential or non-residential displacements;

(2) An action that needs a bridge permit from the U.S. Coast Guard, or an action that does not meet the terms and conditions of a U.S. Army Corps of Engineers nationwide or general permit under section 404 of the Clean Water Act and/or section 10 of the Rivers and Harbors Act of 1899;

(3) A finding of ''adverse effect'' to historic properties under the National Historic Preservation Act, the use of a resource protected under 23 U.S.C. 138 or 49 U.S.C. 303 (section 4(f)) except for actions resulting in *de minimis* impacts, or a finding of ''may affect, likely to adversely affect'' threatened or endangered species or critical habitat under the Endangered Species Act;

(4) Construction of temporary access, or the closure of existing road, bridge, or ramps, that would result in major traffic disruptions;

(5) Changes in access control;

(6) A floodplain encroachment other than functionally dependent uses (*e.g.,* bridges, wetlands) or actions that facilitate open space use (*e.g.,* recreational trails, bicycle and pedestrian paths); or construction activities in, across or adjacent to a river component designated or proposed for inclusion in the National System of Wild and Scenic Rivers.

* * * * *

(g) FHWA may enter into programmatic agreements with a State to allow a State DOT to make a NEPA CE certification or determination and approval on FHWA's behalf, for CEs specifically listed in paragraphs (c) and (d) of this section. Such agreements must be subject to the following conditions:

(1) The agreement must set forth the State DOT's responsibilities for making CE determinations, documenting the determinations, and achieving acceptable quality control and quality assurance;

(2) The agreement may not have a term of more than five years, but may be renewed;

(3) The agreement must provide for FHWA's monitoring of the State DOT's compliance with the terms of the agreement and for the State DOT's execution of any needed corrective action. FHWA must take into account the State DOT's performance when considering renewal of the programmatic CE agreement; and

(4) The agreement must include stipulations for amendment, termination, and public availability of the agreement once it has been executed.

■ 3. Amend § 771.118 by adding paragraphs (c)(14) through (16) and adding paragraphs (d)(7) and (8) to read as follows:

§ 771.118 FTA categorical exclusions.

* * * * *

(c) * * *

(14) Bridge removal and bridge removal related activities, such as in-channel work, disposal of materials and debris in accordance with applicable regulations, and transportation facility realignment.

(15) Preventative maintenance, including safety treatments, to culverts and channels within and adjacent to transportation right-of-way to prevent damage to the transportation facility and adjoining property, plus any necessary channel work, such as restoring, replacing, reconstructing, and rehabilitating culverts and drainage pipes; and, expanding existing culverts and drainage pipes.

(16) Localized geotechnical and other investigations to provide information for preliminary design and for environmental analyses and permitting purposes, such as drilling test bores for soil sampling; archeological investigations for archeology resources assessment or similar survey; and wetland surveys.

(d) * * *

(7) Minor transportation facility realignment for rail safety reasons, such as improving vertical and horizontal alignment of railroad crossings, and improving sight distance at railroad crossings.

(8) Modernization or minor expansions of transit structures and facilities outside existing right-of-way, such as bridges, stations, or rail yards.

* * * * *

Title 49

PART 622—ENVIRONMENTAL IMPACT AND RELATED PROCEDURES

■ 4. The authority citation for part 622 is revised to read as follows:

Authority: 42 U.S.C. 4321 *et seq.;* 49 U.S.C. 303 and 5323(q); 23 U.S.C. 139 and 326; Pub. L. 109–59, 119 Stat. 1144, sections 6002 and 6010; 40 CFR parts 1500–1508; 49 CFR 1.81; and Pub. L. 112–141, 126 Stat. 405, sections 1315, 1316, 1317, and 1318.

Issued on: September 26, 2014.

Gregory G. Nadeau,

Acting Administrator, Federal Highway Administration.

Therese W. McMillan,

Acting Administrator, Federal Transit Administration.

[FR Doc. 2014–23660 Filed 10–3–14; 8:45 am]

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Proposed Rules

Federal Register
Vol. 79, No. 193
Monday, October 6, 2014

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

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Parts 948 and 980

[Doc. No. AMS–FV–13–0073; FV13–948–3 PR]

Irish Potatoes Grown in Colorado and Imported Irish Potatoes; Relaxation of the Handling Regulation for Area No. 2 and Import Regulations

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This proposed rule invites comments on a revision to the minimum quantity exception for potatoes handled under the Colorado potato marketing order, Area No. 2 (order). The order regulates the handling of Irish potatoes grown in Colorado and is administered locally by the Colorado Potato Administrative Committee, Area No. 2 (Committee). This action would increase the quantity of potatoes that may be handled under the order without regard to the order's handling regulation requirements from 1,000 to 2,000 pounds. The change in the import regulation is required under section 8e of the Agricultural Marketing Agreement Act of 1937. This action would allow the importation which, in the aggregate, does not exceed 2,000 pounds for all other round type potatoes, except red skinned, round type or long type potatoes that continue to remain at a 500 pound limit, to be imported without regard to the import regulations. This action is expected to benefit producers, handlers, and importers.

DATES: Comments must be received by December 5, 2014.

ADDRESSES: Interested persons are invited to submit written comments concerning this proposal. Comments must be sent to the Docket Clerk, Marketing Order and Agreement Division, Fruit and Vegetable Program, AMS, USDA, 1400 Independence Avenue SW., STOP 0237, Washington, DC 20250–0237; Fax: (202) 720–8938; or Internet: *http://www.regulations.gov.* All comments should reference the document number and the date and page number of this issue of the **Federal Register** and will be made available for public inspection in the Office of the Docket Clerk during regular business hours, or can be viewed at: *http://www.regulations.gov.* All comments submitted in response to this proposal will be included in the record and will be made available to the public. Please be advised that the identity of the individuals or entities submitting comments will be made public on the internet at the address provided above.

FOR FURTHER INFORMATION CONTACT: Sue Coleman, Marketing Specialist, or Gary D. Olson, Regional Director, Northwest Marketing Field Office, Marketing Order and Agreement Division, Fruit and Vegetable Program, AMS, USDA; Telephone: (503) 326–2724, Fax: (503) 326–7440, or Email: *Sue.Coleman@ams.usda.gov* or *GaryD.Olson@ams.usda.gov.*

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

SUPPLEMENTARY INFORMATION: This proposed rule is issued under Marketing Agreement No. 97 and Order No. 948, both as amended (7 CFR part 948), regulating the handling of Irish potatoes grown in Colorado, hereinafter referred to as the ''order.'' The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the ''Act.''

This proposed rule is also issued under section 8e of the Act, which provides that whenever certain specified commodities, including Irish potatoes, are regulated under a Federal marketing order, imports of these commodities into the United States are prohibited unless they meet the same or comparable grade, size, quality, or maturity requirements as those in effect for the domestically produced commodities.

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

This proposed rule has been reviewed under Executive Order 12988, Civil Justice Reform. This proposed rule is not intended to have retroactive effect.

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

There are no administrative procedures which must be exhausted prior to any judicial challenge to the provisions of import regulations issued under section 8e of the Act.

This proposal invites comments on a revision to the minimum quantity exception currently prescribed in the handling regulation for potatoes handled under the order. This proposal would increase the quantity of potatoes that may be handled without regard to the order's handling regulation from 1,000 to 2,000 pounds. Relaxing the minimum quantity exception is expected to benefit producers, handlers, and importers. The rule was unanimously recommended by the Committee at a meeting on July 18, 2013.

Section 948.4 of the order divides the State of Colorado into three areas of regulation for marketing order purposes. These areas include: Area No. 1, commonly known as the Western Slope; Area No. 2, commonly known as San Luis Valley; and, Area No. 3, which consists of the remaining producing areas within the State of Colorado not included in the definition of Area No. 1 or Area No. 2. Currently, the order only regulates the handling of potatoes

produced in Area No. 2 and Area No. 3. Regulation for Area No. 1 has been suspended.

Section 948.50 of the order establishes committees as administrative agencies for each of the areas set forth under § 948.4. Section 948.22(a) of the order authorizes the issuance of grade, size, quality, maturity, pack, and container regulations for potatoes grown in the order's production area. Further, section 948.22(b)(2) of the order provides authority for each area committee to recommend modification of regulations to provide for minimum quantities that should be relieved of regulatory or administrative obligations.

Section 948.386 of the order's administrative rules prescribes grade, size, maturity, and inspection requirements for Colorado Area No. 2 potatoes. Paragraph (f) of that section prescribes the minimum quantity of potatoes that are exempt from regulation. Currently, each person may handle up to 1,000 pounds of potatoes without regard to the order's grade, size, maturity, and inspection requirements.

At its meeting on July 18, 2013, the Committee unanimously recommended increasing the order's minimum quantity exception from 1,000 to 2,000 pounds. The recommendation was made at the request of producers and handlers who wanted greater flexibility in distributing smaller quantities of potatoes. In its deliberations, the Committee commented that 2,000 pounds is consistent with the current weight of a pallet of potatoes. One pallet is typically the smallest lot of potatoes distributed, since most delivery vehicles are now capable of transporting at least 2,000 pounds.

Handlers also feel that the value of one pallet of potatoes does not warrant the cost of complying with the order's regulations. Based on an estimated average f.o.b. price of $12.60, the value of one pallet of potatoes is approximately $225.00. Increasing the minimum quantity exception from 1,000 to 2,000 pounds of potatoes would allow a handler to ship one pallet of potatoes without regard to the order's grade, size, maturity, and inspection requirements. Relaxing the minimum quantity is expected to benefit producers, handlers, and importers.

Section 8e of the Act provides that when certain domestically produced commodities, including Irish potatoes, are regulated under a Federal marketing order, imports of that commodity must meet the same or comparable grade, size, quality, and maturity requirements. Whenever two or more marketing orders regulating the same commodity produced in different areas of the United States are concurrently in effect, the importation into the United States of any such commodity shall be prohibited unless it complies with the grade, size, quality and maturity provisions of the order which, as determined by the Secretary of Agriculture, regulates the commodity produced in the area with which the imported commodity is in most direct competition (7 U.S.C. 608e–(a)). Section 980.1(b)(2) of the Vegetable Import Regulations specifies that potatoes imported into the United States are in most direct competition with potatoes of the same type produced in the area covered by this order. Since this action would increase the minimum quantity exemption under the domestic handling regulations, a corresponding change to the import regulations must also be considered.

Minimum grade, size, quality, and maturity requirements for Irish potatoes imported into the United States are currently in effect under § 980.1 (7 CFR 980.1). The minimum quantity exemption is specified in § 980.1(c). The exemption for red skinned, round type or long type potatoes would remain at a 500 pound limit. This proposal would increase the quantity for all other round type potatoes that may be imported without regard to the import regulation requirements from 1,000 to 2,000 pounds. The metric equivalent for 1,000 pounds is 453.592 kilograms and 2,000 pounds is 907.185 kilograms. The increase in the minimum quantity exemption for imports of potatoes would have a beneficial impact on importers. This proposed rule would provide flexibility in the importation and distribution of smaller quantities of potatoes.

Initial Regulatory Flexibility Analysis

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

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

There are approximately 80 handlers of Colorado Area No. 2 potatoes subject to regulation under the order and approximately 180 producers in the regulated production area. There are approximately 240 importers of potatoes. Small agricultural service firms (handlers and importers) are defined by the Small Business Administration (SBA) as those having annual receipts of less than $7,000,000, and small agricultural producers are defined as those having annual receipts of less than $750,000 (13 CFR 121.201).

During the 2011–2012 fiscal period, the most recent for which statistics are available, 15,072,963 hundredweight of Colorado Area No. 2 potatoes were inspected under the order and sold into the fresh market. Based on an estimated average f.o.b. price of $12.60 per hundredweight, the Committee estimates that 66 Area No. 2 handlers, or about 83 percent, had annual receipts of less than $7,000,000. In view of the foregoing, the majority of Colorado Area No. 2 potato handlers may be classified as small entities.

In addition, based on information provided by the National Agricultural Statistics Service, the average producer price for the 2011 Colorado fall potato crop was $10.70 per hundredweight. Multiplying $10.70 by the shipment quantity of 15,072,963 hundredweight yields an annual crop revenue estimate of $161,280,704. The average annual fresh potato revenue for each of the 180 Colorado Area No. 2 potato producers is therefore calculated to be approximately $896,000 ($161,280,704 divided by 180), which is greater than the SBA threshold of $750,000. Consequently, on average, many of the Colorado Area No. 2 potato producers may not be classified as small entities.

Information from the Foreign Agricultural Service, USDA, indicates that the dollar value of imports of the type of potatoes affected by this rule ranged from approximately $55.8 million in 2009 to $ 56.5 million in 2013. Using these values, the majority of importers of the type of potatoes affected by this rule would have annual receipts of less than $7,000,000 and may be classified as small entities.

Canada is the major potato-producing country exporting potatoes to the United States. In 2013, affected shipments of potatoes imported into the United States totaled around 3,479,468 hundredweight. Of that amount, 3,479,383 hundredweight were imported from Canada, 59 hundredweight were imported from Ecuador, and 26 hundredweight were imported from Peru.

This proposal would revise the quantity of potatoes that may be handled without regard to the

requirements of § 948.386(a), (b), and (c) of the order from 1,000 to 2,000 pounds and makes a corresponding change to the potato import regulation. At the July 18, 2013 meeting, the Committee unanimously recommended increasing the minimum quantity exception to be consistent with the approximate weight of one pallet of potatoes. Authority for the establishment and modification of a minimum quantity exception is provided in § 948.22(b)(2) of the order. This proposed rule amends the provisions in §§ 948.386(f) and 980.1(c). The change in the import regulation is required under section 8e of the Act.

This action is not expected to increase the costs associated with the order's requirements or the potato import regulation. Rather, it is anticipated that this proposed change will have a beneficial impact. The Committee believes it would provide greater flexibility in the distribution of small quantities of potatoes. Currently, the distribution of potatoes between 1,000 and 2,000 pounds requires an inspection and certification that the product conforms to the grade, size, and maturity requirements of the order. This translates into a cost for handlers and importers of both time and inspection fees, which is high in relation to the small value (approximately $225.00 per pallet) of these transactions. This action would allow shipments up to 2,000 pounds of potatoes without regard to the order's grade, size, maturity, and inspection requirements and the related costs. The benefits for this proposed rule are expected to be equally available to all fresh potato producers, handlers, and importers, regardless of their size.

As an alternative to the proposal, the Committee discussed leaving the handling regulation unchanged. The Committee rejected this idea because a pallet of potatoes weighs approximately 2,000 pounds and the 1,000 pound minimum quantity exception did not accommodate this size shipment. No other alternatives were discussed.

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

This proposed rule would relax the minimum quantity exception under the order from 1,000 to 2,000 pounds. Accordingly, this action would not impose any additional reporting or recordkeeping requirements on either small or large Colorado Area No. 2 potato handlers. As with all Federal marketing order programs, reports and forms are periodically reviewed to reduce information requirements and duplication by industry and public sector agencies.

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

USDA has not identified any relevant Federal rules that duplicate, overlap or conflict with this proposed rule.

In addition, the Committee's meeting was widely publicized throughout the Colorado Area No. 2 potato industry and all interested persons were invited to attend the meeting and participate in Committee deliberations on all issues. Like all Committee meetings, the July 18, 2013, meeting was a public meeting and all entities, both large and small, were able to express views on this issue. Finally, interested persons are invited to submit comments on this proposed rule, including the regulatory and informational impacts of this action on small businesses.

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

In accordance with section 8e of the Act, the United States Trade Representative has concurred with the issuance of this proposed rule.

A 60-day comment period is provided to allow interested persons to respond to this proposal. All written comments timely received will be considered before a final determination is made on this matter.

List of Subjects

7 CFR Part 948

Marketing agreements, Potatoes, Reporting and recordkeeping requirements.

7 CFR Part 980

Food grades and standards, Imports, Marketing agreements, Onions, Potatoes, Tomatoes.

For the reasons set forth above, 7 CFR parts 948 and 980 are proposed to be amended as follows:

PART 948—IRISH POTATOES GROWN IN COLORADO

■ 1. The authority citation for 7 CFR part 948 continues to read as follows:

Authority: 7 U.S.C. 601–674.

■ 2. Revise § 948.386(f) to read as follows:

§ 948.386 Handling regulation.

* * * * *

(f) Minimum quantity. For purposes of regulation under this part, each person may handle up to but not to exceed 2,000 pounds of potatoes without regard to the requirements of paragraphs (a), (b), and (c) of this section, but this exception shall not apply to any shipment which exceeds 2,000 pounds of potatoes.

* * * * *

PART 980—VEGETABLES: IMPORT REGULATIONS

■ 3. In § 980.1, paragraph (c) is revised to read as follows:

§ 980.1 Import regulations; Irish potatoes.

* * * * *

(c) Minimum quantities. Any importation which, in the aggregate, does not exceed 500 pounds of red skinned, round type or long type potatoes, or 2,000 pounds for all other round type potatoes, may be imported without regard to the provisions of this section.

* * * * *

Dated: September 29, 2014.

Rex A. Barnes,

Associate Administrator, Agricultural Marketing Service.

[FR Doc. 2014–23524 Filed 10–3–14; 8:45 am]

BILLING CODE 3410–02–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

14 CFR Part 1245

[Docket No: 2700–0010]

RIN 2700–AE02

Patents and Other Intellectual Property Rights

AGENCY: National Aeronautics and Space Administration.

ACTION: Proposed rule.

SUMMARY: NASA is proposing to amend its patent waivers regulations to update citations and the patent waiver policy, and to clarify and update the patent waiver procedures, so they are more in line with the National Aeronautics and

Space Act (Space Act), the authorizing statute.

DATES: Submit comments on or before November 5, 2014.

ADDRESSES: Comments must be identified with RIN 2700–AE02 and may be sent to NASA via the Federal E-Rulemaking Portal: *http://www.regulations.gov.* Follow the online instructions for submitting comments. Please note that NASA will post all comments on the internet with changes, including any personal information provided.

FOR FURTHER INFORMATION CONTACT: Helen M. Galus, Office of the General Counsel, NASA Headquarters, telephone (202) 358–3437.

SUPPLEMENTARY INFORMATION:

Background

The National Aeronautics and Space Act (the Space Act), at 51 U.S.C. 20135(b) states that an invention made in the performance of any work under any contract of the National Aeronautics and Space Administration (NASA) shall be the exclusive property of the United States if the person who made the invention was (A) employed or assigned to perform research, development, or exploration work and the invention is related to the work or was within the scope of that person's employment duties; or (B) was not employed to perform research, development, or exploration work but the invention is nevertheless related to the contract, or to the work or duties the person was employed or assigned to perform, and was made during working hours, or with a contribution from the Government. 51 U.S.C. 20135(g), authorizes the Administrator of the National Aeronautics and Space Administration (NASA) to waive all or any part of the rights of the United States, under section 20135 of the Space Act, with respect to any invention or class of inventions made or which may be made by any person or class of persons in the performance of any work required by any contract of the Administration, if the Administrator determines that the interests of the U.S. will be served thereby. Any such waiver may be made upon such terms and conditions as the Administrator determines necessary for the protection of U.S. interests. The enabling regulations, setting forth these terms and conditions are set forth in Title 14 of the Code of Federal Regulations, Part 1245, Subpart 1.

NASA is revising its regulations at 14 CFR sections 1245.100 through 1245.104, 1245.106, 1245.107, 1245.110, 1245.112, 1245.116 and 1245.117 to update citations to the United States Code; to clarify the requirements and procedures for petitioning for a patent waiver, so they follow more closely the terms of the Space Act; and to add grounds for denial of a petition for waiver of foreign rights. The revisions include (1) clarification that NASA only has authority under the Space Act to waive rights in ''inventions or classes of inventions;'' (2) a definition for what a ''class of invention'' includes; and (3) a requirement that petitions for advance waiver of rights to identify what inventions or classes of inventions the Contractor believes will be made under the contract and for which waiver of rights is being requested.

The current language of 14 CFR 1245.100 to 1245.103, and 1245.116, is amended to update the citations to the National Aeronautics and Space Act, which now is codified in Title 51 of the United States Code. Also, the current definition of ''invention'' in § 1245.102 is amended to better conform with the definition of invention set forth in 35 U.S.C. 101 (''Inventions Patentable''), and to add language defining the term ''class of Inventions'' so that the regulations better define and implement the Space Act (51 U.S.C. 20135(g)) which permits NASA to ''waive all or any part of the rights of the United States under this section with respect to any *invention or class of inventions* made or which may be made by any person or class of persons in the performance of any work required by any contract of the Administration if the Administrator determines that the interests of the United States will be served thereby. . .''.

The current language of 14 CFR 1245.103 is revised in several places to set forth the ''invention or class of invention'' limitation on NASA's waiver authority. Also, paragraph (a) is revised to expand upon the objectives and policies upon which NASA will be guided in the implementation of the provisions of section 20135(g) of the National Aeronautics and Space Act (51 U.S.C. Chapter 201), and in determining when the interests of the United States would be served by waiver of all or any part of the rights of the United States in an invention or class of inventions (see paragraph immediately above). Additionally, the language ''Any such waiver may be made upon such terms and under such conditions as the Administrator shall determine to be required for the protection of the interests of the United States'' has been added, this language is taken directly from the Space Act (51 U.S.C. 20135(g)).

The current language in 14 CFR 1245.104 is also amended to include the ''invention or class of invention'' limitation on NASA's waiver authority, and additionally to make more accurate the terminology being used (e.g., replacing the phrase ''elimination of right to retain title'' with ''denial of the requested rights''). Also, a new paragraph (c)(2) is added to require an advance waiver petition content meet the National Aeronautics and Space Act requirement of waiving rights to ''any invention or class of inventions,'' by identifying the invention(s) and/or class(es) of inventions that the Contractor believes will be made under the contract and for which waiver of rights is being requested. Additionally, paragraph (d) has been clarified and original paragraph (e) has been deleted so that the petitioners' reconsideration rights will now solely be found in section 1245.112, rather than in two potentially conflicting sections.

As to 14 CFR 1245.106, the language has been revised to permit the Board to review and recommend a partial grant or denial on the same grounds as are currently used for the partial granting or denial of domestic waiver petitions. Additionally, a clarification was made to make clear that the Board *recommends* action to the Administrator.

Only minor clarifying revisions were made to the current language in 14 CFR 1245.107 and 14 CFR 1245.117.

As to the current language of 14 CFR 1245.110, it is revised to add the requirement that ''Advance waiver petitions shall also identify the invention(s) and/or class(es) of inventions that the Contractor believes will be made under the contract and for which waiver of rights is being requested, in accordance with § 1245.104(c)(2) above.''

Finally, as to 14 CFR 1245.112, the language has been revised such that the petitioner will be given notice only of proposed Board actions that are adverse or different from the waiver of rights requested, as it is these types of actions that trigger the right to request reconsideration and an oral hearing, as set forth in this section.

The regulations have been modified in multiple places to make them conform more closely with the specific waiver authority NASA has under the National Aeronautics and Space Act (51 U.S.C. 20135(g)), which states ''the Administrator may waive *all or any part of the rights of the United States under this section with respect to any invention or class of inventions* made or which may be made by any person or class of persons in the performance of any work required by any contract of the Administration if the Administrator

determines that the interests of the United States will be served thereby.'' Specifically, the proposed amendments to the regulations now make clear the limitation on NASA's authority to waive only ''inventions'' and ''classes'' of inventions and, in particular, to more directly address how this affects advance waiver petitions.

Statutory Authority

The National Aeronautics and Space Act (the Space Act), 51 U.S.C. 20113(a), authorizes the Administrator of the National Aeronautics and Space Administration (NASA) to make, promulgate, issue, rescind, and amend rules and regulations governing the manner of its operations and the exercise of the powers vested in it by law.

Regulatory Analysis Section

Paperwork Reduction Act Statement

This rule does not contain an information collection requirement subject to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.).

Executive Order 12866 and Executive Order 13563

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

Regulatory Flexibility Act

It has been certified that this rule 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. The rule sets forth policies and procedures for submitting and reviewing petitions for waiver of the Government's rights to certain inventions made under government funded contracts, pursuant to section 20135(b)(1) of the National Aeronautics and Space Act, 51 U.S.C. 20135(b)(1). The provisions do not apply to inventions made under any contract, grant, or cooperative agreement with a nonprofit organization or small business firm that are afforded the disposition of rights as provided in 35 U.S.C. 200–204 (Pub. L. 96–517, 94 Stat. 3019, 3020, 3022 and 3023; and Pub. L. 98–620, 98 Stat. 3364–3367). Therefore, the rule will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 14 CFR Part 1245

Inventions, patents and waivers.

Accordingly, 14 CFR Part 1245 is proposed to be amended as follows:

PART 1245—PATENTS AND OTHER INTELLECTUAL PROPERTY RIGHTS

Subpart 1—Patent and Waiver Regulations

■ 1. The authority citation for Part 1245, Subpart 1, is revised to read as follows:

Authority: 51 U.S.C. 20135, 35 U.S.C. 200 *et seq.*

■ 2. Section 1245.100 is revised to read as follows:

§ 1245.100 Scope.

This subpart prescribes regulations for the waiver of rights of the Government of the United States to inventions made under NASA contract in conformity with section 20135 of the National Aeronautics and Space Act (51 U.S.C. Chapter 201).

■ 3. Section 1245.101 is revised to read as follows:

§ 1245.101 Applicability.

The provisions of the subpart apply to all inventions made or which may be made under conditions enabling the Administrator to determine that the rights therein reside in the Government of the United States under section 20135(b)(1) of the National Aeronautics and Space Act, 51 U.S.C. 20135(b)(1). The provisions do not apply to inventions made under any contract, grant, or cooperative agreement with a nonprofit organization or small business firm that are afforded the disposition of rights as provided in 35 U.S.C. 200–204 (Pub. L. 96–517, 94 Stat. 3019, 3020, 3022 and 3023; and Pub. L. 98–620, 98 Stat. 3364–3367).

■ 4. Section 1245.102 is amended by revising paragraph (c) adding new paragraph (d), and re-lettering paragraphs (d) through (j), to read as follows:

§ 1245.102 Definitions and terms.

* * * * *

(c) Invention means any, new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, or any variety of plant, which is or may be patentable under the Patent Laws of the United States of America or any foreign country.

(d) Class of inventions means inventions directed to a particular process, machine, manufacture, or composition of matter, or to a narrowly-drawn, focused area of technology.

(e) Made, when used in relation to any invention, means the conception or first actual reduction to practice of such invention.

(f) Practical application means to manufacture in the case of a composition or product, to practice in the case of a process or method, or to operate in the case of a machine or system; and, in each case, under such conditions as to establish that the invention is being utilized and that its benefits are to the extent permitted by law or Government regulations available to the public on reasonable terms.

(g) Board means the NASA Inventions and Contributions Board established by the Administrator of NASA within the Administration under section 20135(g) of the National Aeronautics and Space Act (51 U.S.C. 20135(g)).

(h) Chairperson means Chairperson of the NASA Inventions and Contributions Board.

(i) Petitioner means a contractor or prospective contractor who requests that the Administrator waive rights in an invention or class of inventions made or which may be made under a NASA contract. In the case of an identified invention, the petitioner may be the inventor(s).

(j) Government agency includes any executive department, independent commission, board, office, agency, administration, authority, Government corporation, or other Government establishment of the executive branch of the Government of the United States of America.

(k) Administrator means the Administrator of the National Aeronautics and Space Administration or the Administrator's duly authorized representative.

■ 5. Section 1245.103 is amended by revising paragraphs (a) and (b) to read as follows:

§ 1245.103 Policy.

(a) In implementing the provisions of section 20135(g) of the National Aeronautics and Space Act (51 U.S.C. Chapter 201), and in determining when the interests of the United States would be served by waiver of all or any part of the rights of the United States in an invention or class of inventions made in the performance of work under NASA contracts, the Administrator will be guided by the objectives set forth in the National Aeronautics and Space Act, by the basic policy of the Presidential Memorandum and Statement of

Government Patent Policy to the Heads of the Executive Departments and agencies dated February 18, 1983, by the goals and objectives of its current Authorization Act, Strategic Plan, and other pertinent National policies or laws, such as the National Space Policy of the United States of America. Any such waiver may be made upon such terms and under such conditions as the Administrator shall determine to be required for the protection of the interests of the United States. Among the most important goals are to provide incentives to foster inventiveness and encourage the reporting of inventions made under NASA contracts, to provide for the widest practicable dissemination of new technology resulting from NASA programs, and to promote early utilization, expeditious development, and continued availability of this new technology for commercial purposes and the public benefit. In applying this regulation, both the need for incentives to draw forth private initiatives and the need to promote healthy competition in industry must be weighed.

(b) Several different situations arise when waiver of all or any part of the rights of the United States with respect to an invention or class of invention may be requested and are prescribed in §§ 1245.104–1245.106. Under § 1245.104, advance waiver of any or all of the rights of the United States with respect to any invention or class of inventions which may be made under a contract may be requested prior to the execution of the contract, or within 30 days after execution of the contract. Waiver of rights to an identified invention made and reported under a contract are to be requested under § 1245.105, and may be requested under this provision even though a request under § 1245.104 was not made, or if made, was not granted. Waiver of foreign rights under § 1245.106 may be requested concurrently with domestic rights under § 1245.104 or § 1245.105, or may be made independently.

* * * * *

■ 6. Section 1245.104 is amended by revising paragraphs (a), (b), (b)(2), (b)(3), (b)(3)(v), (c)(1–4), and (d), and deleting paragraph (e) and re-lettering original paragraph (f) accordingly to read as follows:

§ 1245.104 Advance waivers.

(a) The provisions of this section apply to petitions for waiver of domestic rights of the United States with respect to any invention or class of inventions which may be made under a contract.

(b) The NASA Inventions and Contributions Board normally will recommend grant of a request for advance waiver of domestic rights submitted prior to execution of contract or within 30 days after execution of the contract unless the Board finds that the interests of the United States will be better served by restricting or denying all or part of the requested rights in one or more of the following situations:

(1) * * *

(2) When a determination has been made by Government authority which is authorized by statute or Executive order to conduct foreign intelligence or counter-intelligence activities that the restriction or denial of the requested rights to any inventions made in the performance of work under the contract is necessary to protect the security of such activities; or

(3) Where the Board finds that exceptional circumstances exist, such that restriction or denial of the requested rights will better promote one or more of the following objectives:

(i) * * *

(ii) * * *

(iii) * * *

(iv) * * *

(v) Ensuring that the Government retains sufficient rights in federally-supported inventions to meet the needs of the Government and protect the public against nonuse or unreasonable use of inventions.

(c)(1) An advance waiver, when granted, will be subject to the reservations set forth in § 1245.107. Normally, the reservations of § 1245.107(a), License to the Government, and § 1245.107(b), March-in rights, will apply. However, should one or more of the situations set forth in paragraphs (b)(1) through (b)(3), of this section exist, rather than denying the advance waiver request, the Board may recommend granting to the contractor only part of the requested rights, to the extent necessary to address the particular situation, consistent with the policy and goals of § 1245.103. In that event, the waiver grant will be subject to additional reservations as provided for in § 1245.107(c).

(2) To meet the National Aeronautics and Space Act standard of ''any invention or class of inventions,'' for advance waivers, the petition shall identify the invention(s) and/or class(es) of inventions that the Contractor believes will be made under the contract and for which waiver of rights is being requested. Therefore, the petition must be directed to a specific invention(s) or to inventions directed to a particular process, machine, manufacture, or composition of matter, or to a narrowly-drawn, focused area(s) of technology.

(3) An advance waiver, when granted, will apply only to inventions reported to NASA under the applicable terms of the contract and a designation made within 6 months of the time of reporting (or a reasonable time thereafter permitted for good cause shown) that the contractor elects title to the invention and intends to file or has filed a U.S. patent application. Such election will be made by notification in writing to the patent representative designated in the contract. Title to all other inventions made under the contract are subject to section 20135(b)(1) of the National Aeronautics and Space Act, 51 U.S.C. 20135(b)(1). The granting of the advance waiver does not otherwise relieve a contractor of any of the invention identification or reporting requirements set forth in the applicable patent rights clause in the contract.

(4) The advance waiver shall extend to the invention claimed in any patent application filed on the reported invention, including any subsequent divisional or continuation application thereof, provided the claims of the subsequent application do not substantially change the scope of the reported invention.

(d) When a petition for waiver is submitted under paragraph (b) of this section, prior to contract execution, it will be processed expeditiously so that a decision on the petition may be reached prior to execution of the contract. However, if there is insufficient time or insufficient information is presented, or for other reasons which do not permit a recommendation to be made without unduly delaying execution of the contract, the Board will inform the contracting officer that no recommendation can be made prior to contract execution and the reasons therefor. The contracting officer will then notify the petitioner of the Board's action.

(e) A waiver granted pursuant to a petition submitted under this section shall extend to any contract changes, modifications, or supplemental agreements, so long as the purpose of the contract or the scope of work to be performed is not substantially changed.

■ 7. Section 1245.106 is amended by revising paragraph (c) and (d) to read as follows:

§ 1245.106 Waiver of foreign rights.

* * * * *

(c) The Board will normally recommend the waiver of foreign rights be granted under paragraph (a) or paragraph (b) of this section in any designated country unless: (1) The Board finds that exceptional circumstances exist, such that restriction or denial of the requested

foreign rights will better promote one or more of the objectives set forth in § 1245.104(b)(3)(i) through (v); or (2) The Board finds that the economic interests of the United States will not be served thereby; or unless (3) in the case of an individual identified invention under paragraph (b) of this section, NASA has determined, prior to the request, to file a patent application in the designated country.

(d) If, subsequent to the granting of the petition for foreign rights, the petitioner requests and designates additional countries in which it wishes to secure patents, the Chairperson may recommend such request, in whole or in part, without further action by the Board.

■ 8. Section 1245.107 is amended by revising introductory paragraph (b) to read as follows:

§ 1245.107 Reservations.

* * * * *

(b) *March-in rights.* For any invention for which waiver of rights has been granted under this subpart, NASA has the same right as set forth in 35 U.S.C. 203 and 210, with the procedures set forth in § 1245.117 and 37 CFR 401.6, to require the contractor, an assignee, or exclusive licensee of the invention to grant a nonexclusive, partially exclusive, or exclusive license in any field of use to a responsible applicant or applicants, upon terms that are reasonable under the circumstances, and if the contractor, assignee, or exclusive licensee refuses such a request, NASA has the right to grant such a license itself if NASA determines that:

* * * * *

■ 9. Section 1245.110 is amended by adding new paragraph (b) and re-lettering original paragraph (b) and (c) accordingly to read as follows:

§ 1245.110 Content of petitions.

* * * * *

(b) Advance waiver petitions shall also identify the invention(s) and/or class(es) of inventions that the Contractor believes will be made under the contract and for which waiver of rights is being requested, in accordance with § 1245.104(c)(2) above.

(c) No specific forms need be used. Requests for advanced waiver should, preferably, be included with the proposal, but in any event in advance of negotiations.

(d) Petitions for waiver under contracts funded by another agency. The content of the petitions for waiver of title to inventions made under contracts awarded by NASA on behalf of the Department of Energy under § 1245.103(c) shall follow the procedures and form prescribed by and shall be acted on by that agency. Petitions under contracts awarded by NASA on behalf of other agencies will be coordinated with the agency before action is taken by the Board.

■ 10. Section 1245.112 is amended by revising paragraph (a) deleting subparagraph (1)(i), and renumber original subparagraphs (1)(ii) and(1)(iii) accordingly, and revising paragraph (a)(2) to read as follows:

§ 1245.112 Notice of proposed Board action and reconsideration.

(a) Notice. Except as provided by § 1245.104(d), the Board will notify the petitioner, through the contracting officer, with respect to petitions for advance waiver prior to contract execution, and directly to the petitioner for all other petitions:

(1) When it proposes to recommend to the Administrator that the petition be:

(i) Granted in an extent different from that requested; or

(ii) Denied.

(2) Of the reasons for the recommended action adverse to or different from the waiver of rights requested by the petitioner.

* * * * *

■ 11. Section 1245.116 is amended by revising paragraph (b) to read as follows:

§ 1245.116 Miscellaneous provisions.

* * * * *

(b) *Statement of Government rights.* The waiver recipient shall include, within the specification of any United States patent application and any patent issuing thereon for a waived invention, the following statement:

The invention described herein was made in the performance of work under NASA Contract No. _____, and is subject to the provisions of Section 20135 of the National Aeronautics and Space Act (51 U.S.C. Chapter 201).

* * * * *

■ 12. Section 1245.117 is amended by revising paragraph (a) to read as follows:

§ 1245.117 March-in and waiver revocation procedures.

(a) The exercise of march-in procedures shall be in conformance with 35 U.S.C. 203 and the applicable provisions of 37 CFR 401.6, entitled ''Exercise of march-in rights for inventions made by nonprofit organizations and small business firms.''

* * * * *

Cheryl E. Parker,

NASA Federal Register Liaison Officer.

[FR Doc. 2014–23739 Filed 10–3–14; 8:45 am]

BILLING CODE 7510–13–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R09–OAR–2014–0592; FRL–9917–01–Region 9]

Revisions to the California State Implementation Plan, Imperial County Air Pollution Control District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve revisions to the Imperial County Air Pollution Control District (ICAPCD) portion of the California State Implementation Plan (SIP). These revisions concern oxides of nitrogen (NO_X) emissions from wallboard kilns and internal combustion engines. We are proposing to approve local rules to regulate these emission sources under the Clean Air Act (CAA or the Act).

DATES: Any comments on this proposal must arrive by November 5, 2014.

ADDRESSES: Submit comments, identified by docket number EPA–R09–OAR–2014–0592, by one of the following methods:

1. *Federal eRulemaking Portal: www.regulations.gov.* Follow the on-line instructions.

2. *Email: steckel.andrew@epa.gov.*

3. *Mail or deliver:* Andrew Steckel (Air-4), U.S. Environmental Protection Agency Region IX, 75 Hawthorne Street, San Francisco, CA 94105–3901.

Instructions: All comments 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 Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Information that you consider CBI or otherwise protected should be clearly identified as such and should not be submitted through *www.regulations.gov* or email. *www.regulations.gov* is an ''anonymous access'' system, and EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send email directly to EPA, your email address will be automatically captured and included as part of the public comment. 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: Generally, documents in the docket for this action are available electronically at *www.regulations.gov* and in hard copy at EPA Region IX, 75 Hawthorne Street, San Francisco, California 94105–3901. While all documents in the docket are listed at *www.regulations.gov,* some information may be publicly available only at the hard copy location (e.g., copyrighted material, large maps), and some may not be publicly available in either location (e.g., CBI). To inspect the hard copy materials, please schedule an appointment during normal business hours with the contact listed in the **FOR FURTHER INFORMATION CONTACT** section.

FOR FURTHER INFORMATION CONTACT: Idalia Perez, EPA Region IX, (415) 972–3248, *perez.idalia@epa.gov.*

SUPPLEMENTARY INFORMATION: This proposal addresses the following local rules: Rule 400.3, Internal Combustion Engine(s), and Rule 400.4, Emissions of Oxides of Nitrogen from Wallboard Kilns. In the Rules and Regulations section of this **Federal Register**, we are approving these local rules in a direct final action without prior proposal because we believe these SIP revisions are not controversial. If we receive adverse comments, however, we will publish a timely withdrawal of the direct final rule and address the comments in subsequent action based on this proposed rule. Please note that if we receive adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, we may adopt as final those provisions of the rule that are not the subject of an adverse comment.

We do not plan to open a second comment period, so anyone interested in commenting should do so at this time. If we do not receive adverse comments, no further activity is planned. For further information, please see the direct final action.

Dated: August 20, 2014.

Jared Blumenfeld,

Regional Administrator, Region IX.

[FR Doc. 2014–23787 Filed 10–3–14; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R09–OAR–2014–0412; FRL–9912–70–Region 9]

Revisions to the California State Implementation Plan, Lake County Air Quality Management District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve a revision to the Lake County Air Quality Management District (LCAQMD) portion of the California State Implementation Plan (SIP). This revision concerns the definition of hazardous air pollutants and particulate matter emissions from agricultural compression ignition engines. We are proposing to approve local rules under the Clean Air Act (CAA or the Act).

DATES: Any comments on this proposal must arrive by November 5, 2014.

ADDRESSES: Submit comments, identified by docket number EPA–R09–OAR–2014–0412, by one of the following methods:

1. *Federal eRulemaking Portal: www.regulations.gov.* Follow the on-line instructions.
2. *Email: steckel.andrew@epa.gov.*
3. *Mail or deliver:* Andrew Steckel (Air-4), U.S. Environmental Protection Agency Region IX, 75 Hawthorne Street, San Francisco, CA 94105–3901.

Instructions: All comments 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 Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Information that you consider CBI or otherwise protected should be clearly identified as such and should not be submitted through *www.regulations.gov* or email. *www.regulations.gov* is an ''anonymous access'' system, and EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send email directly to EPA, your email address will be automatically captured and included as part of the public comment. 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: Generally, documents in the docket for this action are available electronically at *www.regulations.gov* and in hard copy at EPA Region IX, 75 Hawthorne Street, San Francisco, California 94105–3901. While all documents in the docket are listed at *www.regulations.gov,* some information may be publicly available only at the hard copy location (e.g., copyrighted material, large maps), and some may not be publicly available in either location (e.g., CBI). To inspect the hard copy materials, please schedule an appointment during normal business hours with the contact listed in the **FOR FURTHER INFORMATION CONTACT** section.

FOR FURTHER INFORMATION CONTACT: Idalia Pérez, EPA Region IX, (415) 972–3248, *perez.idalia@epa.gov.*

SUPPLEMENTARY INFORMATION: This proposal addresses the following local rules: LCAQMD Section 228, Hazardous Air Pollutants (HAP), and LCAQMD Section 470, Air Toxics Control Measure for Emissions of Toxic Particulate Matter from In-Use Agricultural Compression Ignition Engines. In the Rules and Regulations section of this **Federal Register**, we are approving these local rules in a direct final action without prior proposal because we believe these SIP revisions are not controversial. If we receive adverse comments, however, we will publish a timely withdrawal of the direct final rule and address the comments in subsequent action based on this proposed rule. Please note that if we receive adverse comment on an amendment, paragraph, or section of either of these rules and if that provision may be severed from the remainder of the rules, we may adopt as final those provisions of the rules that are not the subject of an adverse comment.

We do not plan to open a second comment period, so anyone interested in commenting should do so at this time. If we do not receive adverse comments, no further activity is planned. For further information, please see the direct final action.

Dated: May 30, 2014.

Jared Blumenfeld,

Regional Administrator, Region IX.

[FR Doc. 2014–23770 Filed 10–3–14; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R05–OAR–2013–0273; FRL–9914–96–Region 5]

Approval and Promulgation of Air Quality Implementation Plans; Illinois; Amendments to Gasoline Volatility Standards and Motor Vehicle Refinishing Requirements for Illinois

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving state implementation plan (SIP) revisions submitted by the Illinois Environmental Protection Agency on March 19, 2013, concerning the state's gasoline volatility standards. The SIP revisions also include amendments to the state's motor vehicle refinishing regulations to allow for the alternative use of a high volume, low pressure equivalent coating applicator in motor vehicle refinishing operations, and repeal a registration program under these regulations that overlaps with Federal registration requirements.

DATES: Comments must be received on or before November 5, 2014.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R05–OAR–2013–0273, by one of the following methods:

1. *www.regulations.gov:* Follow the on-line instructions for submitting comments.

2. *Email: blakley.pamela@epa.gov.*

3. *Fax:* (312) 692–2450.

4. *Mail:* Pamela Blakley, Chief, Control Strategies Section, Air Programs Branch (AR–18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604.

5. *Hand Delivery:* Pamela Blakley, Chief, Control Strategies Section, Air Programs Branch (AR–18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604. Such deliveries are only accepted during the Regional Office normal hours of operation, and special arrangements should be made for deliveries of boxed information. The Regional Office official hours of business are Monday through Friday, 8:30 a.m. to 4:30 p.m., excluding Federal holidays.

Please see the direct final rule which is located in the Rules section of this **Federal Register** for detailed instructions on how to submit comments.

FOR FURTHER INFORMATION CONTACT: Francisco J. Acevedo, Mobile Source Program Manager, Control Strategies Section, Air Programs Branch (AR–18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886–6061, *acevedo.francisco@epa.gov.*

SUPPLEMENTARY INFORMATION: In the Final Rules section of this **Federal Register**, EPA is approving the state's SIP submittal as a direct final rule without prior proposal because the Agency views this as a noncontroversial submittal and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to this rule, no further activity is contemplated. If EPA receives 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 rule. EPA will not institute a second comment period. Any parties interested in commenting on this action should do so at this time. Please note that if EPA receives adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions 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: July 29, 2014.

Susan Hedman,

Regional Administrator, Region 5.

[FR Doc. 2014–23768 Filed 10–3–14; 8:45 am]

BILLING CODE 6560–50–P

Notices

Federal Register

Vol. 79, No. 193

Monday, October 6, 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.

ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

No FEAR Act Notice

AGENCY: Administrative Conference of the United States.

ACTION: Notice.

SUMMARY: The Administrative Conference of the United States (the Conference) is providing notice to all its employees, former employees, and applicants for employment about the rights and remedies available to them under the Federal antidiscrimination, whistleblower protection, and retaliation laws. This notice fulfills the Conference's notification obligations under 5 CFR 724.202.

FOR FURTHER INFORMATION CONTACT: Shawne McGibbon, General Counsel, Administrative Conference of the United States, Suite 706 South, 1120 20th Street NW., Washington, DC 20036; Telephone 202–480–2088; email *smcgibbon@acus.gov.* Additional information can be found on the Conference's Web site at *www.acus.gov.*

SUPPLEMENTARY INFORMATION: On May 15, 2002, Congress enacted the ''Notification and Federal Employee Antidiscrimination and Retaliation Act of 2002'' (No FEAR Act), 116 Stat. 566, Public Law 107–174 (5 U.S.C. 2301 note). The Act is intended to hold Federal agencies accountable for violations of antidiscrimination and whistleblower protection laws. In support of this purpose, Congress found that ''agencies cannot be run effectively if those agencies practice or tolerate discrimination.'' Sec. 101(1), Public Law 107–174. The Conference provides this No FEAR Act notice to inform its current employees, former employees, and applicants for employment of the rights and protections available under Federal antidiscrimination, whistleblower protection, and retaliation laws, as required by the Office of Personnel Management, 5 CFR 724.202.

Antidiscrimination Laws

A Federal agency cannot discriminate against an employee or applicant with respect to the terms, conditions or privileges of employment on the basis of race, color, religion, sex, national origin, age, disability, marital status or political affiliation. Discrimination on these bases is prohibited by one or more of the following statutes: 5 U.S.C. 2302(b)(1), 29 U.S.C. 206(d), 29 U.S.C. 631, 29 U.S.C. 633a, 29 U.S.C. 791, and 42 U.S.C. 2000e–16.

If you believe that you have been the victim of unlawful discrimination on the basis of race, color, religion, sex, national origin or disability, you must contact an Equal Employment Opportunity (EEO) counselor within 45 calendar days of the alleged discriminatory action, or, in the case of a personnel action, within 45 calendar days of the effective date of the action, before you can file a formal complaint of discrimination with your agency. See, e.g., 29 CFR part 1614. If you believe that you have been the victim of unlawful discrimination on the basis of age, you must either contact an EEO counselor as noted above or give notice of intent to sue to the Equal Employment Opportunity Commission (EEOC) within 180 calendar days of the alleged discriminatory action.

Because the Conference is a very small agency, it has entered into a contractual arrangement with the General Services Administration (GSA) for EEO services, including, but not limited to, counseling and Alternative Dispute Resolution (ADR) services. EEO counselors are available at GSA's Regional Office of Civil Rights, located at 7th and D Streets SW., Room 7048, Washington, DC 20407. Telephone: (202) 708–8588. You may also file a written complaint of discrimination with that office.

If you are alleging discrimination based on marital status or political affiliation, you may file a written complaint with the U.S. Office of Special Counsel (OSC) (see contact information below). In the alternative (or in some cases, in addition), you may pursue a discrimination complaint by filing a grievance through the agency's administrative or negotiated grievance procedures, if such procedures apply and are available.

Whistleblower Protection Laws

A Federal employee with authority to take, direct others to take, recommend or approve any personnel action must not use that authority to take or fail to take, or threaten to take or fail to take, a personnel action against an employee or applicant because of disclosure of information by that individual that is reasonably believed to evidence violations of law, rule or regulation; gross mismanagement; gross waste of funds; an abuse of authority; or a substantial and specific danger to public health or safety, unless disclosure of such information is specifically prohibited by law and such information is specifically required by Executive order to be kept secret in the interest of national defense or the conduct of foreign affairs.

Retaliation against an employee or applicant for making a protected disclosure is prohibited by 5 U.S.C. 2302(b)(8). If you believe that you have been the victim of whistleblower retaliation, you may file a written complaint (Form OSC–11) with the U.S. Office of Special Counsel at 1730 M Street NW., Suite 218, Washington, DC 20036–4505 or online through the OSC Web site: *www.osc.gov.*

Retaliation for Engaging in Protected Activity

A Federal agency cannot retaliate against an employee or applicant because that individual exercises his or her rights under any of the Federal antidiscrimination or whistleblower protection laws listed above. If you believe that you are the victim of retaliation for engaging in protected activity, you must follow, as appropriate, the procedures described in the Antidiscrimination Laws and Whistleblower Protection Laws sections or, if applicable, the administrative or negotiated grievance procedures in order to pursue any legal remedy.

Disciplinary Actions

Under the existing laws, each agency retains the right, where appropriate, to discipline a Federal employee for conduct that is inconsistent with Federal antidiscrimination and whistleblower protection laws, up to and including removal. If OSC has initiated an investigation under 5 U.S.C. 1214, however, according to 5 U.S.C. 1214(f), agencies must seek approval

from the Special Counsel to discipline employees for, among other activities, engaging in prohibited retaliation. Nothing in the No FEAR Act alters existing laws or permits an agency to take unfounded disciplinary action against a Federal employee or to violate the procedural rights of a Federal employee who has been accused of discrimination.

Additional Information

For information regarding the No FEAR Act regulations, refer to 5 CFR part 724, or contact the General Counsel's Office at the Conference, 1120 20th Street NW., Suite 706 South, Washington, DC 20036, (202) 480–2080. Additional information regarding Federal antidiscrimination, whistleblower protection, and retaliation laws can be found at *www.eeoc.gov* and *www.osc.gov.*

Existing Rights Unchanged

Pursuant to section 205 of the No FEAR Act, neither the Act nor this notice creates, expands or reduces any rights otherwise available to any employee, former employee or applicant under the laws of the United States, including the provisions of law specified in 5 U.S.C. 2302(d).

Dated: October 1, 2014.

Shawne McGibbon,

General Counsel.

[FR Doc. 2014–23762 Filed 10–3–14; 8:45 am]

BILLING CODE 6110–01–P

DEPARTMENT OF AGRICULTURE

Submission for OMB Review; Comment Request

September 30, 2014.

The Department of Agriculture has submitted the following information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Comments regarding (a) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; (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 those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Comments regarding this information collection received by November 5, 2014 will be considered. Written comments should be addressed to: Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), New Executive Office Building, 725—17th Street NW., Washington, DC 20502. Commenters are encouraged to submit their comments to OMB via email to: *OIRA_Submission@OMB.EOP.GOV* or fax (202) 395–5806 and to Departmental Clearance Office, USDA, OCIO, Mail Stop 7602, Washington, DC 20250–7602. Copies of the submission(s) may be obtained by calling (202) 720–8958.

An agency may not conduct or sponsor a collection of information unless the collection of information displays a currently valid OMB control number and the agency informs potential persons who are to respond to the collection of information that such persons are not required to respond to the collection of information unless it displays a currently valid OMB control number.

Animal and Plant Health Inspection Service

Title: National Animal Health Monitoring System (NAHMS); Equine 2015 Study.

OMB Control Number: 0579–0269.

Summary of Collection: Collection and dissemination of animal health and information is mandated by 7 U.S.C. 391, the Animal Industry Act of 1884, which established the precursor of the Animal and Plant Health Inspection Service (APHIS), Veterinary Services, the Bureau of Animal Industry. Legal requirements for examining and reporting on animal disease control methods were further mandated by 7 U.S.C. 8308 of the Animal Health Protection Act, ''Detection, Control, and Eradication of Diseases and Pests,'' May 13, 2002. NAHMS will initiate the third national equine health and management data collection through the Equine 2015 Study. The information collected through the Equine 2015 Study will be analyzed and organized into one or more descriptive reports. The Equine 2015 Study is a part of an ongoing series of NAHMS studies on the U.S. equine population.

Need and Use of the Information: APHIS will use the data collected to: (1) Serve stakeholders by estimation of trends in national and regional equine health, movement and management, (2) Address emerging issues; (3) Examine the economic impact of health management practices; (4) Provide data to be used when decisions regarding intervention in a disease outbreak are required; (5) Provide input into the design of surveillance systems for specific diseases; (6) Provide cost estimates of selected aspects of equine health care to better inform those planning to enter into equine ownership of the cost of equine health care. Without the NAHMS data the United States would not be able to assess the potential risk to human health from pathogens associated with equids or shared with equids, such as encephalidities.

Description of Respondents: Business or other for-profit.

Number of Respondents: 16,916.

Frequency of Responses: Reporting: On occasion.

Total Burden Hours: 13,606.

Ruth Brown,

Departmental Information Collection Clearance Officer.

[FR Doc. 2014–23709 Filed 10–3–14; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Submission for OMB Review; Comment Request

September 30, 2014.

The Department of Agriculture has submitted the following information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Comments regarding (a) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; (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 those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Comments regarding this information collection received by November 5, 2014 will be considered. Written comments should be addressed to: Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), New Executive Office Building, 725—17th Street NW., Washington, DC 20502. Commenters are encouraged to

submit their comments to OMB via email to: *OIRA_Submission@OMB.EOP.GOV* or fax (202) 395–5806 and to Departmental Clearance Office, USDA, OCIO, Mail Stop 7602, Washington, DC 20250–7602. Copies of the submission(s) may be obtained by calling (202) 720–8958.

An agency may not conduct or sponsor a collection of information unless the collection of information displays a currently valid OMB control number and the agency informs potential persons who are to respond to the collection of information that such persons are not required to respond to the collection of information unless it displays a currently valid OMB control number.

Farm Service Agency

Title: Representations for CCC and FSA Loans and Authorization to File a Financing Statement and Related Documents.

OMB Control Number: 0560–0215

Summary of Collection: Commodity Credit Corporation and the Farm Service Agency (FSA) programs require loans be secured with collateral. The security interest is created and attaches to the collateral when: (1) Value has been given, (2) the debtor has rights in the collateral or the power to transfer rights in the collateral, and (3) the debtor has authenticated a security agreement that provides a description of the collateral. In order to perfect the security interest in collateral, a financing statement must be filed according to a State's Uniform Commercial Code. The revised Article 9 of the Uniform Commercial Code deals with secured transaction for personal property. The revised Article 9 affects the manner in which the CCC and FSA, as well as any other creditor, perfect and liquidate security interests in collateral.

Need and Use of the Information: FSA will collect information using form CCC–10. The information obtained on CCC–10 is needed to not only obtain authorization from loan applicants to file a financing statement without their signature, but also to verify the exact legal name and location of the debtor. If this information is not collected, CCC and FSA will not be able to disburse loans because a security interest would not be perfected.

Description of Respondents: Farms; individuals or households; business or other for-profit.

Number of Respondents: 2,148.

Frequency of Responses: Reporting; On occasion.

Total Burden Hours: 2,326.

Ruth Brown,

Departmental Information Collection Clearance Officer.

[FR Doc. 2014–23710 Filed 10–3–14; 8:45 am]

BILLING CODE 3410–05–P

DEPARTMENT OF AGRICULTURE

Office of the Secretary

Meeting Notice of the National Agricultural Research, Extension, Education, and Economics Advisory Board

AGENCY: Research, Education, and Economics, USDA.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, 5 U.S.C. App 2, Section 1408 of the *National Agricultural Research, Extension, and Teaching Policy Act of 1977* (7 U.S.C. 3123), and the *Agricultural Act of 2014,* the United States Department of Agriculture (USDA) announces an open meeting of the National Agricultural Research, Extension, Education, and Economics (NAREEE) Advisory Board.

DATES: The National Agricultural Research, Extension, Education, and Economics Advisory Board will meet October 21–23, 2014: October 21, 2014, 1:00 p.m.–5:30 p.m. October 22, 2014, 8:00 a.m.–5:00 p.m. October 23, 2014, 8:00 a.m.–12:00 p.m.

ADDRESSES: Loew's Madison Hotel, 1177 Fifteenth Street NW., Washington, DC 20005.

FOR FURTHER INFORMATION CONTACT: Michele Esch, Designated Federal Officer and Executive Director, National Agricultural Research, Extension, Education, and Economics Advisory Board, U.S. Department of Agriculture, 1400 Independence Avenue SW., STOP 0321, Washington, DC 20250–0321; telephone: (202) 720–3684; fax: (202) 720–6199; or email: *michele.esch@usda.gov.*

SUPPLEMENTARY INFORMATION:

Purpose of the Meeting: To provide advice and recommendations on the top priorities and policies for food and agricultural research, education, extension and economics.

Tentative Agenda: The agenda will include the following:

- Update on Research, Education, and Economics mission area activities.
- Roundtable discussion on the process for completing the mandatory annual relevancy and adequacy review.
- Updates from the subcommittees of the NAREEE Advisory Board, including the National Genetic Resources Advisory Council, the Specialty Crop Committee, and the Citrus Disease Subcommittee.
- Updates from the working groups of the NAREEE Advisory Board, including deliberation of reports and recommendations on the Balance of Crop Research and the Review of the Agricultural Experiment Station System.

Public Participation: This meeting is open to the public and any interested individuals wishing to attend. Opportunity for public comment will be offered at the end of each day of the meeting. To attend the meeting and/or make oral statements regarding any items on the agenda, you must contact Michele Esch at 202–720–8408; email: *Michele.esch@usda.gov* at least 5 business days prior to the meeting. Members of the public will be heard in the order in which they sign up at the beginning of the meeting. The Chair will conduct the meeting to facilitate the orderly conduct of business. Written comments by attendees or other interested stakeholders will be welcomed for the public record before and up to two weeks following the Board meeting (by close of business Tuesday, November 4, 2014). All written statements must be sent to Michele Esch, Designated Federal Officer and Executive Director, National Agricultural Research, Extension, Education, and Economics Advisory Board, U.S. Department of Agriculture, 1400 Independence Avenue SW., STOP 0321, Washington, DC 20250–0321; or email: *michele.esch@usda.gov.* All statements will become a part of the official record of the National Agricultural Research, Extension, Education, and Economics Advisory Board and will be kept on file for public review in the Research, Education, and Economics Advisory Board Office.

Done at Washington, DC, this 1st day of October 2014.

Ann Bartuska,

Deputy Under Secretary, Research, Education, and Economics.

[FR Doc. 2014–23814 Filed 10–3–14; 8:45 am]

BILLING CODE 3410–03–P

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

Agency Information Collection Activities; Proposed Collection, Comment Request: Special Supplemental Nutrition Program for Women, Infants, and Children Infant and Toddler Feeding Practices Study

AGENCY: Food and Nutrition Service, United States Department of Agriculture (USDA).

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice invites the public and other public agencies to comment on this proposed information collection. This collection is a revision of the currently approved WIC Infant and Toddler Feeding Practices 2 Study (ITFPS–2). The revision is to amend the 24-month data collection instrument and extend the data collection on the cohort of infants by one year, to their 3rd birthday. The data will be used to estimate the type and prevalence of various feeding practices in the WIC population and assess whether the new WIC food packages (instituted in 2009) have influenced feeding practices. This study will also examine the circumstances and influences that shape mothers' feeding decisions for their children, and will describe the impact of these decisions throughout early child development.

DATES: Written comments must be received on or before December 5, 2014.

ADDRESSES: 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 on the proposed collection of information, including the validity of the methodology and assumptions that were used; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the information collection on respondents, including use of appropriate automated, electronic, mechanical, or other technological methods of data collection.

Written comments may be sent to: Allison Magness, Ph.D., R.D., Social Science Research Analyst, Office of Policy Support, Food and Nutrition Service, USDA, 3101 Park Center Drive, Room 1014, Alexandria, VA 22302. Comments may also be submitted via fax to the attention of Allison Magness at 703–305–2576 or via email to *allison.magness@fns.usda.gov.* Comments will also be accepted through the Federal eRulemaking Portal. Go to *http://www.regulations.gov* and follow the online instructions for submitting comments electronically.

All responses to this notice will be summarized and included in the request for Office of Management and Budget approval. All comments will be a matter of public record.

FOR FURTHER INFORMATION CONTACT: To request more information on the proposed project, contact Allison Magness, Ph.D., R.D., Social Science Research Analyst, Office of Policy Support, Food and Nutrition Service, USDA, 3101 Park Center Drive, Room 1014, Alexandria, VA 22302.

SUPPLEMENTARY INFORMATION:

Title: Special Supplemental Nutrition Program for Women, Infants, and Children (WIC) Infant and Toddler Feeding Practices Study-2 (ITFPS–2) Age 3 Extension.

Form Number: N/A.

OMB Number: 0584–0580.

Expiration Date of Approval: 05/31/2015.

Type of request: Revision of a currently approved collection.

Abstract: The Food and Nutrition Service's (FNS) WIC ITFPS–2 (''base'' study) will provide information on the feeding practices of infants in the base cohort from the time of birth up to 2 years of age. The proposed revision will amend the 24-month data collection instrument and extend the longitudinal data collection of the current cohort of infants up to 3 years of age. This proposed extension is needed to understand the environmental characteristics, influence of WIC, and children's nutrient intake, meal and snack patterns, and feeding practices on children's nutrition, health, weight, and growth. The results will assist in the development of appropriate and effective prevention strategies to improve the health of young children. With over 50 percent of the nation's infants enrolled in WIC, it is hoped that prevention strategies implemented in WIC will have a substantial impact on the growth and health of U.S. infants and children.

The study activities subject to this notice include: informing State WIC office and local WIC sites that the study has been extended and their role in the extension study; collecting contact information on 2,716 mothers/caregivers in the base study during the 24-month telephone interview; administering two additional telephone interviews to up to 3,277 mothers/caregivers of children in the base study when their child is 30- and 36-months old; and obtaining their child's height and weight measurements at 36-months from WIC administrative records, health care provider records, or direct measurements at WIC sites.

The State WIC office and local WIC site staff will receive an email about the study extension and they will participate in a conference call to discuss the follow-up activities. Additionally, each study participant will receive a study flyer when their child is 21 months of age, and they will be asked to provide updated contact information to ensure ongoing participation at the time of the 24-month interview. Prior to the telephone interview, the mother/caregiver for each child in the cohort will be mailed an invitation to continue in the study that includes a toll-free number to call-in for questions. They will also be re-contacted throughout this study. Participants will receive periodic cards, calls, and text messages to remind them of upcoming data collection interviews and height and weight (H/W) measurements. State agency staff will extract H/W data of participating children from WIC administrative records; health care providers will provide H/W measurements for the majority of non-participating children (i.e., who have dropped out of WIC); and WIC site staff will weigh and measure the remaining non-participating children. WIC site staff will also provide updated contact information when requested.

Affected Public: Individuals/Households (4,050; 3,241 respondents including pre-testing and 809 non-respondents); State, Local or Tribal government (107 respondents and 0 non-respondents); and Business-for-profit/not-for-profit (196; 157 respondents and 39 non-respondents). There are approximately 848 non-respondents who will be contacted but choose not to participate. The burden for non-respondents is broken down in the table below.

Type of Respondents: Mothers/caregivers of infants in cohort; State agency data managers and WIC site staff; and health care providers.

Estimated Total Number of Respondents: 4,353.

Frequency of Response: 10.36 annually.

Estimated Annual Responses: 45,077.

Estimate of Time per Respondent and Annual Burden: The total public reporting burden for this collection of information is estimated at 5,039.11 hours. The estimated burden for each type of respondent is given in the table

below. Across all study respondents and non-respondents, the estimated average annual burden is 1.16 hours.

BILLING CODE 3410–30–P

Respondent Type	Respondent Description	Type of Survey Instrument	Sample size (a)	Number of Respondents	Frequency of Response (annual)	Total Annual Responses	Average Hours per Response	Sub- Annual Burden	Number of non - respondents	Frequency of Response (annual)	Total Annual Responses	Average Hours per response	Sub-Total Annual Burden	Total Burden Hours
Individuals and Households	WIC participants	Pretest telephone survey	4	4	1	4	0.5	2	0	1	0	0.5	0	2
		Advance materials: participant flyer (b)	4046	3237	1	3237	0.003	9.71	809	1	809	0.003	2.43	12.14
		Advance materials: Consent form (b)	4046	3115	1	3115	0.05	155.75	931	1	931	0.05	46.55	202.3
		24-month telephone survey: collect contact information (c)	4046	2716	1	2716	0.05	135.8	1330	1	1330	0	0	135.8
		27-month contact information form (d)	3277	2294	1	2294	0.1	229.4	983	1	983	0.1	98.3	327.7
		30-month advance letter (d)	3277	2785	1	2785	0.033	91.9	492	1	492	0.033	16.24	108.14
		30-month telephone survey (c)	4046	2580	1	2580	0.5	1290	1466	1	1466	0	0	1290
		Participant reminder scripts (e)	1638	1638	3	4914	0.05	245.7	0	3	0	0.05	0	245.7
		33 month contact information form (f)	3113	2179	1	2179	0.1	217.9	934	1	934	0.1	93.4	311.3
		36-month advance letter (f)	3113	2646	1	2646	0.033	87.32	467	1	467	0.033	15.41	102.73
		36-month telephone survey (c)	4046	2444	1	2444	0.5	1,222	1602	1	1602	0	0	1222
		HIPPA form (g)	244	196	1	196	0.05	9.8	48	1	48	0.05	2.4	12.2
		Height and weight measurement (h)	978	685	1	685	1	685	293	1	293	0	0	685
		Birthday card	3277	3277	1	3277	0.003	9.83	0	1	0	0.003	0	9.83
Individuals and Households Subtotal			**4050**	**3241**		**33072**		**4392.12**	**809**		**9355**		**274.7**	**4666.84**
State & Local Government	State WIC data manager	Communication materials(i)	27	27	1	27	0.55	14.85	0	1	0	0.55	0	14.85
		Height/ Weight Admin data form (j)	27	27	1	27	0.5	13.5	0	1	0	0.5	0	13.5
		Subtotal	**27**	**27**		**54**		**28.35**	**0**		**0**		**0**	28.35
	WIC site staff	Communication materials (i)	80	80	1	80	0.55	44	0	1	0	0.55	0	44
		Request for contact information (k)	80	80	20	1600	0.08	128	0	20	0	0.08	0	128
		Height and weight measurement (l)	80	80	9	720	0.217	156.24	0	9	0	0.217	0	156.24
		Subtotal	**80**	**80**		**2400**		**328.24**	**0**		**0**		**0**	328.24
State/Local Government Subtotal			**107**	**107**		**2454**		**356.59**	**0**		**0**		**0**	**356.59**
Profit/Non-Profit Business	Provider data manager	Provider Data Request Form (m)	196	157	1	157	0.08	12.56	39	1	39	0.08	3.12	15.68
Profit/Non-Profit Business Subtotal			**196**	**157**		**157**		**12.56**	**39**		**39**		**3.12**	15.68
GRAND TOTAL			**4353**	**3545**		**35683**		**4761.27**	**848**		**9394**		**277.84**	**5039.11**

(a) 4046 = base study total live birth cohort

(b) Assume 80% will read flyer and 77% will sign consent form

(c) Of base study total live birth cohort -- assume about 67% will complete 24-month survey, 64% will complete 30-month survey, 60% will complete 36-month survey

(d) Assume study attrition from current cohort will be 10% per year x 2 years = 4,046*.9*.9 = 3,277 at end of 24-months. Assume 70% will complete the contact information form and 85% will read the advance letter.

(d) Assume 64% of base study total live birth cohort will respond.

(e) Assume 50% of cohort at 24-months will require reminders (e.g., telephone, email, text). Assume average of 3 contacts each
(f) Assume study attrition @ 33-month will be 5%. 4046*.9*.9*.95 = 3113. Assume 70% will return contact information form and 85% will read advance letter.
(g) Assume 10% of respondents to 36-month interview will no longer be on WIC and will need HIPAA to collect H/W measurements from provider. Of those, about 80% will sign and return the form.
(h) Assume 40% of respondents to the 36-month interview will no longer be on WIC but will be able to visit their WIC site for H/W measurement; of those, 70% will be measured.
(i) Includes reviewing one email (5 minutes) and participating in a conference call (30 minutes)
(j) Assume administrative H/W records will be provided by State WIC office 1 time.
(k) Assume will request participant contact information from WIC sites about once a month over the data collection period.
(l) Assume that for the 40% participants no longer on WIC and returning to WIC site for measurements, about 9 children will be weighed and measured per site. Assume 10 minutes for measurements and 3 minutes for data transfer, for a total of 13 minutes per child.
(m) Assume H/W data for participants who returned HIPAA form will be provided by 80% of providers.

Dated: September 30, 2014.

Audrey Rowe,

Administrator, Food and Nutrition Service.

[FR Doc. 2014–23740 Filed 10–3–14; 8:45 am]

BILLING CODE 3410–30–C

DEPARTMENT OF AGRICULTURE

Forest Service

Kootenai National Forest; Lincoln County; Montana; Lower Yaak, O'Brien, Sheep Project EIS

AGENCY: Forest Service, USDA.

ACTION: Notice of intent to prepare an environmental impact statement.

SUMMARY: The Forest Service will prepare an Environmental Impact Statement (EIS) to disclose the environmental effects of commercial and non-commercial vegetation management activities, prescribed burning, watershed and recreation improvement activities, and granting road access to private timber lands. Access management changes and other design features are included to protect resources and facilitate management activities. The project is located in the Lower Yaak, O'Brien, and Sheep planning subunits on the Three Rivers Ranger District, Kootenai National Forest, Lincoln County, Montana, near Troy, Montana.

DATES: Comments concerning the scope of the analysis must be received by November 5, 2014. The draft environmental impact statement is expected June 2015 and the final environmental impact statement is expected August 2015.

ADDRESSES: Send written comments to Kirsten Kaiser, District Ranger, Three Rivers Ranger District, 12858 US Highway 2, Troy, MT 59935. Comments may also be sent via email to *comments-northern-kootenai-three-rivers@fs.fed.us,* or via facsimile to 406–295–7410.

FOR FURTHER INFORMATION CONTACT: Leslie McDougall, Project Team Leader, Three Rivers Ranger District, 12858 US Highway 2, Troy, MT 59935. Phone: (406) 295–4693. Individuals who use telecommunication devices for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern Time, Monday through Friday.

SUPPLEMENTARY INFORMATION: The Lower Yaak, O'Brien, Sheep project area is approximately 67,500 acres in size and is located adjacent to and east of Troy, Montana along the Kootenai River. O'Brien, Lynx, Rabbit, Hummingbird, Kilbrennan, and Arbo Creeks are the main watersheds in the project area. The legal description includes Townships 31, 32, 33, and 34 North, Ranges 32, 33, and 34 West, PMM, Lincoln County, Montana.

Purpose and Need for Action

The purpose and need for this project is to: (1) Promote resilient vegetation by managing towards Forest Plan desired conditions for landscape-level vegetation patterns, structure, patch size, fuel loading, and species composition; (2) maintain or improve water quality and native aquatic species habitat; (3) provide forage opportunities while maintaining wildlife security; (4) provide wood products that are in demand by the American public, contribute to the local economy by generating jobs and income, and provide a safe and efficient transportation system; and (5) treat hazardous fuels to reduce crown fire potential and stand replacing wildfire within the wildland urban interface (WUI) and other areas while promoting fire behavior characteristics and fuel conditions that allow for safe and effective fire management.

Proposed Action

The proposed action includes timber harvest and associated fuels treatments, prescribed burning, and watershed work to address the purpose and need. The proposed action includes:

(1) Approximately 2,202 acres of regeneration harvest and 1,149 acres of intermediate harvest are being proposed. These treatments would be accomplished through 2,500 acres of tractor harvest and 851 acres of skyline yarding. There are 40 units proposed that would create or contribute to 24 different openings larger than 40 acres. This action requires a 60-day public review and Regional Forester approval (FSM 2471.1). This document serves as the beginning of the 60-day comment period. The largest of these treatment units would be approximately 190 acres in size. Approximately 769 acres of the total 2,080 proposed prescribed burning and fuel reduction treatments are within the WUI, while 2,894 of the total 3,351 acre proposed timber harvest treatment is within the WUI. Total WUI treatment is approximately 3,663 acres.

(2) In an effort to return fire to the landscape and to promote wildlife foraging opportunities approximately 1,508 acres of prescribed burning (1,482 acres of broadcast burning and 26 acres of maintenance underburning) is being proposed. Approximately 727 acres in the WUI are proposed for burning. Approximately 660 acres acres of this burning will occur in the Inventoried Roadless Areas.

(3) It is estimated that two temporary roads, totaling approximately 0.4 mile would be constructed to accomplish the timber harvest and associated fuel reduction work. These roads would be decommissioned following activities. Two segments of road would be rerouted for resource protection (approximately 0.5 mile on near Kilbrennan Lake and 0.3 mile near the Troy shooting range).

(4) Implementation of best management practice (BMP) work and road maintenance work would be implemented on Forest Service haul roads. Approximately 45 miles of National Forest System road (NFSR) would be reconstructed to meet State BMPs for water quality.

(5) Implementation of BMPs on roads *not* used for haul routes, including NFSR 4429 O'Brien Lynx Creek road, and NFSR 4445 Lynx Creek. This road

work would be completed separately from the timber sale and would be dependent on other sources of funding.

(6) Approximately 10.7 miles of active road storage, 6.3 miles of passive road storage, 1.3 miles of active decommissioning, and 7.0 miles of passive decommissioning would be done on roads not currently open for public motorized travel. Roads identified in the Travel Analysis as needed for long-term management of NFS lands would be put into intermittent stored service (storage). Roads identified as not needed for future management would be decommissioned. Both storage and decommissioning could have a range of treatments including simple barrier installation (passive treatment) where watershed impacts are not likely, to active treatments ranging from removing culverts to full recontouring where risks to watersheds are high. Non-motorized access would be facilitated with improved tread on road segments identified by the public as important for use.

In addition, five sites are proposed for road stream crossing restoration where abandoned road stream crossing structures are failing and delivering sediment to the streams. Streams where work is proposed include North Fork O'Brien, Rabbit Creek, and Prospect Creek.

(7) An estimated 650 acres of grizzly bear Core habitat would be impacted by proposed harvest and/or road use activities occurring within or adjacent to existing Core. To compensate for this potential loss of Core acres, roads open or restricted (gated) to motorized use elsewhere within the bear management unit (BMU) would be effectively barriered to motorized traffic occuring during the active bear year. This compensation work would occur prior to or concurrently with the proposed harvest or road use to be in compliance with design features of the Access Amendment. Similarly, to offset potential increases in open motorized route densities incurred during roadwork and harvest activities in the BMU, a road(s) currently open to motorized use would be temporarily gated during the implementation period of these activities.

(8) Construction of approximately 0.14 mile of new road on NFS lands on Yaak Mountain to allow access to Stimson Lumber Company lands for land management purposes. This new road construction would access Stimson land in T32N R34W, Section 3.

(9) Recreation improvement projects.

Possible Alternatives

The Forest Service will consider a range of alternatives. One of these will be the ''no action'' alternative in which none of the proposed action would be implemented. Additional alternatives may be included in response to issues raised by the public during the scoping process or due to additional concerns for resource values identified by the interdisciplinary team.

Responsible Official

The Forest Supervisor of the Kootenai National Forest, 31374 US Highway 2, Libby, MT 59923–3022, is the Responsible Official. As the Responsible Official, I will decide if the proposed action will be implemented. I will document the decision and rationale for the decision in the Record of Decision. I have delegated the responsibility for preparing the draft environmental impact statement (DEIS) and final environmental impact statement (FEIS) to the District Ranger, Three Rivers Ranger District.

Nature of Decision To Be Made

Based on the purpose and need, the Responsible Official reviews the proposed action, the other alternatives, the environmental consequences, and public comments on the analysis in order to make the following decisions:

(1) Whether to implement timber harvest and associated fuel reduction treatments, prescribed burning, watershed work, recreation improvements, and private property access, including the design features and potential mitigation measures to protect resources; and if so, how much, and at what specific locations.

(2) What, if any, specific project monitoring requirements are needed to assure design features and potential mitigation measures are implemented and effective, and to evaluate the success of the project objectives. Preliminary project monitoring needs identified include effectiveness of BMP work, and retention of coarse woody debris. A project-specific monitorng plan will be developed.

Preliminary Issues

Initial analysis by the interdisciplinary team has brought forward several issues that may affect the design of the project.

(1) There are 40 harvest units that would contribute to 24 openings larger than 40 acres. This action requires a 60-day public review and Regional Forester approval (FSM 2471.1). This document serves as the beginning of the 60-day public review period.

(2) Because four of the proposed units would combine to create three openings larger than 40 acres in MA 12 (big game summer range), a site-specific Forest Plan amendment for MA 12 may be required for Wildlife Standard 7, Forest Plan page III–49, which states that generally harvest unit size should not exceed 40 acres in elk and mule deer habitat or 20 acres in moose and whitetail deer habitat. An amendment to allow timber harvest in MA 2 (semi-primitive non-motorized recreation/unsuitable) Timber Standards 1, which states that this MA is unsuitable for timber production, and 2, which states the timber harvest will not occur, may be necessary. An amendment to allow timber harvest MA 13 (old growth/unsuitable) for Timber Standard 1, which states that this MA is not suitable for timber production, and Timber Standard 3 which states that timber harvest will not occur, may also be required.

Scoping Process

This notice of intent initiates the scoping process, which guides the development of the environmental impact statement. The interdisciplinary team will continue to seek information, comments, and assistance from Federal, State, and local agencies, tribal governments, and other individuals or organizations that may be interested in, or affected by, the proposed action. There are several collaborative groups in the area that the interdisciplinary team will interact with during the analysis.

It is important that reviewers provide their comments at such times and in such manner that they are useful to the agency's preparation of the environmental impact statement. Therefore, comments should be provided prior to the close of the comment period and should clearly articulate the reviewer's concerns and contentions. A more detailed scoping letter is available on request as well as on the Kootenai National Forest projects page located here: *http://www.fs.usda.gov/projects/kootenai/landmanagement/projects.*

Comments received in response to this solicitation, including names and addresses of those who comment, will become part of the public record for this proposed action. Comments submitted anonymously will be accepted and considered, however they will not grant standing to the commenter during the objection period.

Dated: September 15, 2014.

Christopher S. Savage,

Forest Supervisor.

[FR Doc. 2014–22817 Filed 10–3–14; 8:45 am]

BILLING CODE P

DEPARTMENT OF AGRICULTURE

Forest Service

National Urban and Community Forestry Advisory Council

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The National Urban and Community Forestry Advisory Council (Council) will meet on November 5 and 7, 2014. The Council is authorized under Section 9 of the Cooperative Forestry Assistance Act, as amended by Title XII, Section 1219 of Public Law 101–624 (the Act) (16 U.S.C. 2105g) and the Federal Advisory Committee Act of 1972 (5 U.S.C. App. II). The purpose of the Committee is to: (a) Develop a national urban and community forestry action plan in accordance with Section 9(g)(3)(A–F) of the Act; (b) evaluate the implementation of that plan; and (c) develop criteria for, and submit reccomendations with respect to the urban and community forestry challenge cost-share program as required by Section 9(f)(1–2) of the Act. The meeting is open to the public.

Additional information concerning the Council, can be found by visiting the Council's Web site at: *http://www.fs.fed.us/ucf/nucfac.shtml.*

DATES: The meeting will be held Wednesday, November 5, 2014 at 1:00 p.m.–5:00 p.m., and Friday, November 7, 2014 at 9:00 a.m.–12:00 p.m., or until Council business is completed. All Council meetings are subject to cancellation. For status of the meetings prior to attendance, please contact the person listed under **FOR FURTHER INFORMATION CONTACT.**

ADDRESSES: The meeting will be held at The Westin Charlotte Hotel, Harris Room—Second Floor, 601 S. College Street, Charlotte, North Carolina 28202 on November 5, 2014 and the Providence Ballroom I—First Floor on November 7, 2014. Written comments may be submitted as described under **SUPPLEMENTARY INFORMATION**. All comments, including names and addresses when provided, are placed in the record and are available for public inspection and copying. The public may inspect comments received at the Forest Service. Visitors are encouraged to call ahead to facilitate entry into the Forest Service building.

FOR FURTHER INFORMATION CONTACT: Nancy Stremple, Executive Staff to the National Urban and Community Forestry Advisory Council, Yates Building (3NW), 201 14th Street SW., Washington, DC 20250; or by phone at 202–205–7829, or by cell phone at 202–309–9873. Individuals who use telecommunication devices for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8:00 a.m. and 8:00 p.m., Eastern Standard Time, Monday through Friday.

SUPPLEMENTARY INFORMATION: The purpose of the meeting is to:

(1) Provide orientation for new members,

(2) Introduce the facilitator for the development of the next National Urban Forestry Ten Year Action Plan,

(3) Finalize the work plan action items,

(4) Discuss and approve the 2016 grant categories,

(5) Receive information from members of the urban forestry community of practice,

(6) Receive Forest Service updates on program activities, partnerships, and budgets, and

(7) Approve the annual accomplishments and recommendations report.

The agenda will include time for people to make oral statements of three minutes or less. Individuals wishing to make an oral statement should request in writing within 7 days of the meeting to be scheduled on the agenda. Council discussion is limited to Forest Service staff and Council members; however, persons who wish to bring urban and community forestry matters to the attention of the Council may file written statements with the Council staff before or after the meeting. Written comments and time request for oral comments must be sent to Nancy Stremple, Executive Staff to the National Urban and Community Forestry Advisory Council, Yates Building (3NW), 201 14th Street SW., Washington, DC 20250, or by email to *nstremple@fs.fed.us,* or via facsimile to 202–690–5792. Summary/minutes of the meeting will be posted on the following Web site: *http://www.fs.fed.us/ucf/nucfac.shtml* within 45 days after the meeting.

Meeting Accommodations: If you are a person requiring reasonable accommodation, please make requests in advance for sign language interpreting, assistive listening devices or other reasonable accommodation for access to the facility or proceedings by contacting the person listed in the section titled **FOR FURTHER INFORMATION CONTACT**. All reasonable accommodation requests are managed on a case by case basis.

Dated: September 30, 2014.

Debra S. Pressman,

Acting Associate Deputy Chief, State and Private Forestry.

[FR Doc. 2014–23745 Filed 10–3–14; 8:45 am]

BILLING CODE 3411–15–P

UNITED STATES COMMISSION ON CIVIL RIGHTS

State Advisory Committees

AGENCY: United States Commission on Civil Rights.

ACTION: Notice of period during which individuals may apply to be appointed to the Colorado Advisory Committee, Louisiana Advisory Committee, Ohio Advisory Committee, and South Carolina Advisory Committee; request for applications.

SUMMARY: Because the terms of the members of the Colorado Advisory Committee are expiring on February 7, 2015, the United States Commission on Civil Rights hereby invites any individual who is eligible to be appointed to apply. The memberships are exclusively for the Colorado Advisory Committee, and applicants must be residents of Colorado to be considered. Letters of interest must be received by the Rocky Mountain Regional Office of the U.S. Commission on Civil Rights no later than November 1, 2014. Letters of interest must be sent to the address listed below.

Because the terms of the members of the Louisiana Advisory Committee are expiring on February 7, 2015, the United States Commission on Civil Rights hereby invites any individual who is eligible to be appointed to apply. The memberships are exclusively for the Louisiana Advisory Committee, and applicants must be residents of Louisiana to be considered. Letters of interest must be received by the Central Regional Office of the U.S. Commission on Civil Rights no later than November 1, 2014. Letters of interest must be sent to the address listed below.

Because the terms of the members of the Ohio Advisory Committee are expiring on February 7, 2015, the United States Commission on Civil Rights hereby invites any individual who is eligible to be appointed to apply. The memberships are exclusively for the Ohio Advisory Committee, and applicants must be residents of Ohio to be considered. Letters of interest must be received by the Midwestern Regional Office of the U.S. Commission on Civil

Rights no later than November 1, 2014. Letters of interest must be sent to the address listed below.

Because the terms of the members of the South Carolina Advisory Committee are expiring on February 7, 2015, the United States Commission on Civil Rights hereby invites any individual who is eligible to be appointed to apply. The memberships are exclusively for the South Carolina Advisory Committee, and applicants must be residents of South Carolina to be considered. Letters of interest must be received by the Southern Regional Office of the U.S. Commission on Civil Rights no later than November 1, 2014. Letters of interest must be sent to the address listed below.

DATES: Letters of interest for membership on the Colorado Advisory Committee should be received no later than November 1, 2014.

Letters of interest for membership on the Louisiana Advisory Committee should be received no later than November 1, 2014.

Letters of interest for membership on the Ohio Advisory Committee should be received no later than November 1, 2014.

Letters of interest for membership on the South Carolina Advisory Committee should be received no later than November 1, 2014.

ADDRESSES: Send letters of interest for the Colorado Advisory Committee to: U.S. Commission on Civil Rights, Rocky Mountain Regional Office, 999 18th Street NW., Suite 1380 South, Denver, CO 80294. Letter can also be sent via email to *ebohor@usccr.gov.*

Send letters of interest for the Louisiana Advisory Committee to: U.S. Commission on Civil Rights, Central Regional Office, 400 State Avenue, Suite 908, Kansas City, KS 66101. Letter can also be sent via email to *csanders@usccr.gov.*

Send letters of interest for the Ohio Advisory Committee to: U.S. Commission on Civil Rights, Midwestern Regional Office, 55 W. Monroe St., Suite 410, Chicago, IL 60603. Letter can also be sent via email to *callen@usccr.gov.*

Send letters of interest for the South Carolina Advisory Committee to: U.S. Commission on Civil Rights, Southern Regional Office, 61 Forsyth St. SW., Suite 16T126, Atlanta, GA 30303. Letters can also be sent via email to *jhinton@usccr.gov.*

FOR FURTHER INFORMATION CONTACT: David Mussatt, Chief, Regional Programs Unit, 55 W. Monroe St., Suite 410, Chicago, IL 60603, (312) 353–8311. Questions can also be directed via email to *dmussatt@usccr.gov.*

SUPPLEMENTARY INFORMATION: The Colorado, Louisiana, Ohio, and South Carolina Advisory Committees (SACs) are statutorily mandated federal advisory committees of the U.S. Commission on Civil Rights pursuant to 42 U.S.C. 1975a. Under the charter for the SACs, the purpose is to provide advice and recommendations to the U.S. Commission on Civil Rights (Commission) on a broad range of civil rights matters in its respective state that pertain to alleged deprivations of voting rights or discrimination or denials of equal protection of the laws because of race, color, religion, sex, age, disability, or national origin, or the administration of justice. SACs also provide assistance to the Commission in its statutory obligation to serve as a national clearinghouse for civil rights information.

The SAC consists of not more than 19 members, each of whom will serve a two-year term. Members serve as unpaid Special Government Employees who are reimbursed for travel and expenses. To be eligible to be on a SAC, applicants must be residents of the respective state and have demonstrated expertise or interest in civil rights issues.

The Commission is an independent, bipartisan agency established by Congress in 1957 to focus on matters of race, color, religion, sex, age, disability, or national origin. Its mandate is to:

- Investigate complaints from citizens that their voting rights are being deprived,
- Study and collect information about discrimination or denials of equal protection under the law,
- Appraise federal civil rights laws and policies,
- Serve as a national clearinghouse on discrimination laws,
- Submit reports and findings and recommendations to the President and the Congress, and
- Issue public service announcements to discourage discrimination.

The Commission invites any individual who is eligible to be appointed a member of the Colorado, Louisiana, Ohio, or South Carolina Advisory Committee covered by this notice to send a letter of interest and a resumé to the respective address above.

Dated in Chicago, IL, on October 1, 2014.

David Mussatt,

Chief, Regional Programs Unit.

[FR Doc. 2014–23746 Filed 10–3–14; 8:45 am]

BILLING CODE P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–848]

Freshwater Crawfish Tail Meat From the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review and New Shipper Review; 2012–2013

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (the Department) is conducting an administrative review and new shipper review of the antidumping duty order on freshwater crawfish tail meat from the People's Republic of China (PRC). The period of review (POR) for the administrative review and new shipper review is September 1, 2012, through August 31, 2013. The Department preliminarily determines that Hubei Nature Agriculture Industry Co., Ltd. (Hubei Nature, the new shipper), and Xiping Opeck Food Co., Ltd. (Xiping Opeck) have not made sales of subject merchandise in the United States at prices below normal value.

DATES: *Effective Date:* October 6, 2014.

FOR FURTHER INFORMATION CONTACT: Bryan Hansen or Hermes Pinilla, AD/CVD Operations, Office 1, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482–3683, and (202) 482–3477, respectively.

SUPPLEMENTARY INFORMATION:

Scope of the Order

The merchandise subject to the antidumping duty order is freshwater crawfish tail meat, which is currently classified in the Harmonized Tariff Schedule of the United States (HTSUS) under item numbers 1605.40.10.10, 1605.40.10.90, 0306.19.00.10, and 0306.29.00.00. On February 10, 2012, the Department added HTSUS classification number 0306.29.01.00 to the scope description pursuant to a request by U.S. Customs and Border Protection (CBP). While the HTSUS numbers are provided for convenience and customs purposes, the written description is dispositive. A full description of the scope of the order is contained in the Preliminary Decision Memorandum.[1]

[1] *See* the memorandum from Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, to Paul Piquado, Assistant Secretary for Enforcement and Compliance, ''Decision Memorandum for the

Methodology

The Department conducted these reviews in accordance with section 751(a)(2) of the Tariff Act of 1930, as amended (the Act). Export Price is calculated in accordance with section 772(c) of the Act. Because the PRC is a non-market economy (NME) within the meaning of section 771(18) of the Act, normal value has been calculated in accordance with section 773(c) of the Act.

For a full description of the methodology underlying our conclusions, *see* Preliminary Decision Memorandum. The Preliminary Decision Memorandum is a public document and is on file electronically *via* Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (IA ACCESS). IA ACCESS is available to registered users at *http://iaaccess.trade.gov* and in the Central Records Unit, room 7046 of the main Department of Commerce building. In addition, a complete version of the Preliminary Decision Memorandum can be accessed directly on the internet at *http://enforcement.trade.gov/frn/index.html.* The signed Preliminary Decision Memorandum and the electronic versions of the Preliminary Decision Memorandum are identical in content.

Preliminary Results of Reviews

The Department determines that the following preliminary dumping margins exist for the administrative review covering the period September 1, 2012, through August 31, 2013:

Exporter	Weighted average dumping margin (percent)
Xiping Opeck Food Co., Ltd.	0.00

As a result of the new shipper review, the Department preliminarily determines that a dumping margin of 0.00 percent exists for merchandise produced and exported by Hubei Nature Agriculture Industry Co., Ltd. covering the period September 1, 2012, through August 31, 2013.

Disclosure and Public Comment

The Department will disclose calculations performed in these preliminary results to the parties within five days after the date of publication of this notice.[2] Pursuant to 19 CFR 351.309(c), interested parties may submit cases briefs no later than 30 days after the date of publication of these preliminary results of review.[3] Parties who submit arguments are requested to submit with the argument: (1) A statement of the issue; (2) a brief summary of the argument; and (3) a table of authorities. Rebuttals briefs, limited to issues raised in case briefs, may be filed no later than five days after the time limit for filing the case briefs, as specified by 19 CFR 351.309(d).

Interested parties who wish to request a hearing, or to participate if one is requested, must submit a written request to the Assistant Secretary for Enforcement and Compliance, U.S. Department of Commerce, filed electronically using IA ACCESS. An electronically filed document must be received successfully in its entirety by the Department's IA ACCESS by 5:00 p.m. Eastern Time within 30 days after the date of publication of this notice.[4] Hearing requests should contain (1) the party's name, address, and telephone number; (2) the number of participants; and (3) a list of issues to be discussed. Oral presentations will be limited to issues raised in the briefs. If a request for a hearing is made, we will inform parties of the scheduled date for the hearing which will be held at the U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington DC 20230, at a time and location to be determined.[5] Parties should confirm by telephone or email the date, time, and location of the hearing.

Unless the deadline is extended pursuant to section 751(a)(2)(B)(iv) of the Act, the Department will issue the final results of these reviews, including the results of its analysis of issues raised by parties in their comments, within 120 days after the publication of these preliminary results, pursuant to section 751(a)(3)(A) of the Act and 19 CFR 351.213(h).

Assessment Rates

Upon issuing the final results, the Department will determine, and CBP shall assess, antidumping duties on all appropriate entries covered by these reviews.[6] If a respondent's weighted average dumping margin is above *de minimis* (*i.e.,* 0.50 percent) in the final results of these reviews, the Department will calculate an importer-specific assessment rate on the basis of the ratio of the total amount of dumping calculated for the importer's examined sales and, where possible, the total entered value of sales, in accordance with 19 CFR 351.212(b)(1). In these preliminary results, the Department applied the assessment rate calculation method adopted in the *Final Modification for Reviews, i.e.,* on the basis of monthly average-to-average comparisons using only the transactions associated with the importer with offsets being provided for non-dumped comparisons.[7] Where an importer- (or customer-) specific *ad valorem* rate is zero or *de minimis,* we will instruct CBP to liquidate appropriate entries without regard to antidumping duties.[8]

Pursuant to a refinement in the Department's assessment practice in NME cases,[9] for entries that were not reported in the U.S. sales databases submitted by companies individually examined during this review, the Department will instruct CBP to liquidate such entries at the PRC-wide rate. We intend to issue assessment instructions to CBP 15 days after the date of publication of the final results of these reviews.

Cash Deposit Requirements

The following cash deposit requirements will be effective upon publication of the final results of these reviews for shipments of the subject merchandise from the PRC entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided by section 751(a)(2)(C) of the Act: (1) For the companies listed above that have a separate rate, with the exception of Hubei Nature (*see* below), the cash deposit rate will be that established in the final results of these reviews (except if the rate is zero or *de minimis, i.e.,* less than 0.5 percent, then no cash deposit will be required); (2) for previously investigated or reviewed PRC and non-PRC exporters not listed above that received a separate rate in a prior segment of this proceeding, the cash deposit rate will continue to be the existing exporter-specific rate; (3) for all PRC exporters of subject merchandise that have not been found to be entitled to a separate rate, the cash deposit rate

Preliminary Results of the Antidumping Duty Administrative Review and New Shipper Review: Freshwater Crawfish Tail Meat from the People's Republic of China'' dated concurrently with and hereby adopted by this notice (Preliminary Decision Memorandum).

[2] *See* 19 CFR 351.224(b).

[3] *See* 19 CFR 351.309(c).

[4] *See* 19 CFR 351.310(c).

[5] *Id.*

[6] *See* 19 CFR 351.212(b)(1).

[7] *See Antidumping Proceeding: Calculation of the Weighted-Average Dumping Margin and Assessment Rate in Certain Antidumping Duty Proceedings; Final Modification,* 77 FR 8101 (February 14, 2012) (*Final Modification for Reviews*).

[8] *See* 19 CFR 351.106(c)(2).

[9] For a full discussion of this practice, *see Non-Market Economy Antidumping Proceedings: Assessment of Antidumping Duties,* 76 FR 65694 (October 24, 2011).

will be that for the PRC-wide entity; and (4) for all non-PRC exporters of subject merchandise which have not received their own rate, the cash deposit rate will be the rate applicable to the PRC exporter that supplied that non-PRC exporter.

With respect to Hubei Nature, the new shipper respondent, the Department established a combination cash deposit rate for this company consistent with its practice as follows: (1) For subject merchandise produced and exported by Hubei Nature, the cash deposit rate will be the rate established for Hubei Nature in the final results of the NSR; (2) for subject merchandise exported by Hubei Nature, but not produced by Hubei Nature, the cash deposit rate will be the rate for the PRC-wide entity; and (3) for subject merchandise produced by Hubei Nature but not exported by Hubei Nature, the cash deposit rate will be the rate applicable to the exporter.

These deposit requirements, when imposed, shall remain in effect until further notice.

Notification to Importers

This notice serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during these PORs. Failure to comply with this requirement could result in the Department's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

We are issuing and publishing the preliminary results of these reviews in accordance with sections 751(a)(1), 751(a)(2)(B)(iv), 751(a)(3), 777(i) of the Act and 19 CFR 351.213(h), 351.214 and 351.221(b)(4).

Dated: September 29, 2014.

Paul Piquado,

Assistant Secretary for Enforcement and Compliance.

Appendix

List of Topics Discussed in the Preliminary Decision Memorandum

1. Summary
2. Background
3. Scope of the Order
4. Bona Fides Analysis
5. Non-Market-Economy Country Status
6. Surrogate Country
7. Separate Rates
8. Absence of De Jure Control
9. Absence of De Facto Control
10. Fair Value Comparisons
11. U.S. Price
12. Normal Value
13. Surrogate Values
14. Currency Conversion
15. Recommendation

[FR Doc. 2014–23793 Filed 10–3–14; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–924]

Polyethylene Terephthalate Film, Sheet, and Strip From the People's Republic of China: Notice of Court Decision Not in Harmony With Final Results of Administrative Review and Notice of Amended Final Results of Administrative Review Pursuant to Court Decision

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: On July 22, 2014, the United States Court of International Trade (''CIT'') sustained the Department of Commerce's (''the Department'') results of redetermination, pursuant to the CIT's remand order, in *Dupont Teijin Films* v. *United States,* 997 F. Supp. 2d 1338 (CIT 2014).[1]

Consistent with the decision of the United States Court of Appeals for the Federal Circuit (''CAFC'') in *Timken Co.* v. *United States,* 893 F.2d 337 (Fed. Cir. 1990) (''*Timken*''), as clarified by *Diamond Sawblades Mfrs. Coalition* v. *United States,* 626 F.3d 1374 (Fed. Cir. 2010) (''*Diamond Sawblades*''), the Department is notifying the public that the final judgment in this case is not in harmony with the Department's *PET Film Final Results*[2] and is amending the final results with respect to the margins assigned to Tianjin Wanhua Co., Ltd., Sichuan Dongfang Insulating Material Co., Ltd., Fuwei Films (Shandong) Co., Ltd., and Shaoxing Xiangyu Green Packing Co., Ltd. (''Respondents'') for the period of review (''POR'') November 1, 2009, through October 31, 2010.

Effective Date: August 1, 2014.

FOR FURTHER INFORMATION CONTACT: Thomas Martin, Office IV, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482–3936.

SUPPLEMENTARY INFORMATION: On March 12, 2012, the Department published the *PET Film Final Results.* Domestic producers Dupont Teijin Films, Mitsubishi Polyester Film, Inc., SKC, Inc., and Toray Plastics (America), Inc. appealed the *PET Film Final Results* to the CIT, and on February 7, 2013, the CIT issued its first remand order in this case concerning the Department's selection of its surrogate country.[3] On August 21, 2013, the CIT issued its second remand and ordered the Department to reconsider its surrogate country selection with the benefit of 2009 per-capita gross national income data.[4]

Pursuant to the CIT's remand instructions, the Department, under protest, selected South Africa as the primary surrogate country for calculating normal value.[5] The CIT sustained the Department's *PET Film Final Remand* on July 22, 2014,[6] and, as a result, the Respondents' dumping margins changed.

Timken Notice

In its decision in *Timken,* 893 F.2d at 341, as clarified by *Diamond Sawblades,* the CAFC has held that, pursuant to section 516A(e) of the Tariff Act of 1930, as amended (the ''Act''), the Department must publish a notice of a court decision that is not ''in harmony'' with a Department determination and must suspend liquidation of entries pending a ''conclusive'' court decision. The CIT's July 22, 2014, judgment sustaining the *PET Film Final Remand* constitutes a final decision of that court that is not in harmony with the *PET Film Final Results.* This notice is published in fulfillment of the publication requirements of *Timken.*

Amended Final Results

Because there is now a final court decision with respect to the *PET Film Final Results,* the revised dumping margins are as follows:

Exporter	Weighted-average margin (percent)
Tianjin Wanhua Co., Ltd.	19.49
Sichuan Dongfang Insulating Material Co., Ltd.	14.25
Fuwei Films (Shandong) Co., Ltd.	19.35

[1] *See* Final Results of Redetermination Pursuant to Court Remand, Court No. 12–00088, dated February 7, 2014, available at: *http://enforcement.trade.gov/remands/index.html* (''*PET Film Final Remand*'').

[2] *See Polyethylene Terephthalate Film, Sheet, and Strip from the People's Republic of China: Final Results of the 2009–2010 Antidumping Duty Administrative Review of the Antidumping Duty Order,* 77 FR 14493 (March 12, 2012) (''*PET Film Final Results*'').

[3] *See Dupont Teijin Films v. United States,* 896 F. Supp. 2d 1302 (CIT 2013).

[4] *See Dupont Teijin Films v. United States,* 931 F. Supp. 2d 1297 (CIT 2013) (''*Remand Opinion and Order*'').

[5] *See PET Film Final Remand.*

[6] *See Dupont Teijin Films v. United States,* 997 F. Supp. 2d 1338 (CIT 2014).

Exporter	Weighted-average margin (percent)
Shaoxing Xiangyu Green Packing Co., Ltd.	19.35

Because no party appealed the CIT's decision before the period of appeal expired on September 22, 2014, the CIT's decision is now final and conclusive. Accordingly, the Department will instruct U.S. Customs and Border Protection to assess antidumping duties on entries during the POR of the subject merchandise exported by the Respondents using the revised assessment rates calculated by the Department in the *PET Film Final Remand.*

Cash Deposit Requirements

Since the *PET Film Final Results,* the Department has established a new cash deposit rate for the Respondents.[7] Therefore, the Respondents' cash deposit rates do not need to be updated as a result of these amended final results. The cash deposit rate for the Respondents will remain the rate established for the subsequent and most-recent period during which the Respondents were reviewed.

Notification to Interested Parties

This notice is issued and published in accordance with sections 516A(e)(1), 751(a)(1), and 777(i)(1) of the Act.

Dated: September 29, 2014.

Paul Piquado,

Assistant Secretary For Enforcement and Compliance.

[FR Doc. 2014–23796 Filed 10–3–14; 8:45 am]

BILLING CODE 3510–DS–P

[7] *See Polyethylene Terephthalate Film, Sheet, and Strip From the People's Republic of China: Final Results of Antidumping Duty Administrative Review; 2011–2012,* 79 FR 37715 (July 2, 2014).

DEPARTMENT OF COMMERCE

International Trade Administration

Application(s) for Duty-Free Entry of Scientific Instruments

Pursuant to Section 6(c) of the Educational, Scientific and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, as amended by Pub. L. 106–36; 80 Stat. 897; 15 CFR part 301), we invite comments on the question of whether instruments of equivalent scientific value, for the purposes for which the instruments shown below are intended to be used, are being manufactured in the United States.

Comments must comply with 15 CFR 301.5(a)(3) and (4) of the regulations and be postmarked on or before October 27, 2014. Address written comments to Statutory Import Programs Staff, Room 3720, U.S. Department of Commerce, Washington, DC 20230. Applications may be examined between 8:30 a.m. and 5:00 p.m. at the U.S. Department of Commerce in Room 3720.

Docket Number: 14–021. *Applicant:* Utah State University, 2400 Old Main Hill, Logan, Utah 84322–2400. *Instrument:* Respirometer for measuring the oxygen consumption of aquatic animals. *Manufacturer:* Loligo Systems, Denmark. *Intended Use:* The instrument will be used to better understand how the ability of aquatic organisms to obtain oxygen under different environmental conditions affects their growth, survivorship, distribution, and abundance. The phenomenon being studied is the rate of oxygen consumption by aquatic invertebrates, using the instrument under different temperatures and pollution concentrations. Continuous measurement of metabolic (oxygen consumption) response to stress by small aquatic organisms (<10mm in length) requires a flow-through system with oxygen probes and equipment that can both be programmed to precisely increase the temperature of a water bath and automatically detect ug level changes in oxygen concentrations, without which the research could not be conducted. *Justification for Duty-Free Entry:* There are no instruments of the same general category manufactured in the United States. *Application accepted by Commissioner of Customs:* August 5, 2014.

Docket Number: 14–023. *Applicant:* Louisiana State University, 202 Nicholson Hall, LSU, Baton Rouge, LA 70803. *Instrument:* Scanning Probe Microscope (SPM)—scanning tunneling microscopy. *Manufacturer:* SPECS Surface Nano Analysis, Germany. *Intended Use:* The instrument will be used to elucidate catalytic properties of metal and metal-oxide systems, uncovering new schemes by which organic molecules become environmentally hazardous upon chemisorption. Scanning tunneling microscopy (STM) will be used to probe the nanoscale atomic structure, growth, and atomic/molecular dynamics of a variety of systems, including metal nanoclusters on oxides and grasphene, metal oxide surfaces and metal surfaces. All experiments will be conducted in ultra-high vacuum conditions, including in addition the STM, other surface sciences probes such as electron-energy loss spectroscopy, x-ray and UV photoemission spectroscopy. The electronics and STM head must provide 60 frames per second scan rate with pixel density of 128 x 128, the STM head must be mounted on an 8 inch flange with a vertical face, the instrument must have the ability to sputter clean the tip without removing it from the STM scan head, the tunneling bias voltage must be applied to the sample, and the preamp must collect current from the tip. *Justification for Duty-Free Entry:* There are no instruments of the same general category manufactured in the United States. *Application accepted by Commissioner of Customs:* August 26, 2014.

Dated: September 29, 2014.

Gregory W. Campbell,

Director of Subsidies Enforcement, Enforcement and Compliance.

[FR Doc. 2014–23794 Filed 10–3–14; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

Quarterly Update to Annual Listing of Foreign Government Subsidies on Articles of Cheese Subject to an In-Quota Rate of Duty

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

DATES: *Effective Date:* October 6, 2014.

FOR FURTHER INFORMATION CONTACT: Stephanie Moore, AD/CVD Operations, Office III, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Ave. NW., Washington, DC 20230, telephone: (202) 482–3692.

SUPPLEMENTARY INFORMATION: Section 702 of the Trade Agreements Act of 1979 (as amended) (the Act) requires the Department of Commerce (the Department) to determine, in consultation with the Secretary of Agriculture, whether any foreign government is providing a subsidy with respect to any article of cheese subject to an in-quota rate of duty, as defined in section 702(h) of the Act, and to publish quarterly updates to the type and amount of those subsidies. We hereby provide the Department's quarterly update of subsidies on articles of cheese that were imported during the periods April 1, 2014, through June 30, 2014.

The Department has developed, in consultation with the Secretary of Agriculture, information on subsidies,

as defined in section 702(h) of the Act, being provided either directly or indirectly by foreign governments on articles of cheese subject to an in-quota rate of duty. The appendix to this notice lists the country, the subsidy program or programs, and the gross and net amounts of each subsidy for which information is currently available. The Department will incorporate additional programs which are found to constitute subsidies, and additional information on the subsidy programs listed, as the information is developed.

The Department encourages any person having information on foreign government subsidy programs which benefit articles of cheese subject to an in-quota rate of duty to submit such information in writing to the Assistant Secretary for Enforcement and Compliance, U.S. Department of Commerce, 14th Street and Constitution Ave. NW., Washington, DC 20230.

This determination and notice are in accordance with section 702(a) of the Act.

Dated: September 29, 2014.

Paul Piquado,

Assistant Secretary for Enforcement and Compliance.

Appendix

SUBSIDY PROGRAMS ON CHEESE SUBJECT TO AN IN-QUOTA RATE OF DUTY

Country	Program(s)	Gross [1] Subsidy ($/lb)	Net [2] Subsidy ($/lb)
28 European Union Member States [3]	European Union Restitution Payments	$0.00	$0.00
Canada	Export Assistance on Certain Types of Cheese	0.38	0.38
Norway	Indirect (Milk) Subsidy	0.00	0.00
	Consumer Subsidy	0.00	0.00
	Total	0.00	0.00
Switzerland	Deficiency Payments	0.00	0.00

[1] Defined in 19 U.S.C. 1677(5).
[2] Defined in 19 U.S.C. 1677(6).
[3] The 28 member states of the European Union are: Austria, Belgium, Bulgaria, Croatia, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, Netherlands, Poland, Portugal, Romania, Slovakia, Slovenia, Spain, Sweden, and the United Kingdom.

[FR Doc. 2014–23797 Filed 10–3–14; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Proposed Information Collection; Comment Request; Southeast Region Bycatch Reduction Device Certification Family of Forms

AGENCY: National Oceanic and Atmospheric Administration, 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: Written comments must be submitted on or before December 5, 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 and instructions should be directed to Adam Bailey, (727) 209–5968 or *adam.bailey@noaa.gov.*

SUPPLEMENTARY INFORMATION:

I. Abstract

This request is for a regular submission (extension of a currently approved information collection).

The National Marine Fisheries Service (NMFS) Southeast Region manages the U.S. fisheries in the exclusive economic zone (EEZ) of the South Atlantic, Caribbean, and Gulf of Mexico regions under various Fishery Management Plans (FMPs). The Regional Fishery Management Councils prepared the FMPs pursuant to the Magnuson-Stevens Fishery Conservation and Management Act. The regulations implementing the FMPs are located at 50 CFR part 622.

The recordkeeping and reporting requirements at 50 CFR part 622 form the basis for this collection of information. The NMFS Southeast Region requests information from the shrimp fishery participants to certify individual Bycatch Reduction Devices (BRDs). This information, upon receipt, results in an increasingly more efficient and accurate database for management and permitting of the fisheries in the EEZ off the South Atlantic, Caribbean, and Gulf of Mexico.

II. Method of Collection

Paper applications, electronic reports, and telephone calls are required from participants, and methods of submittal include internet, electronic forms, and facsimile transmission of paper forms.

III. Data

OMB Control Number: 0648–0345.

Form Number: None.

Type of Review: Regular submission (extension of a currently approved collection).

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 32.

Estimated Time per Response: Station Sheet BRD Form, Species Characterization Form, Length Frequency Form, Condition and Fate Form, and Trip Report/Cover Sheet, one minute; Independent BRD Test Form, 5 minutes; Vessel Information Application and the Gear Specification Form, 20 minutes.

Estimated Total Annual Burden Hours: 71.

Estimated Total Annual Cost to Public: $640 in recordkeeping/reporting costs.

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 approval by the Office of Management and Budget for this information collection; they also will become a matter of public record.

Dated: September 30, 2014.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 2014–23715 Filed 10–3–14; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Proposed Information Collection; Comment Request; Cooperative Game Fish Tagging Report

AGENCY: National Oceanic and Atmospheric Administration, 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: Written comments must be submitted on or before December 5, 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 and instructions should be directed to Eric Orbesen, (305) 361–4253 or *Eric.Orbesen@noaa.gov.*

SUPPLEMENTARY INFORMATION:

I. Abstract

This request is for extension of a current information collection.

The Cooperative Game Fish Tagging Program was initiated in 1971 as part of a comprehensive research program resulting from passage of Public Law 86–359, Study of Migratory Game Fish, and other legislative acts under which the National Marine Fisheries Service (NMFS) operates. The Cooperative Tagging Center attempts to determine the migration patterns of, and other biological information for, billfish, tunas, and swordfish. The fish tagging report is provided to the angler with the tags, and he/she fills out the card with the information when a fish is tagged and mails it to NMFS. Information on each species is used by NMFS to determine migratory patterns, distance traveled, stock boundaries, age, and growth. These data are necessary input for developing management criteria by regional fishery management councils, states, and NMFS.

II. Method of Collection

Information is submitted by mail.

III. Data

OMB Control Number: 0648–0247.

Form Number: NOAA form 88–162.

Type of Review: Regular submission (extension of a current information collection).

Affected Public: Individuals or households.

Estimated Number of Respondents: 12,000.

Estimated Time per Response: 2 minutes.

Estimated Total Annual Burden Hours: 400 hours.

Estimated Total Annual Cost to Public: $0.

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: September 30, 2014

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 2014–23712 Filed 10–3–14; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Proposed Information Collection; Comment Request; Pacific Albacore Logbook

AGENCY: National Oceanic and Atmospheric Administration, 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: Written comments must be submitted on or before December 5, 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 and instructions should be directed to John Childers, SWFSC, 8901 La Jolla Shores Drive, La Jolla, CA 92037, 858–546–7192, *john.childers@noaa.gov.*

SUPPLEMENTARY INFORMATION:

I. Abstract

This request is for extension of a currently approved collection. U.S. fishermen, participating in the Pacific albacore tuna fishery, are required to obtain a Highly Migratory Species Fishery Management Plan and/or a High-Seas Fishery Compliance Act permit. A requirement for the permits is to complete and submit logbooks documenting their daily fishing activities, including catch and effort for each fishing trip. Submissions must be made within 30 days of the completion of a trip. The information obtained is used by the agency to assess the status of Pacific albacore stocks and to monitor the fishery.

II. Method of Collection

Respondents have a choice of either electronic data submission or paper forms. Methods of submittal include email of electronic data submissions, and mailing of paper forms.

III. Data

OMB Control Number: 0648–0223.

Form Number(s): NOAA Form 88–197.

Type of Review: Regular submission (extension of a currently approved collection).

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 4,000.

Estimated Time per Response: 1 hour.

Estimated Total Annual Burden Hours: 4,000.

Estimated Total Annual Cost to Public: $2,560 in recordkeeping/reporting costs.

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: September 30, 2014.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 2014–23713 Filed 10–3–14; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Proposed Information Collection; Comment Request; Southeast Region Gear Identification Requirements

AGENCY: National Oceanic and Atmospheric Administration, Commmerce.

ACTION: Notice.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the 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: Written comments must be submitted on or before December 5, 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 and instructions should be directed to Adam Bailey, (727) 209–5968 or *adam.bailey@noaa.gov.*

SUPPLEMENTARY INFORMATION:

I. Abstract

This request is for a regular submission (extension of a currently approved information collection).

The National Marine Fisheries Service (NMFS) Southeast Region manages the U.S. fisheries in the exclusive economic zone (EEZ) of the South Atlantic, Caribbean, and Gulf of Mexico regions under various Fishery Management Plans (FMPs). The Regional Fishery Management Councils prepared the FMPs pursuant to the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act). The regulations implementing the FMPs are located at 50 CFR part 622.

The recordkeeping and reporting requirements in 50 CFR part 622 form the basis for this collection of information. Requirements that fishing gear be marked are essential to facilitate enforcement. The ability to link fishing gear to the vessel owner is crucial to enforcement of regulations issued under the authority of the Magnuson-Stevens Act. The marking of fishing gear is also valuable in actions concerning damage, loss, and civil proceedings. The requirements imposed in the Southeast Region are for coral aquacultured live rock; golden crab traps; mackerel gillnet floats; spiny lobster traps; black sea bass pots; and buoy gear.

II. Method of Collection

The markings will be placed directly on the gear.

III. Data

OMB Control Number: 0648–0359.

Form Number: None.

Type of Review: Regular submission (extension of a currently approved collection).

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 2,847.

Estimated Time per Response: Live rocks, 10 seconds; golden crab and spiny lobster traps and sea bass pots, seven minutes each; mackerel gillnets and buoy gear, 20 minutes each.

Estimated Total Annual Burden Hours: 25,645.

Estimated Total Annual Cost to Public: $410,311.50.

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 approval by the Office of Management and Budget for this information collection; they also will become a matter of public record.

Dated: September 30, 2014.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 2014–23716 Filed 10–3–14; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Proposed Information Collection; Comment Request; Southeast Region Vessel Identification Requirements

AGENCY: National Oceanic and Atmospheric Administration, 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: Written comments must be submitted on or before December 5, 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 and instructions should be directed to Adam Bailey, (727) 209–5968 or *adam.bailey@noaa.gov.*

SUPPLEMENTARY INFORMATION:

I. Abstract

This request is for a regular submission (extension of a currently approved information collection).

The National Marine Fisheries Service (NMFS) Southeast Region manages the U.S. fisheries in the exclusive economic zone (EEZ) of the South Atlantic, Caribbean, and Gulf of Mexico regions under various Fishery Management Plans (FMPs). The Regional Fishery Management Councils prepared the FMPs pursuant to the Magnuson-Stevens Fishery Conservation and Management Act. The regulations implementing the FMPs are located at 50 CFR part 622.

The recordkeeping and reporting requirements at 50 CFR part 622 form the basis for this collection of information. NMFS Southeast Region requires that all permitted fishing vessels must mark their vessel with the official identification number or some form of identification. A vessel's official number, under most regulations, is required to be displayed on the port and starboard sides of the deckhouse or hull, and weather deck. The official number and color code identifies each vessel and should be visible at distances from the sea and in the air. These markings provide law enforcement personnel with a means to monitor fishing, at-sea processing, and other related activities, to ascertain whether the vessel's observed activities are in accordance with those authorized for that vessel. The identifying number is used by NMFS, the United States Coast Guard (USCG) and other marine agencies in issuing violations, prosecutions, and other enforcement actions. Vessels that qualify for particular fisheries are readily identified, gear violations are more readily prosecuted, and this allows for more cost-effective enforcement.

II. Method of Collection

Numbers are painted directly on the vessels.

III. Data

OMB Control Number: 0648–0358.

Form Number: None.

Type of Review: Regular submission (extension of a currently approved collection).

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 7,825.

Estimated Time per Response: 45 minutes.

Estimated Total Annual Burden Hours: 5,869.

Estimated Total Annual Cost to Public: $234,750.

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 approval by the Office of Management and Budget for this information collection; they also will become a matter of public record.

Dated: September 30, 2014.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 2014–23714 Filed 10–3–14; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XD530

Fisheries of the South Atlantic; South Atlantic Fishery Management Council; Public Meeting

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

ACTION: Notice of a public meeting.

SUMMARY: The South Atlantic Fishery Management Council (Council) will hold a meeting of its Snapper Grouper Advisory Panel (AP) in North Charleston, SC. The meeting is open to the public.

DATES: The meeting will be held from 9 a.m. until 5 p.m. on Tuesday, October 21, 2014 and from 9 a.m. until 5 p.m. on Wednesday, October 22, 2014.

ADDRESSES:

Meeting Address: The meeting will be held at the Crowne Plaza, 4381 Tanger Outlet Blvd., N. Charleston, SC 29418; telephone: (877) 747–7301.

Council Address: South Atlantic Fishery Management Council, 4055 Faber Place Drive, Suite 201, N. Charleston, SC 29405.

FOR FURTHER INFORMATION CONTACT: Kim Iverson, Public Information Officer, South Atlantic Fishery Management Council, 4055 Faber Place Drive, Suite 201, N. Charleston, SC 29405; telephone: (843) 571–4366 or toll free: (866) SAFMC–10; fax: (843) 769–4520; email: *kim.iverson@safmc.net.*

SUPPLEMENTARY INFORMATION:

The Snapper Grouper Advisory Panel will receive an update on the status of various amendments to the Snapper Grouper Fishery Management Plan (FMP) and other amendments affecting the snapper grouper fishery. AP members will receive overviews and provide recommendations on the following amendments to the Snapper Grouper FMP: Regulatory Amendment 16 with options to remove the current seasonal closure for the commercial black sea bass pot fishery; Regulatory Amendment 22 addressing management measures for gag grouper and wreckfish; the development of a Joint South Atlantic and Gulf of Mexico Amendment on South Florida Issues; Amendment 36 to establish Spawning Special Management Zones (SMZs); and Amendment 35 that would remove some species from the snapper grouper management complex.

The AP will also receive updates on the development of a recreational tag

program through Amendment 22 and updates on stock assessments for hogfish, mutton snapper, red snapper and gray triggerfish. The AP will receive updates on electronic reporting efforts, the Council's Visioning and Strategic Planning Project for the snapper grouper fishery, and address other business as necessary.

Although non-emergency issues not contained in this agenda may come before this group for discussion, those issues may not be the subject of formal action during the meeting. Action will be restricted to those issues specifically listed in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Act, provided the public has been notified of the Council's intent to take final action to address the emergency.

Special Accommodations

The meeting is physically accessible to people with disabilities. Requests for auxiliary aids should be directed to the Council office (see **ADDRESSES**) 3 days prior to the meeting.

Note: The times and sequence specified in this agenda are subject to change.

Dated: October 1, 2014.

Tracey L. Thompson,

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

[FR Doc. 2014–23752 Filed 10–3–14; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XC228

Takes of Marine Mammals Incidental to Specified Activities; Taking Marine Mammals Incidental to Operation, Maintenance, and Repair of the Northeast Gateway Liquefied Natural Gas Port and the Algonquin Pipeline Lateral Facilities in Massachusetts Bay

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

ACTION: Notice; revised proposed incidental harassment authorization; request for comments.

SUMMARY: NMFS received a revised application from Excelerate Energy, L.P. (Excelerate) and Tetra Tech, Inc. (Tetra Tech), on behalf of the Northeast Gateway® Energy Bridge™, L.P. (Northeast Gateway or NEG) and Algonquin Gas Transmission, L.L.C. (Algonquin), for authorization under the Marine Mammal Protection Act (MMPA) to take marine mammals, by harassment, incidental to operating, maintaining, and repairing a liquefied natural gas (LNG) port and the Algonquin Pipeline Lateral (Pipeline Lateral) facilities by NEG and Algonquin, in Massachusetts Bay, with changes to the proposed monitoring measures only. Due to the proposed revision, the IHA would be effective later than originally anticipated, although it still would be effective for a one-year period. NMFS is requesting comments on changes to the proposed monitoring in its proposal to issue an authorization to Northeast Gateway to incidentally take, by harassment, small numbers of marine mammals for a period of 1 year.

DATES: Comments and information must be received no later than November 5, 2014.

ADDRESSES: Comments should be addressed to Jolie Harrison, Chief, Permits and Conservation Division, Office of Protected Resources, National Marine Fisheries Service, 1315 East-West Highway, Silver Spring, MD 20910. The mailbox address for providing email comments on this action is *ITP.Guan@noaa.gov.* Comments sent via email, including all attachments, must not exceed a 10-megabyte file size. A copy of the application and a list of references used in this document may be obtained by writing to this address, and is also available at: *http://www.nmfs.noaa.gov/pr/permits/incidental.htm#applications.*

Instructions: All comments received are a part of the public record and will generally be posted to *http://www.nmfs.noaa.gov/pr/permits/incidental.htm#applications* without change. All Personal Identifying Information (for example, name, address, etc.) voluntarily submitted by the commenter may be publicly accessible. Do not submit Confidential Business Information or otherwise sensitive or protected information.

The Maritime Administration (MARAD) and U.S. Coast Guard (USCG) Final Environmental Impact Statement (Final EIS) on the Northeast Gateway Energy Bridge LNG Deepwater Port license application is available for viewing at *http://www.nmfs.noaa.gov/pr/permits/incidental.htm#applications.*

FOR FURTHER INFORMATION CONTACT: Shane Guan, Office of Protected Resources, NMFS, (301) 427–8401.

SUPPLEMENTARY INFORMATION:

Background

Sections 101(a)(5)(A) (D) of the MMPA (16 U.S.C. 1361 *et seq.*) direct the Secretary of Commerce (Secretary) to allow, upon request, the incidental, but not intentional taking of marine mammals by U.S. citizens who engage in a specified activity (other than commercial fishing) within a specified geographical region if certain findings are made and regulations are issued or, if the taking is limited to harassment, a notice of a proposed authorization is provided to the public for review.

An authorization for incidental takings shall be granted if NMFS finds that the taking will have a negligible impact on the species or stock(s), will not have an unmitigable adverse impact on the availability of the species or stock(s) for subsistence uses (where relevant), and if the permissible methods of taking and requirements pertaining to the mitigation, monitoring and reporting of such takings are set forth. NMFS has defined ''negligible impact'' in 50 CFR 216.103 as ''. . . an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival.''

Section 101(a)(5)(D) of the MMPA established an expedited process by which citizens of the U.S. can apply for a one-year authorization to incidentally take small numbers of marine mammals by harassment, provided that there is no potential for serious injury or mortality to result from the activity. Section 101(a)(5)(D) establishes a 45-day time limit for NMFS review of an application followed by a 30-day public notice and comment period on any proposed authorizations for the incidental harassment of marine mammals. Within 45 days of the close of the comment period, NMFS must either issue or deny the authorization.

Summary of Request

On January 18, 2013, NMFS received an application from Excelerate and Tetra Tech, on behalf of Northeast Gateway and Algonquin, for an authorization to take 14 species of marine mammals by Level B harassment incidental to operations, maintenance, and repair of an LNG port and the Pipeline Lateral facilities in Massachusetts Bay. They are: North Atlantic right whale, humpback whale, fin whale, sei whale, minke whale, long-finned pilot whale, Atlantic white-sided dolphin, bottlenose dolphin, short-beaked common dolphin, killer whale, Risso's dolphin, harbor porpoise, harbor

seal, and gray seal. Since LNG Port and Pipeline Lateral operation, maintenance, and repair activities have the potential to take marine mammals, a marine mammal take authorization under the MMPA is warranted.

In response to the IHA application, NMFS published a **Federal Register** notice for the proposed IHA on November 18, 2013 (78 FR 69049), which included proposed mitigation and monitoring measures to minimize and monitor potential impacts to marine mammals that could result from the proposed LNG Port and Pipeline Lateral operation, maintenance, and repair activities. After the close of the public comment period, Northeast Gateway notified NMFS that it does not intend to use marine autonomous recording units (MARUs) for long-term passive acoustic monitoring (PAM), as was described in the November 18, 2013, proposed IHA **Federal Register** notice, the IHA application, and marine mammal monitoring plan, except under certain levels of LNG port activity, and requested NMFS to modify the monitoring measures in the proposed IHA to use alternative acoustic monitoring, with triggers for additional long-term monitoring during higher levels of LNG port activity (which would require reinstallation of MARUs).

Following discussions with NMFS' Office of Protected Resources, the NMFS Greater Atlantic Regional Fisheries Office (GARFO), and National Ocean Service's Stellwagen Bank National Marine Sanctuary, on June 20, 2014, Excelerate and Tetra Tech submitted a revised IHA application with tiered PAM measures corresponding to different levels of LNG Port and Pipeline Lateral operation, maintenance, and repair activities. Details of the revised PAM are discussed in this notice.

This **Federal Register** notice sets forth the proposed PAM measures as revised. There are no other changes to Excelerate and Tetra Tech's application or our proposed IHA as described in the November 18, 2013, **Federal Register** notice of a proposed IHA: the specified activity; description of marine mammals in the area of the specified activity; potential effects on marine mammals and their habitat; proposed mitigation and related monitoring used to implement mitigation; proposed reporting; estimated take by incidental harassment; negligible impact and small numbers analyses and determinations; and impact on availability of affected species or stocks for subsistence uses remain unchanged and are herein incorporated by reference. Public comments we received on those aspects of the proposed IHA during the previous 30-day public comment period will be considered before we make a final decision on whether to issue an IHA.

Proposed Revised Monitoring Measures

In order to issue an ITA for an activity, section 101(a)(5)(D) of the MMPA states that NMFS must set forth ''requirements pertaining to the monitoring and reporting of such taking.'' The MMPA implementing regulations at 50 CFR 216.104(a)(13) indicate that requests for ITAs must include the suggested means of accomplishing the necessary monitoring and reporting that will result in increased knowledge of the species and of the level of taking or impacts on populations of marine mammals that are expected to be present in the proposed action area.

Our November 18, 2013, initial **Federal Register** notice of the proposed IHA described several proposed monitoring efforts: Vessel-based visual monitoring to detect marine mammals in real-time (in part to trigger mitigation measures); and two types of acoustic monitoring: 19 MARUs in Massachusetts Bay near the Port (to collect long-term data during Port and Pipeline Lateral related activities) and 10 acoustic buoys (''ABs'') in the Separation Zone of the Boston Traffic Separation Scheme (TSS) to detect, in real-time, calling North Atlantic right whales within 5 nm of an AB (to assist in implementing mitigation). The proposed revisions to the monitoring plan, which are the subject of this **Federal Register** notice, concern only the MARU requirement. We fully retain our original proposal for the vessel-based monitoring and the 10 ABs. Please refer to the November 18, 2013, **Federal Register** notice for a description of those other two elements of monitoring.

MARUs—Background: Beginning in April 2007, Northeast Gateway monitored the noise environment in Massachusetts Bay in the vicinity of the NEG Port and Algonquin Pipeline Lateral using an array of 19 MARUs to collect data during the preconstruction and active construction phases of the NEG Port and Algonquin Pipeline Lateral. As a condition of the Deepwater Port License, the MARU array remained in place for a period of five years following the commissioning of the NEG Port. Previous IHAs for the NE Gateway Port and Pipeline Lateral operations included the MARUs as a monitoring requirement, as did the proposed IHA noticed in the November 18, 2013, **Federal Register** notice. However, the five-year stipulated period of operation of the MARU array for the NEG Port ended in February 2013. This, coupled with the transfer of operational responsibility of the MARU array to Neptune LNG, which suspended operation of their Deepwater Port on June 26, 2013, led to the removal of the MARU array in July 2013, meaning the MARUs were not available for routine acoustic monitoring after that date.

The MARUs collected archived noise data and were not designed to provide real-time or near-real-time information about vocalizing whales. The acoustic data collected by the MARUs were analyzed by the Bioacoustics Research Program (BRP) at Cornell University to document the seasonal occurrences and overall distributions of whales (primarily fin, humpback, and right whales) within approximately 10 nautical miles of the NEG Port, and to measure and document the noise ''budget'' of Massachusetts Bay so as to eventually assist in determining whether an overall increase in noise in the Bay associated with the NEG Port and Algonquin Pipeline Lateral might be having a potentially negative impact on marine mammals.

Northeast Gateway and Algonquin state that continued monitoring utilizing the MARU array is no longer warranted for a number of reasons:

1. The MARU array system was designed for monitoring for the maximum operational scenario with the NEG Port receiving 65 cargo deliveries per year. Anticipated deliveries to the Port during the next IHA period will be significantly smaller scale and, though dependent on market rates, will likely be confined to the winter heating season.

2. The purpose of the MARU data was principally intended to determine the daily occurrence of acoustically active fin whales, humpback whales, and right whales with nineteen MARUs deployed. A secondary purpose was to evaluate the extent to which operations sounds were evident throughout the region and the relative contribution of those sounds to the acoustic environment in the region. The majority of the MARUs were positioned at separation distances too large to meet this secondary objective. In comparison, the revised passive acoustic monitoring program described below is intended to provide empirical measurements of specific operational and maintenance events and ''ground-truth'' the acoustic model algorithms employed. By targeting these specific events, and positioning sensors within the water column in proximity to the Port, the resultant dataset should provide a clearer picture of the actual acoustic footprint of the Port.

3. The static recorders and real-time hydrophone arrays that will be employed in the revised proposed passive acoustic monitoring program (see below) are designed specifically for empirical measurement and recording of underwater sound. With National Institute of Standards and Technologies (NIST) traceable calibration certificates for the entire measurement chain, the data will provide an absolute measurement of received sound levels, ensuring the highest degree of accuracy possible for an offshore measurement program.

Revised Proposed PAM: In place of the MARUs, Northeast Gateway developed a proposed field program to measure underwater sound during the initial Energy Bridge Regasification Vessel (EBRV) delivery for the 2014 winter season, during certain maintenance and repair, and additional long-term PAM in the vicinity of the LNG Port using devices such as MARUs if the anticipated LNG deliveries exceed 5 shipments in a 30-day period or 20 shipments in a six-month period.

The intent of the proposed PAM program is to provide better information about the acoustic footprint associated with operation of the NEG Port in Massachusetts Bay. The modeled underwater acoustic impacts presented in the IHA application relied primarily on estimated source levels derived from the similar vessels and operations. This proposed monitoring plan will measure the actual sound levels that are introduced into the underwater environment, reducing uncertainty associated with source levels used as modeling inputs for the analysis presented in this and any future IHAs.

Underwater noise monitoring will be conducted to obtain a representative acoustic signature of vessel transit, docking, maintenance, onboard regasification operational scenarios, and maintenance activities. NEG will conduct the short-term hydroacoustic monitoring to document sound levels during the initial operational event for the 2014–2015 heating season. In addition, the short-term hydroacoustic monitoring will be utilized for any maintenance or repair activities with the potential to result in significant noise levels (i.e. DP thrusters) or for any delivery that may occur outside the identified winter heating season.

Autonomous Marine Recording (AMAR) units will be deployed one day prior to the identified monitoring events and retrieved one day after these events, utilizing a vessel similar to that described for MARU deployment and retrieval. Information pertaining to forecasted delivery levels at or above the stated trigger will be provided to NEG in advance, giving adequate time for monitoring systems to be put in place prior to the first forecasted delivery event. The field monitoring program will be used to verify actual distances to thresholds and these values will be compared to the impact distances predicted from modeling.

To reiterate, the remaining proposed monitoring measures, including vessel-based visual monitoring and the real-time autonomous buoys (ABs), are the same as described in the initial **Federal Register** notice (78 FR 69049; November 18, 2013) for the proposed IHA. Moreover, these proposed changes will have no bearing on the specified activity, its impacts, and our proposed mitigation and mitigation-related monitoring requirements.

Proposed Reporting Measures

As indicated above, no changes are proposed to the reporting measures described in the initial **Federal Register** notice of the proposed IHA (78 FR 69049; November 18, 2013). However, NMFS has requested that Northeast Gateway make all acoustic data collected by the MARUs during prior construction, operations, and maintenance and repair activities available to NOAA.

Endangered Species Act (ESA)

Our November 18, 2013, **Federal Register** notice of proposed IHA described the history and status of Endangered Species Act (ESA) compliance for the NE Gateway LNG facility. As explained in that notice, the biological opinions for construction and operation of the facility only analyzed ESA-listed species for activities under the initial short construction period and during operations, and did not take into consideration potential impacts to marine mammals that could result from the subsequent LNG Port and Pipeline Lateral maintenance and repair activities. In addition, NEG also revealed that significantly more water usage and vessel operating air emissions are needed from what was originally evaluated for the LNG Port operation. NMFS PR1 initiated consultation with NMFS Greater Atlantic Region Fisheries Office under section 7 of the ESA on the issuance of an IHA to NEG under section 101(a)(5)(D) of the MMPA for the proposed activities that include increased NEG Port and Algonquin Pipeline Lateral maintenance and repair and water usage for the LNG Port operations this activity. Consultation will be concluded prior to a determination on the issuance of an IHA.

National Environmental Policy Act

Our November 18, 2013, **Federal Register** notice of proposed IHA described the history and status of National Environmental Policy Act compliance for the NE Gateway LNG facility. Please refer to that notice.

Proposed Incidental Harassment Authorization

Our November 18, 2013, **Federal Register** notice provided a draft of the IHA itself. Here we provide the language of the proposed IHA with the proposed revisions to the monitoring measures. No other changes have been made.

(1) This Authorization is valid from November 1, 2014, through October 31, 2015.

(2) This Authorization is valid only for activities associated with Northeast Gateway's LNG Port and Algonquin's Pipeline Lateral operations and maintenance and repair activities in the Massachusetts Bay. The specific area of the activities is shown in Figure 2–1 of the Excelerate Energy, L.P. and Tetra Tech, Inc.'s IHA application.

(3)(a) The species authorized for incidental harassment takings, Level B harassment only, are: right whales (*Eubalaena glacialis*); fin whales (*Balaenoptera physalus*); humpback whales (*Megaptera novaeangliae*); minke whales (*B. acutorostrata*); sei whales (*B. borealis*); long-finned pilot whales (*Globicephala melas*); Atlantic white-sided dolphins (*Lagenorhynchus acutus*); bottlenose dolphins (*Tursiops truncatus*); short-beaked common dolphins (*Delphinus delphis*); Risso's dolphin (*Grampus griseus*); killer whales (*Orcinus orca*); harbor porpoises (*Phocoena phocoena*); harbor seals (*Phoca vitulina*); and gray seals (*Halichoerus grypus*).

(3)(b) The authorization for taking by harassment is limited to the following acoustic sources and from the following activities:

(i) NEG Port operations;

(ii) NEG Port maintenance and repair; and

(iii) Algonquin Pipeline Lateral operations and maintenance.

(3)(c) The taking of any marine mammal in a manner prohibited under this Authorization must be reported within 24 hours of the taking to the National Marine Fisheries Service (NMFS) Northeast Regional Administrator (978–281–9300) or his designee (978–282–8468), NMFS Headquarter Chief of the Permits and Conservation Division, Office of Protected Resources, NMFS, at (301–427–8401), or his designee (301–427–8418).

(4) Prohibitions

(a) The taking, by incidental harassment only, is limited to the species listed under condition 3(a) above and by the numbers listed in Table 3. The taking by Level A harassment, injury or death of these species or the taking by harassment, injury or death of any other species of marine mammal is prohibited and may result in the modification, suspension, or revocation of this Authorization.

(b) The taking of any marine mammal is prohibited whenever the required mitigation measures under (5) of this authorization are not implemented.

(5) Mitigation

(a) General Marine Mammal Avoidance Measures

(i) All vessels shall utilize the International Maritime Organization (IMO)-approved Boston Traffic Separation Scheme (TSS) on their approach to and departure from the NEG Port and/or the repair/maintenance area at the earliest practicable point of transit in order to avoid the risk of whale strikes.

(ii) Upon entering the TSS and areas where North Atlantic right whales are known to occur, including the Great South Channel Seasonal Management Area (GSC–SMA) and the SBNMS, the EBRV shall go into ''Heightened Awareness'' as described below.

(A) Prior to entering and navigating the modified TSS the Master of the vessel shall:

(I) Consult Navigational Telex (NAVTEX), NOAA Weather Radio, the NOAA Right Whale Sighting Advisory System (SAS) or other means to obtain current right whale sighting information as well as the most recent Cornell acoustic monitoring buoy data for the potential presence of marine mammals;

(II) Post a look-out to visually monitor for the presence of marine mammals;

(III) Provide the U.S. Coast Guard (USCG) required 96-hour notification of an arriving EBRV to allow the NEG Port Manager to notify Cornell of vessel arrival.

(B) The look-out shall concentrate his/her observation efforts within the 2-mile radius zone of influence (ZOI) from the maneuvering EBRV.

(C) If marine mammal detection was reported by NAVTEX, NOAA Weather Radio, SAS and/or an acoustic monitoring buoy, the look-out shall concentrate visual monitoring efforts towards the areas of the most recent detection.

(D) If the look-out (or any other member of the crew) visually detects a marine mammal within the 2-mile radius ZOI of a maneuvering EBRV, he/she will take the following actions:

(I) The Officer-of-the-Watch shall be notified immediately; who shall then relay the sighting information to the Master of the vessel to ensure action(s) can be taken to avoid physical contact with marine mammals.

(II) The sighting shall be recorded in the sighting log by the designated look-out.

(iii) In accordance with 50 CFR 224.103(c), all vessels associated with NEG Port and Pipeline Lateral activities shall not approach closer than 500 yards (460 m) to a North Atlantic right whale and 100 yards (91 m) to other whales to the extent physically feasible given navigational constraints. In addition, when approaching and departing the project area, vessels shall be operated so as to remain at least 1 km away from any visually-detected North Atlantic right whales.

(iv) In response to active right whale sightings and active acoustic detections, and taking into account exceptional circumstances, EBRVs, repair and maintenance vessels shall take appropriate actions to minimize the risk of striking whales. Specifically vessels shall:

(A) Respond to active right whale sightings and/or DMAs reported on the Mandatory Ship Reporting (MSR) or SAS by concentrating monitoring efforts towards the area of most recent detection and reducing speed to 10 knots or less if the vessel is within the boundaries of a DMA (50 CFR 224.105) or within the circular area centered on an area 8 nm in radius from a sighting location;

(B) Respond to active acoustic detections by concentrating monitoring efforts towards the area of most recent detection and reducing speed to 10 knots or less within an area 5 nm in radius centered on the detecting AB; and

(C) Respond to additional sightings made by the designated look-outs within a 2-mile radius of the vessel by slowing the vessel to 10 knots or less and concentrating monitoring efforts towards the area of most recent sighting.

(v) All vessels operated under NEG and Algonquin must follow the established specific speed restrictions when calling at the NEG Port. The specific speed restrictions required for all vessels (i.e., EBRVs and vessels associated with maintenance and repair) consist of the following:

(A) Vessels shall reduce their maximum transit speed while in the TSS from 12 knots or less to 10 knots or less from March 1 to April 30 in all waters bounded by straight lines connecting the following points in the order stated below unless an emergency situation dictates for an alternate speed. This area shall hereafter be referred to as the Off Race Point Seasonal Management Area (ORP–SMA) and tracks NMFS regulations at 50 CFR 224.105: 42°30′ N 70°30′ W, 41°40′ N 69°57′ W, 42°30′ N 69°45′ W, 42°12′ N 70°15′ W, 41°40′ N 69°45′ W, 42°12′ N 70°30′ W, 42°04.8′ N 70°10′ W, 42°30′ N 70°30′ W.

(B) Vessels shall reduce their maximum transit speed while in the TSS to 10 knots or less unless an emergency situation dictates for an alternate speed from April 1 to July 31 in all waters bounded by straight lines connecting the following points in the order stated below. This area shall hereafter be referred to as the GSC–SMA and tracks NMFS regulations at 50 CFR 224.105: 42°30′ N 69°45′ W, 41°40′ N 69°45′ W, 42°30′ N 67°27′ W, 42°30′ N 69°45′ W, 42°09′ N 67°08.4′ W, 41°00′ N 69°05′ W.

(C) Vessels are not expected to transit the Cape Cod Bay or the Cape Cod Canal; however, in the event that transit through the Cape Cod Bay or the Cape Cod Canal is required, vessels shall reduce maximum transit speed to 10 knots or less from January 1 to May 15 in all waters in Cape Cod Bay, extending to all shorelines of Cape Cod Bay, with a northern boundary of 42°12′ N latitude and the Cape Cod Canal. This area shall hereafter be referred to as the Cape Cod Bay Seasonal Management Area (CCB–SMA).

(D) All Vessels transiting to and from the project area shall report their activities to the mandatory reporting Section of the USCG to remain apprised of North Atlantic right whale movements within the area. All vessels entering and exiting the MSRA shall report their activities to WHALESNORTH. Vessel operators shall contact the USCG by standard procedures promulgated through the Notice to Mariner system.

(E) All Vessels greater than or equal to 300 gross tons (GT) shall maintain a speed of 10 knots or less, unless an emergency situation requires speeds greater than 10 knots.

(F) All Vessels less than 300 GT traveling between the shore and the project area that are not generally restricted to 10 knots will contact the Mandatory Ship Reporting (MSR) system, the USCG, or the project site before leaving shore for reports of active DMAs and/or recent right whale sightings and, consistent with navigation safety, restrict speeds to 10 knots or less within 5 miles (8 kilometers) of any sighting location,

when traveling in any of the seasonal management areas (SMAs) or when traveling in any active dynamic management area (DMA).

(b) NEG Port-Specific Operations

(i) In addition to the general marine mammal avoidance requirements identified in (5)(a) above, vessels calling on the NEG Port must comply with the following additional requirements:

(A) EBRVs shall travel at 10 knots maximum speed when transiting to/from the TSS or to/from the NEG Port/Pipeline Lateral area. For EBRVs, at 1.86 miles (3 km) from the NEG Port, speed will be reduced to 3 knots and to less than 1 knot at 1,640 ft (500 m) from the NEG buoys, unless an emergency situation dictates the need for an alternate speed.

(B) EBRVs that are approaching or departing from the NEG Port and are within the ATBA5 surrounding the NEG Port, shall remain at least 1 km away from any visually-detected North Atlantic right whale and at least 100 yards (91 m) away from all other visually-detected whales unless an emergency situation requires that the vessel stay its course. During EBRV maneuvering, the Vessel Master shall designate at least one look-out to be exclusively and continuously monitoring for the presence of marine mammals at all times while the EBRV is approaching or departing from the NEG Port.

(C) During NEG Port operations, in the event that a whale is visually observed within 1 km of the NEG Port or a confirmed acoustic detection is reported on either of the two ABs closest to the NEG Port (western-most in the TSS array), departing EBRVs shall delay their departure from the NEG Port, unless an emergency situation requires that departure is not delayed. This departure delay shall continue until either the observed whale has been visually (during daylight hours) confirmed as more than 1 km from the NEG Port or 30 minutes have passed without another confirmed detection either acoustically within the acoustic detection range of the two ABs closest to the NEG Port, or visually within 1 km from the NEG Port.

(ii) Vessel captains shall focus on reducing dynamic positioning (DP) thruster power to the maximum extent practicable, taking into account vessel and Port safety, during the operation activities. Vessel captains will shut down thrusters whenever they are not needed.

(c) Planned and Unplanned Maintenance and Repair Activities

(i) NEG Port

(A) The Northeast Gateway shall conduct empirical source level measurements on all noise emitting construction equipment and all vessels that are involved in maintenance/repair work.

(B) If dynamic positioning (DP) systems are to be employed and/or activities will emit noise with a source level of 139 dB re 1 μPa at 1 m, activities shall be conducted in accordance with the requirements for DP systems listed in (5)(b)(ii).

(C) Northeast Gateway shall provide the NMFS Headquarters Office of the Protected Resources, NMFS Northeast Region Ship Strike Coordinator, and SBNMS with a minimum of 30 days notice prior to any planned repair and/or maintenance activity. For any unplanned/emergency repair/maintenance activity, Northeast Gateway shall notify the agencies as soon as it determines that repair work must be conducted. Northeast Gateway shall continue to keep the agencies apprised of repair work plans as further details (e.g., the time, location, and nature of the repair) become available. A final notification shall be provided to agencies 72 hours prior to crews being deployed into the field.

(ii) Pipeline Lateral

(A) Pipeline maintenance/repair vessels less than 300 GT traveling between the shore and the maintenance/repair area that are not generally restricted to 10 knots shall contact the MSR system, the USCG, or the project site before leaving shore for reports of active DMAs and/or recent right whale sightings and, consistent with navigation safety, restrict speeds to 10 knots or less within 5 miles (8 km) of any sighting location, when travelling in any of the seasonal management areas (SMAs) as defined above.

(B) Maintenance/repair vessels greater than 300 GT shall not exceed 10 knots, unless an emergency situation that requires speeds greater than 10 knots.

(C) Planned maintenance and repair activities shall be restricted to the period between May 1 and November 30.

(D) Unplanned/emergency maintenance and repair activities shall be conducted utilizing anchor-moored dive vessel whenever operationally possible.

(E) Algonquin shall also provide the NMFS Office of the Protected Resources, NMFS Northeast Region Ship Strike Coordinator, and Stellwagen Bank National Marine Sanctuary (SBNMS) with a minimum of 30-day notice prior to any planned repair and/or maintenance activity. For any unplanned/emergency repair/maintenance activity, Northeast Gateway shall notify the agencies as soon as it determines that repair work must be conducted. Algonquin shall continue to keep the agencies apprised of repair work plans as further details (e.g., the time, location, and nature of the repair) become available. A final notification shall be provided to agencies 72 hours prior to crews being deployed into the field.

(F) If dynamic positioning (DP) systems are to be employed and/or activities will emit noise with a source level of 139 dB re 1 μPa at 1 m, activities shall be conducted in accordance with the requirements for DP systems listed in (5)(b)(ii).

(G) In the event that a whale is visually observed within 0.5 mile (0.8 kilometers) of a repair or maintenance vessel, the vessel superintendent or on-deck supervisor shall be notified immediately. The vessel's crew shall be put on a heightened state of alert and the marine mammal shall be monitored constantly to determine if it is moving toward the repair or maintenance area.

(H) Repair/maintenance vessel(s) must cease any movement and/or cease all activities that emit noises with source level of 139 dB re 1 μPa @ 1 m or higher when a right whale is sighted within or approaching at 500 yd (457 m) from the vessel. Repair and maintenance work may resume after the marine mammal is positively reconfirmed outside the established zones (500 yd [457 m]) or 30 minutes have passed without a redetection. Any vessels transiting the maintenance area, such as barges or tugs, must also maintain these separation distances.

(I) Repair/maintenance vessel(s) must cease any movement and/or cease all activities that emit noises with source level of 139 dB re 1 μPa @ 1 m or higher when a marine mammal other than a right whale is sighted within or approaching at 100 yd (91 m) from the vessel. Repair and maintenance work may resume after the marine mammal is positively reconfirmed outside the established zones (100 yd [91 m]) or 30 minutes have passed without a redetection. Any vessels transiting the maintenance area, such as barges or tugs, must also maintain these separation distances.

(J) Algonquin and associated contractors shall also comply with the following:

(I) Operations involving excessively noisy equipment (source level

exceeding 139 dB re 1 μPa @ 1 m) shall ''ramp-up'' sound sources, allowing whales a chance to leave the area before sounds reach maximum levels. In addition, Northeast Gateway, Algonquin, and other associated contractors shall maintain equipment to manufacturers' specifications, including any sound-muffling devices or engine covers in order to minimize noise effects. Noisy construction equipment shall only be used as needed and equipment shall be turned off when not in operation.

(II) Any material that has the potential to entangle marine mammals (e.g., anchor lines, cables, rope or other construction debris) shall only be deployed as needed and measures shall be taken to minimize the chance of entanglement.

(III) For any material that has the potential to entangle marine mammals, such material shall be removed from the water immediately unless such action jeopardizes the safety of the vessel and crew as determined by the Captain of the vessel.

(IV) In the event that a marine mammal becomes entangled, the marine mammal coordinator and/or PSO will notify NMFS (if outside the SBNMS), and SBNMS staff (if inside the SBNMS) immediately so that a rescue effort may be initiated.

(K) All maintenance/repair activities shall be scheduled to occur between May 1 and November 30; however, in the event of unplanned/emergency repair work that cannot be scheduled during the preferred May through November work window, the following additional measures shall be followed for Pipeline Lateral maintenance and repair related activities between December and April:

(I) Between December 1 and April 30, if on-board PSOs do not have at least 0.5-mile visibility, they shall call for a shutdown. At the time of shutdown, the use of thrusters must be minimized. If there are potential safety problems due to the shutdown, the captain will decide what operations can safely be shut down.

(II) Prior to leaving the dock to begin transit, the barge shall contact one of the PSOs on watch to receive an update of sightings within the visual observation area. If the PSO has observed a North Atlantic right whale within 30 minutes of the transit start, the vessel shall hold for 30 minutes and again get a clearance to leave from the PSOs on board. PSOs shall assess whale activity and visual observation ability at the time of the transit request to clear the barge for release.

(III) Transit route, destination, sea conditions and any marine mammal sightings/mitigation actions during watch shall be recorded in the log book. Any whale sightings within 1,000 m of the vessel shall result in a high alert and slow speed of 4 knots or less and a sighting within 750 m shall result in idle speed and/or ceasing all movement.

(IV) The material barges and tugs used in repair and maintenance shall transit from the operations dock to the work sites during daylight hours when possible provided the safety of the vessels is not compromised. Should transit at night be required, the maximum speed of the tug shall be 5 knots.

(V) All repair vessels must maintain a speed of 10 knots or less during daylight hours. All vessels shall operate at 5 knots or less at all times within 5 km of the repair area.

(d) Acoustic Monitoring Related Activities

(i) Vessels associated with maintaining the AB network operating as part of the mitigation/monitoring protocols shall adhere to the following speed restrictions and marine mammal monitoring requirements.

(A) In accordance with NOAA Regulation 50 CFR 224.103 (c), all vessels associated with NEG Port activities shall not approach closer than 500 yards (460 meters) to a North Atlantic right whale.

(B) All vessels shall obtain the latest DMA or right whale sighting information via the NAVTEX, MSR, SAS, NOAA Weather Radio, or other available means prior to operations to determine if there are right whales present in the operational area.

(6) Monitoring

(a) Vessel-Based Visual Monitoring

(i) Vessel-based monitoring for marine mammals shall be done by trained look-outs during NEG LNG Port and Pipeline Lateral operations and maintenance and repair activities. The observers shall monitor the occurrence of marine mammals near the vessels during LNG Port and Pipeline Lateral related activities. Lookout duties include watching for and identifying marine mammals; recording their numbers, distances, and reactions to the activities; and documenting ''take by harassment''.

(ii) The vessel look-outs assigned to visually monitor for the presence of marine mammals and shall be provided with the following:

(A) Recent NAVTEX, NOAA Weather Radio, SAS and/or acoustic monitoring buoy detection data;

(B) Binoculars to support observations;

(C) Marine mammal detection guide sheets; and

(D) Sighting log.

(b) NEG LNG Port Operations

(i) All individuals onboard the EBRVs responsible for the navigation duties and any other personnel that could be assigned to monitor for marine mammals shall receive training on marine mammal sighting/reporting and vessel strike avoidance measures.

(ii) While an EBRV is navigating within the designated TSS, there shall be three people with look-out duties on or near the bridge of the ship including the Master, the Officer-of-the-Watch and the Helmsman-on-watch. In addition to the standard watch procedures, while the EBRV is transiting within the designated TSS, maneuvering within the Area to be Avoided (ATBA), and/or while actively engaging in the use of thrusters, an additional look-out shall be designated to exclusively and continuously monitor for marine mammals.

(iii) All sightings of marine mammals by the designated look-out, individuals posted to navigational look-out duties and/or any other crew member while the EBRV is transiting within the TSS, maneuvering within the ATBA and/or when actively engaging in the use of thrusters, shall be immediately reported to the Officer-of-the-Watch who shall then alert the Master. The Master or Officer-of-the-Watch shall ensure the required reporting procedures are followed and the designated marine mammal look-out records all pertinent information relevant to the sighting.

(iv) Visual sightings made by look-outs from the EBRVs shall be recorded using a standard sighting log form. Estimated locations shall be reported for each individual and/or group of individuals categorized by species when known. This data shall be entered into a database and a summary of monthly sighting activity shall be provided to NMFS. Estimates of take and copies of these log sheets shall also be included in the reports to NMFS.

(c) Planned and Unplanned Maintenance and Repair

(i) Two (2) qualified and NMFS-approved protected species observers (PSOs) shall be assigned to each vessel that will use dynamic positioning (DP) systems during maintenance and repair related activities. PSOs shall operate individually in designated shifts to accommodate adequate rest schedules. Additional PSOs shall be assigned to additional vessels if auto-detection buoy

(AB) data indicates that sound levels exceed 120 dB re 1 μPa, further than 100 meters (328 feet) from these vessels.

(ii) All PSOs shall receive NMFS-approved marine mammal observer training and be approved in advance by NMFS after review of their resume. All PSOs shall have direct field experience on marine mammal vessels and/or aerial surveys in the Atlantic Ocean/Gulf of Mexico.

(iii) PSOs (one primary and one secondary) shall be responsible for visually locating marine mammals at the ocean's surface and, to the extent possible, identifying the species. The primary PSO shall act as the identification specialist and the secondary PSO will serve as data recorder and also assist with identification. Both PSOs shall have responsibility for monitoring for the presence of marine mammals and sea turtles. Specifically PSO's shall:

(A) Monitor at all hours of the day, scanning the ocean surface by eye for a minimum of 40 minutes every hour.

(B) Monitor the area where maintenance and repair work is conducted beginning at daybreak using 25x power binoculars and/or hand-held binoculars. Night vision devices must be provided as standard equipment for monitoring during low-light hours and at night.

(C) Conduct general 360° visual monitoring during any given watch period and target scanning by the observer shall occur when alerted of a whale presence.

(D) Alert the vessel superintendent or construction crew supervisor of visual detections within 2 miles (3.31 kilometers) immediately.

(E) Record all sightings on marine mammal field sighting logs. Specifically, all data shall be entered at the time of observation, notes of activities will be kept, and a daily report prepared and attached to the daily field sighting log form. The basic reporting requirements include the following:

- Beaufort sea state;
- Wind speed;
- Wind direction;
- Temperature;
- Precipitation;
- Glare;
- Percent cloud cover;
- Number of animals;
- Species;
- Position;
- Distance;
- Behavior;
- Direction of movement; and
- Apparent reaction to construction activity.

(iv) In the event that a whale is visually observed within the 2-mile (3.31-kilometers) zone of influence (ZOI) of a DP vessel or other construction vessel that has shown to emit noise with source level in excess of 139 dB re 1 μPa @1 m, the PSO will notify the repair/maintenance construction crew to minimize the use of thrusters until the animal has moved away, unless there are divers in the water or an ROV is deployed.

(d) Acoustic Monitoring

(i) Northeast Gateway shall deploy 10 ABs within the Separation Zone of the TSS for the operational life of the Project.

(ii) The ABs shall be used to detect a calling North Atlantic right whale an average of 5 nm from each AB. The AB system shall be the primary detection mechanism that alerts the EBRV Master to the occurrence of right whales, heightens EBRV awareness, and triggers necessary mitigation actions as described in section (5) above.

(iii) Northeast Gateway shall conduct short-term passive acoustic monitoring to document sound levels during the initial operational events in the 2014–2015 winter heating season, and during both regular deliveries outside the winter heating season should such deliveries occur, and during scheduled and unscheduled maintenance and repair activities.

(iv) Northeast Gateway shall conduct long-term monitoring of the noise environment in Massachusetts Bay in the vicinity of the NEG Port and Pipeline Lateral using marine autonomous recording units (MARUs) when there is anticipated to be more than 5 LNG shipments in a 30-day period or over 20 shipments in a six-month period.

(v) The acoustic data collected in 6(d)(ii) shall be analyzed to document the seasonal occurrences and overall distributions of whales (primarily fin, humpback and right whales) within approximately 10 nm of the NEG Port and shall measure and document the noise ''budget'' of Massachusetts Bay so as to eventually assist in determining whether or not an overall increase in noise in the Bay associated with the Project might be having a potentially negative impact on marine mammals.

(vi) Northeast Gateway shall make all acoustic data, including data previously collected by the MARUs during prior construction, operations, and maintenance and repair activities, available to NOAA. Data storage will be the responsibility of NOAA.

(e) Acoustic Whale Detection and Response Plan

(i) NEG Port Operations

(A) Ten (10) ABs that have been deployed since 2007 shall be used to continuously screen the low-frequency acoustic environment (less than 1,000 Hertz) for right whale contact calls occurring within an approximately 5-nm radius from each buoy (the AB's detection range).

(B) Once a confirmed detection is made, the Master of any EBRVs operating in the area will be alerted immediately.

(ii) NEG Port and Pipeline Lateral Planned and Unplanned/Emergency Repair and Maintenance Activities.

(A) If the repair/maintenance work is located outside of the detectible range of the 10 project area ABs, Northeast Gateway and Algonquin shall consult with NOAA (NMFS and SBNMS) to determine if the work to be conducted warrants the temporary installation of an additional AB(s) to help detect and provide early warnings for potential occurrence of right whales in the vicinity of the repair area.

(B) The number of ABs installed around the activity site shall be commensurate with the type and spatial extent of maintenance/repair work required, but must be sufficient to detect vocalizing right whales within the 120-dB impact zone.

(C) Should acoustic monitoring be deemed necessary during a planned or unplanned/emergency repair and/or maintenance event, active monitoring for right whale calls shall begin 24 hours prior to the start of activities.

(D) Revised noise level data from the acoustic recording units deployed in the NEG Port and/or Pipeline Lateral maintenance and repair area shall be provided to NMFS.

(7) Reporting

(a) Throughout NEG Port and Pipeline Lateral operations, Northeast Gateway and Algonquin shall provide a monthly Monitoring Report. The Monitoring Report shall include:

(i) Both copies of the raw visual EBRV lookout sighting information of marine mammals that occurred within 2 miles of the EBRV while the vessel transits within the TSS, maneuvers within the ATBA, and/or when actively engaging in the use of thrusters, and a summary of the data collected by the look-outs over each reporting period.

(ii) Copies of the raw PSO sightings information on marine mammals gathered during pipeline repair or maintenance activities. This visual sighting data shall then be correlated to

periods of thruster activity to provide estimates of marine mammal takes (per species/species class) that took place during each reporting period.

(iii) Conclusion of any planned or unplanned/emergency repair and/or maintenance period, a report shall be submitted to NMFS summarizing the repair/maintenance activities, marine mammal sightings (both visual and acoustic), empirical source-level measurements taken during the repair work, and any mitigation measures taken.

(b) During the maintenance and repair of NEG Port components, weekly status reports shall be provided to NOAA (both NMFS and SBNMS) using standardized reporting forms. The weekly reports shall include data collected for each distinct marine mammal species observed in the repair/maintenance area during the period that maintenance and repair activities were taking place. The weekly reports shall include the following information:

(i) Location (in longitude and latitude coordinates), time, and the nature of the maintenance and repair activities;

(ii) Indication of whether a DP system was operated, and if so, the number of thrusters being used and the time and duration of DP operation;

(iii) Marine mammals observed in the area (number, species, age group, and initial behavior);

(iv) The distance of observed marine mammals from the maintenance and repair activities;

(v) Changes, if any, in marine mammal behaviors during the observation;

(vi) A description of any mitigation measures (power-down, shutdown, etc.) implemented;

(vii) Weather condition (Beaufort sea state, wind speed, wind direction, ambient temperature, precipitation, and percent cloud cover etc.);

(viii) Condition of the observation (visibility and glare); and

(ix) Details of passive acoustic detections and any action taken in response to those detections.

(d) Injured/Dead Protected Species Reporting

(i) In the unanticipated event that survey operations clearly cause the take of a marine mammal in a manner prohibited by the proposed IHA, such as an injury (Level A harassment), serious injury or mortality (e.g., ship-strike, gear interaction, and/or entanglement), NEG and/or Algonquin shall immediately cease activities and immediately report the incident to the Chief, Permits and Conservation Division, Office of Protected Resources, NMFS, at 301–427–8401 and/or by email to *Jolie.Harrison@noaa.gov* and *Shane.Guan@noaa.gov* and the Northeast Regional Stranding Coordinators (*Mendy.Garron@noaa.gov*) or by phone at 978–281–9300. The report must include the following information:

(A) Time, date, and location (latitude/longitude) of the incident;

(B) The name and type of vessel involved;

(C) The vessel's speed during and leading up to the incident;

(D) Description of the incident;

(E) Status of all sound source use in the 24 hours preceding the incident;

(F) Water depth;

(G) Environmental conditions (e.g., wind speed and direction, Beaufort sea state, cloud cover, and visibility);

(H) Description of marine mammal observations in the 24 hours preceding the incident;

(I) Species identification or description of the animal(s) involved;

(J) The fate of the animal(s); and

(K) Photographs or video footage of the animal (if equipment is available).

Activities shall not resume until NMFS is able to review the circumstances of the prohibited take. NMFS shall work with NEG and/or Algonquin to determine what is necessary to minimize the likelihood of further prohibited take and ensure MMPA compliance. NEG and/or Algonquin may not resume their activities until notified by NMFS via letter, email, or telephone.

(ii) In the event that NEG and/or Algonquin discovers an injured or dead marine mammal, and the lead PSO determines that the cause of the injury or death is unknown and the death is relatively recent (i.e., in less than a moderate state of decomposition as described in the next paragraph), NEG and/or Algonquin will immediately report the incident to the Chief, Permits and Conservation Division, Office of Protected Resources, NMFS, at 301–427–8401, and/or by email to *Jolie.Harrison@noaa.gov* and *Shane.Guan@noaa.gov* and the NMFS Northeast Stranding Coordinators (*Mendy.Garron@noaa.gov*) or by phone at 978–281–9300, within 24 hours of the discovery. The report must include the same information identified above. Activities may continue while NMFS reviews the circumstances of the incident. NMFS will work with NEG and/or Algonquin to determine whether modifications in the activities are appropriate.

(iii) In the event that NEG or Algonquin discovers an injured or dead marine mammal, and the lead PSO determines that the injury or death is not associated with or related to the activities authorized (if the IHA is issued) (e.g., previously wounded animal, carcass with moderate to advanced decomposition, or scavenger damage), NEG and/or Algonquin shall report the incident to the Chief, Permits and Conservation Division, Office of Protected Resources, NMFS, at 301–427–8401, and/or by email to *Jolie.Harrison@noaa.gov* and *Shane.Guan@noaa.gov* and the NMFS Northeast Stranding Coordinators (*Mendy.Garron@noaa.gov*) or by phone at 978–281–9300, within 24 hours of the discovery. NEG and/or Algonquin shall provide photographs or video footage (if available) or other documentation of the stranded animal sighting to NMFS and the Marine Mammal Stranding Network. NEG and/or Algonquin can continue its operations under such a case.

Request for Public Comments

NMFS requests comment on the revised proposed PAM monitoring for NMFS proposed IHA for Northeast Gateway's LNG Port and Pipeline Lateral operations and maintenance and repair activities, as described in this notice and in Tetratech's June 20, 2014, application (see **ADDRESSES**). Please include with your comments any supporting data or literature citations to help inform our final decision.

Dated: September 30, 2014.

Donna Wieting,

Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2014–23764 Filed 10–3–14; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF EDUCATION

[Docket No.: ED–2014–ICCD–0069]

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Comment Request; E-Complaint Form

AGENCY: Office of Management (OM), Department of Education (ED).

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 3501 *et seq.*), ED is proposing a new information collection.

DATES: Interested persons are invited to submit comments on or before November 3, 2014.

ADDRESSES: Comments submitted in response to this notice should be submitted electronically through the Federal eRulemaking Portal at *http://*

www.regulations.gov by selecting Docket ID number ED–2014–ICCD–0069 or via postal mail, commercial delivery, or hand delivery. If the regulations.gov site is not available to the public for any reason, ED will temporarily accept comments at *ICDocketMgr@ed.gov.* Please note that comments submitted by fax or email and those submitted after the comment period will not be accepted; ED will only accept comments during the comment period in this mailbox when the regulations.gov site is not available. Written requests for information or comments submitted by postal mail or delivery should be addressed to the Director of the Information Collection Clearance Division, U.S. Department of Education, 400 Maryland Avenue SW, LBJ, Mailstop L–OM–2–2E319, Room 2E105, Washington, DC 20202.

FOR FURTHER INFORMATION CONTACT: For specific questions related to collection activities, please contact Regina Miles, 202–260–3887.

SUPPLEMENTARY INFORMATION: The Department of Education (ED), in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)), provides the general public and Federal agencies with an opportunity to comment on proposed, revised, and continuing collections of information. This helps the Department assess the impact of its information collection requirements and minimize the public's reporting burden. It also helps the public understand the Department's information collection requirements and provide the requested data in the desired format. ED is soliciting comments on the proposed information collection request (ICR) that is described below. The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology. Please note that written comments received in response to this notice will be considered public records.

Title of Collection: E-Complaint Form.

OMB Control Number: 1880–NEW.

Type of Review: A new information collection.

Respondents/Affected Public: Individuals or households.

Total Estimated Number of Annual Responses: 500.

Total Estimated Number of Annual Burden Hours: 500.

Abstract: The Family Policy Compliance Office (FPCO) is the office responsible for administering the Family Educational Rights and Privacy Act. As fully investigating complaints of alleged violations takes time, we ask parents and students filing complaints to read carefully accompanying information prior to completing and submitting the complaint form.

Dated: September 30, 2014.

Stephanie Valentine,

Acting Director, Information Collection Clearance Division, Privacy, Information and Records Management Services, Office of Management.

[FR Doc. 2014–23642 Filed 10–3–14; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER14–2017–002.

Applicants: California Independent System Operator Corporation.

Description: Compliance filing per 35: 2014–09–26_FNM_Waiver to be effective N/A.

Filed Date: 9/26/14.

Accession Number: 20140926–5220.

Comments Due: 5 p.m. ET 10/3/14.

Docket Numbers: ER14–2325–000.

Applicants: Mosaic Fertilizer, LLC.

Description: eTariff filing per 35.19a(b): Refund Report to be effective N/A.

Filed Date: 9/26/14.

Accession Number: 20140926–5185.

Comments Due: 5 p.m. ET 10/17/14.

Docket Numbers: ER14–2952–000.

Applicants: Midcontinent Independent System Operator, Inc.

Description: § 205(d) rate filing per 35.13(a)(2)(iii): 2014–09–26_Amend Schedule 43, 43G, & 43H to be effective 12/1/2014.

Filed Date: 9/26/14.

Accession Number: 20140926–5183.

Comments Due: 5 p.m. ET 10/17/14.

Docket Numbers: ER14–2953–000.

Applicants: PJM Interconnection, L.L.C.

Description: Tariff Withdrawal per 35.15: Notice of Cancellation of Service Agreement No. 3047; Queue No. W3–095 to be effective 11/17/2014.

Filed Date: 9/26/14.

Accession Number: 20140926–5188.

Comments Due: 5 p.m. ET 10/17/14.

Docket Numbers: ER14–2954–000.

Applicants: Golden Spread Electric Cooperative, Inc.

Description: Tariff Withdrawal per 35.15: REA and EESA Cancellation to be effective 10/1/2014.

Filed Date: 9/26/14.

Accession Number: 20140926–5206.

Comments Due: 5 p.m. ET 10/17/14.

Docket Numbers: ER14–2955–000.

Applicants: Skylar Resources, LP.

Description: Initial rate filing per 35.12 Application for Market-Based Rates to be effective 10/25/2014.

Filed Date: 9/26/14.

Accession Number: 20140926–5212.

Comments Due: 5 p.m. ET 10/17/14.

Docket Numbers: ER14–2956–000.

Applicants: Hoopeston Wind, LLC.

Description: Initial rate filing per 35.12 Hoopsten Wind Baseline Tariff Filing to be effective 9/26/2014.

Filed Date: 9/26/14.

Accession Number: 20140926–5221.

Comments Due: 5 p.m. ET 10/17/14.

Take notice that the Commission received the following electric securities filings:

Docket Numbers: ES14–54–000.

Applicants: NorthWestern Corporation.

Description: Application for authorization to issue securities under FPA Section 204 of NorthWestern Corporation.

Filed Date: 9/29/14.

Accession Number: 20140929–5072.

Comments Due: 5 p.m. ET 10/20/14.

Take notice that the Commission received the following qualifying facility filings:

Docket Numbers: QF14–809–000.

Applicants: CF Industries Nitrogen, LLC.

Description: Form 556 of CF Industries Nitrogen, LLC.

Filed Date: 9/29/14.

Accession Number: 20140929–5100.

Comments Due: None Applicable.

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: September 29, 2014.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2014–23759 Filed 10–3–14; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #2

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER14–1594–001; ER14–1596–001.

Applicants: Lone Valley Solar Park I LLC, Lone Valley Solar Park II LLC.

Description: Notice of Non-Material Change in Status of Lone Valley Solar Park I LLC, et. al.

Filed Date: 9/29/14.

Accession Number: 20140929–5165.

Comments Due: 5 p.m. ET 10/20/14.

Docket Numbers: ER14–2345–001.

Applicants: El Paso Electric Company.

Description: Compliance filing per 35: Compliance Filing of Housekeeping Updates—OATT to be effective 9/1/2014.

Filed Date: 9/29/14.

Accession Number: 20140929–5224.

Comments Due: 5 p.m. ET 10/20/14.

Docket Numbers: ER14–2858–001.

Applicants: Origin Wind Energy, LLC.

Description: Tariff Amendment per 35.17(b): Origin Wind Energy, LLC Amendment to MBR Tariff to be effective 9/15/2014.

Filed Date: 9/29/14.

Accession Number: 20140929–5225.

Comments Due: 5 p.m. ET 10/20/14.

Docket Numbers: ER14–2957–000.

Applicants: PJM Interconnection, L.L.C.

Description: Tariff Withdrawal per 35.15: Notice of Cancellation of Original Service Agreement No. 3063; Queue No. W3–078 to be effective 4/26/2012.

Filed Date: 9/29/14.

Accession Number: 20140929–5142.

Comments Due: 5 p.m. ET 10/20/14.

Docket Numbers: ER14–2958–000.

Applicants: PJM Interconnection, L.L.C.

Description: § 205(d) rate filing per 35.13(a)(2)(iii): Original Service Agreement No. 3941; Queue Z2–056 to be effective 8/28/2014.

Filed Date: 9/29/14.

Accession Number: 20140929–5217.

Comments Due: 5 p.m. ET 10/20/14.

Docket Numbers: ER14–2959–000.

Applicants: LWP Lessee, LLC.

Description: § 205(d) rate filing per 35.13(a)(2)(iii): LWP Lessee Market-Based Rate Tariff Revision to be effective 11/29/2014.

Filed Date: 9/29/14.

Accession Number: 20140929–5222.

Comments Due: 5 p.m. ET 10/20/14.

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: September 29, 2014.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2014–23760 Filed 10–3–14; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER14–2945–000]

Roundtop Energy 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 Roundtop Energy LLC's application for market-based rate authority, with an accompanying rate schedule, 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 October 20, 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(s) 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: September 30, 2014.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2014–23754 Filed 10–3–14; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER14–2955–000]

Skylar Resources, LP; 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 Skylar Resources, LP's application for market-based rate authority, with an accompanying rate schedule, 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 October 20, 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(s) 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: September 30, 2014.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2014–23755 Filed 10–3–14; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. ER04–1047–000; ER04–1047–001]

White Pine Electric Power, L.L.C.; 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 White Pine Electric Power, L.L.C.'s application for market-based rate authority, with an accompanying rate schedule, 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 October 20, 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(s) 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: September 30, 2014.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2014–23757 Filed 10–3–14; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER07–1237–000]

UP Power Marketing, 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 UP Power Marketing, LLC's application for market-based rate authority, with an accompanying rate schedule, 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 October 20, 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(s) 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: September 30, 2014.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2014–23758 Filed 10–3–14; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER14–2956–000]

Hoopeston Wind, 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 Hoopeston Wind, LLC's application for market-based rate authority, with an accompanying rate schedule, 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 October 20, 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(s) 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: September 30, 2014.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2014–23756 Filed 10–3–14; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Western Area Power Administration

Provo River Project—Rate Order No. WAPA–165

AGENCY: Western Area Power Administration, DOE.

ACTION: Notice of Proposed Extension for the Provo River Project Power Rate Formula.

SUMMARY: This action is a proposal to extend the existing Provo River Project firm power rate formula through March 31, 2020. The existing rate formula will expire on March 31, 2015.

DATES: Thirty days after this notice is published, Western Area Power Administration (Western) will take further action on the proposed formula rate extension consistent with 10 CFR 903.

FOR FURTHER INFORMATION CONTACT: Ms. Lynn C. Jeka, CRSP Manager, Colorado River Storage Project Management Center, 150 East Social Hall Avenue, Suite 300, Salt Lake City, UT 84111–1580, telephone (801) 524–6372, email: *jeka@wapa.gov,* or Mr. Rodney Bailey, Power Marketing Manager, Colorado River Storage Project Management Center, 150 East Social Hall Avenue, Suite 300, Salt Lake City, UT 84111–1580, telephone (801) 524–4007, email: *rbailey@wapa.gov.*

SUPPLEMENTARY INFORMATION: By Delegation Order No. 00–037.00A, the Secretary of Energy delegated: (1) The authority to develop power and transmission rates to Western's Administrator; (2) the authority to confirm, approve, and place such rates into effect on an interim basis to the Deputy Secretary of Energy; and (3) the authority to confirm, approve, and place into effect on a final basis, to remand or to disapprove such rates to the Federal Energy Regulatory Commission (FERC). This extension is issued pursuant to the Delegation Order and Department of Energy (DOE) rate extension procedures at 10 CFR 903.23(a).

Under Delegation Order No. 0204–108 and existing DOE procedures for public participation in rate adjustments at 10 CFR part 903, Western's Provo River Power Rate formula was submitted to FERC for confirmation and approval on February 2, 2010. The Provo River Power Rate formula, Rate Order No. WAPA–149, was approved for 5 years beginning April 1, 2010, and ending March 31, 2015.

The Provo River Project, which includes Deer Creek Dam on the Provo River in Utah, was authorized in 1935. Construction of the dam began in 1938 and was completed in 1951. The Deer Creek Powerplant was authorized on August 20, 1951; construction began in 1956 and was completed in 1958; generation began that same year. Its maximum operating capacity is 5,200 kilowatts.

The Provo River Project's power is sold according to a marketing plan that was published in the **Federal Register** on November 21, 1994. This marketing plan allows Western to sell the output of the Provo River Project to Utah Municipal Power Agency, Utah Associated Municipal Power Systems, and Heber Light and Power (Customers) in the Provo River drainage area.

Contract Nos. 94–SLC–0253, 94–SLC–0254, and 07–SLC–0601 between the United States and Customers require that each fiscal year (FY) a new annual installment be calculated in advance by Western and submitted to the Customers on or before August 31 of the year preceding the appropriate FY. Each FY, Western prepares a power repayment study, which includes estimates of operation, maintenance, and replacement costs for the Deer Creek Powerplant. The annual installment is adjusted on or before August 31 of the year preceding the FY to which it pertains, and Western identifies this

amount in contract revisions. Each annual installment pays the amortized portion of the United States' investment in the Deer Creek hydroelectric facilities with interest and the associated operation, maintenance, and administrative costs. This repayment schedule is not dependent upon the capacity and associated energy made available for sale each year.

Thirty days after this notice is published, Western will take further action on the proposed formula rate extension for the Provo River Project, pursuant to the Delegation Order and DOE rate extension procedures at 10 CFR 903.23(a).

Dated: September 26, 2014.

Mark A. Gabriel,

Administrator.

[FR Doc. 2014–23773 Filed 10–3–14; 8:45 am]

BILLING CODE 6450–01–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPPT–2014–0706; FRL–9917–18]

Certain New Chemicals; Receipt and Status Information

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA is required under the Toxic Substances Control Act (TSCA) to publish in the **Federal Register** a notice of receipt of a premanufacture notice (PMN); an application for a test marketing exemption (TME), both pending and/or expired; and a periodic status report on any new chemicals under EPA review and the receipt of notices of commencement (NOC) to manufacture those chemicals. This document covers the period from August 25, 2014 to September 15, 2014.

DATES: Comments identified by the specific PMN number or TME number, must be received on or before November 5, 2014.

ADDRESSES: Submit your comments, identified by docket identification (ID) number EPA–HQ–OPPT–2014–0706, and the specific PMN number or TME number for the chemical related to your comment, by one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the online instructions for submitting comments. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute.
- *Mail:* Document Control Office (7407M), Office of Pollution Prevention and Toxics (OPPT), Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001.
- *Hand Delivery:* To make special arrangements for hand delivery or delivery of boxed information, please follow the instructions at *http://www.epa.gov/dockets/contacts.html.*

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

FOR FURTHER INFORMATION CONTACT: *For technical information contact:* Bernice Mudd, Information Management Division (7407), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001; telephone number: (202) 564–8951; email address: *Mudd.Bernice@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. As such, the Agency has not attempted to describe the specific entities that this action may apply to. Although others may be affected, this action applies directly to the submitter of the PMNs addressed in this action.

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

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

2. *Tips for preparing your comments.* When submitting comments, remember to:

i. Identify the document by docket ID number and other identifying information (subject heading, **Federal Register** date and page number).

ii. Follow directions. The Agency may ask you to respond to specific questions or organize comments by referencing a Code of Federal Regulations (CFR) part or section number.

iii. Explain why you agree or disagree; suggest alternatives and substitute language for your requested changes.

iv. Describe any assumptions and provide any technical information and/or data that you used.

v. If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.

vi. Provide specific examples to illustrate your concerns and suggest alternatives.

vii. Explain your views as clearly as possible, avoiding the use of profanity or personal threats.

viii. Make sure to submit your comments by the comment period deadline identified.

II. What action is the Agency taking?

This document provides receipt and status reports, which cover the period from August 25, 2014 to September 15, 2014, and consists of the PMNs pending and/or expired, and the NOCs to manufacture a new chemical that the Agency has received under TSCA section 5 during this time period.

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

Section 5 of TSCA requires that EPA periodical publish in the **Federal Register** receipt and status reports, which cover the following EPA activities required by provisions of TSCA section 5.

EPA classifies a chemical substance as either an ''existing'' chemical or a ''new'' chemical. Any chemical substance that is not on EPA's TSCA Inventory is classified as a ''new chemical,'' while those that are on the TSCA Inventory are classified as an ''existing chemical.'' For more information about the TSCA Inventory go to: *http://www.epa.gov/opptintr/newchems/pubs/inventory.htm.* Anyone who plans to manufacture or import a new chemical substance for a non-exempt commercial purpose is required by TSCA section 5 to provide EPA with a PMN, before initiating the activity. Section 5(h)(1) of TSCA authorizes EPA to allow persons, upon application, to manufacture (includes import) or process a new chemical substance, or a chemical substance subject to a significant new use rule (SNUR) issued

under TSCA section 5(a), for ''test marketing'' purposes, which is referred to as a test marketing exemption, or TME. For more information about the requirements applicable to a new chemical go to: *http://www.epa.gov/oppt/newchems.*

Under TSCA sections 5(d)(2) and 5(d)(3), EPA is required to publish in the **Federal Register** a notice of receipt of a PMN or an application for a TME and to publish in the **Federal Register** periodic status reports on the new chemicals under review and the receipt of NOCs to manufacture those chemicals.

IV. Receipt and Status Reports

In Table I. of this unit, EPA provides the following information (to the extent that such information is not claimed as CBI) on the PMNs received by EPA during this period: The EPA case number assigned to the PMN, the date the PMN was received by EPA, the projected end date for EPA's review of the PMN, the submitting manufacturer/importer, the potential uses identified by the manufacturer/importer in the PMN, and the chemical identity.

TABLE I—37 PMNS RECEIVED FROM 8/25/14 TO 9/15/14

Case No.	Received date	Projected notice end date	Manufacturer /importer	Use	Chemical
P–14–0806	8/26/2014	11/24/2014	CBI	(G) Open, non-dispersive	(G) Epoxy-amine adduct, neutralized.
P–14–0807	8/26/2014	11/24/2014	CBI	(G) Reactive polymer for waterborne industrial coating & ink applications.	(G) Aromatic diacid polymer with alkyl diacid, cycloalkyl dimethanol, alkyl diisocyanate, hydroxyalkyl acrylate blocked alkyl diisocyanate homopolymer, dihydroxyalkanoic acid, alkanediol, alkali metal salt, dialkanolamine-and- hydroxyalkyl acrylate-and-polyalkyl glycol monoalkyl ether blocked.
P–14–0808	8/26/2014	11/24/2014	CBI	(G) Process intermediate	(G) Fluoroalkene.
P–14–0809	8/26/2014	11/24/2014	CBI	(S) Intermediate for use in the manufacture of polymers.	(G) Depolymerized waste plastics.
P–14–0810	8/26/2014	11/24/2014	SEPPIC	(S) Hydrotrope agent and performance booster.	(S) D-Glucoside, heptyl.
P–14–0811	8/27/2014	11/25/2014	CBI	(G) Lubricant additive	(G) Sulfurized hydrocarbon.
P–14–0812	8/27/2014	11/25/2014	CBI	(S) Floor coating; general architectural and industrial coatings.	(G) Isocyanate terminated polyurethane.
P–14–0813	8/27/2014	11/25/2014	CBI	(G) Intermediate	(G) Perfluoropolyether chlorosilane.
P–14–0814	8/27/2014	11/25/2014	CBI	(G) Surface modification coating	(G) Perfluoropolyether methoxysilane.
P–14–0822	8/27/2014	11/25/2014	CBI	(G) Resin additive designed to be added to existing systems improving overall mechanical properties.	(G) Epoxycyclohexylmethyl-epoxycyclohexane carboxylate polymer with cyclohexlamine.
P–14–0817	8/29/2014	11/27/2014	Firmenich Incorporated.	(G) As part of a fragrance formula	(S) 3-hexenoic acid, cyclopropylmethyl ester.
P–14–0818	8/29/2014	11/27/2014	CBI	(G) Adhesive for cellulosic surfaces	(G) Cross-linked biopolymer.
P–14–0820	9/2/2014	12/1/2014	Allnex USA Inc.	(S) Industrial coating resin	(G) Formaldehyde, polymer with substituted carbomonocycles, alkyl ether.
P–14–0821	9/2/2014	12/1/2014	Industrial Speciality Chemicals.	(S) Intermediate for polymer production.	(G) Glycidyl trimethylammonium bromide.
P–14–0823	9/3/2014	12/2/2014	Allnex USA Inc.	(S) Industrial Coating Resin	(G) Formaldehyde, polymer with substituted carbomonocycle, alkyl ether.
P–14–0824	9/3/2014	12/2/2014	CBI	(G) Rape oil, reaction products with amines.	(G) Rape oil, reaction products with alkylamine.
P–14–0825	9/3/2014	12/2/2014	CBI	(G) Paint additive	(G) Amide wax.
P–14–0827	9/3/2014	12/2/2014	Baze Chemical Company.	(S) Diluted corrosion inhibitor/organic scale inhibitor intermediate.	(S) Poly[oxy(methyl-1,2-ethanediyl)],alpha-(2-aminomethylethyl)-omega-(2-aminomethylethoxy)-, phosphonomethylated, sodium salts.
P–14–0827	9/3/2014	12/2/2014	Baze Chemical Company.	(S) Organic scale inhibitor intermediate for oil field scale inhibition.	(S) Poly[oxy(methyl-1,2-ethanediyl)],alpha-(2-aminomethylethyl)-omega-(2-aminomethylethoxy)-, phosphonomethylated, sodium salts.
P–14–0826	9/3/2014	12/2/2014	Rhineland Specialties, Inc.	(S) Binder in paints used for marine applications.	(G) Fatty acids, unsatd., polymers with hydroxy-terminated PH PR organosilica, alkylpolyhydroxide, aryl anhydride, and fatty acid.
P–14–0828	9/3/2014	12/2/2014	CBI	(S) Polymer intermediate	(G) Formamide, *N*-ethenyl-, polymer.
P–14–0829	9/4/2014	12/3/2014	CBI	(S) Surfactant for use in paints, coatings, inks, waxes, detergents, polishes, adhesives, and lubricants.	(S) Pending Letter of Support.

TABLE I—37 PMNS RECEIVED FROM 8/25/14 TO 9/15/14—Continued

Case No.	Received date	Projected notice end date	Manufacturer /importer	Use	Chemical
P–14–0830 ...	9/8/2014	12/7/2014	CBI	(G) Additve for household cleaners and products.	(S) 1-propanaminium, *N,N,N*-trimethyl-3-[(2-methyl-1-oxo-2-propenyl)amino]-, chloride (1:1), polymer with 2-propenamide and 2-propenoic acid, sodium salt.
P–14–0831 ...	9/8/2014	12/7/2014	CBI	(S) A binder for metal coating	(G) Fatty acids, polymers with acrylic monomers, bisphenol A, 2-ethoxyethanol, epichlorohydrin and styrene, alkyl peroxide-initiated, compounds (cmpds) with triethylamine.
P–14–0832 ...	9/8/2014	12/7/2014	CBI	(S) A binder resin for metal coating ...	(G) Fatty acids, polymers with acrylic monomers, bisphenol A, modified oil, epichlorohydrin and styrene, alkyl peroxide-initiated, cmpds. with triethylamine.
P–14–0833 ...	9/8/2014	12/7/2014	CBI	(G) Open, non-dispersive	(G) Epoxy-amine adduct, neutralized.
P–14–0834 ...	9/9/2014	12/8/2014	CBI	(G) Component for plastic parts coating.	(G) Polyfunctional carbodiimide.
P–14–0835 ...	9/11/2014	12/10/2014	CBI	(G) PMN substance is a component OF inkjet ink.	(G) Alkyl carboxylic acid lithium salt.
P–14–0837 ...	9/12/2014	12/11/2014	Henkel Corporation.	(S) Hot melt adhesive and industrial bonding applications.	(S) Fatty acids, C_{18}-unsaturated (unsat'd.), dimers, polymers with azelaic acid, ethylenediamine, hexamethylenediamine, piperazine, polyoxypropylene diamine and tall-oil fatty acids.
P–14–0836 ...	9/12/2014	12/11/2014	Henkel Corporation.	(S) Hot melt adhesive and industrial bonding applications.	(S) Fatty acids, C_{18}-unsat'd., dimers, polymers with azelaic acid, ethylenediamine, piperazine, polypropylene glycol diamine and tall oil fatty acids*.
P–14–0838 ...	9/12/2014	12/11/2014	CBI	(G) Component for tire	(G) Modified copolymer of buta-1,3-diene and styrene.
P–14–0840 ...	9/12/2014	12/11/2014	CBI	(G) Reactive hot melt adhesive for roll coating or spraying application to make panels for construction.	(G) Silane cure reactive hot melt adhesive.
P–14–0841 ...	9/12/2014	12/11/2014	CBI	(S) Fluorescent brightener for use in paper applications.	(G) Triazinylaminostilbene.
P–14–0842 ...	9/12/2014	12/11/2014	CBI	(G) Polymerization monomer	(G) Polycyclic hydrocarbon.
P–14–0843 ...	9/15/2014	12/14/2014	CBI	(G) Laundry additive	(G) Alkoxylated glycerol ester.
P–14–0844 ...	9/15/2014	12/14/2014	CBI	(G) Heat dissipation	(G) Organosilane treated boron nitride.
P–14–0845 ...	9/15/2014	12/14/2014	CBI	(G) Heat dissipation	(G) Organosilane treated oxide ceramic.

In Table II. of this unit, EPA provides the following information (to the extent that such information is not claimed as CBI) on the NOCs received by EPA during this period: The EPA case number assigned to the NOC, the date the NOC was received by EPA, the projected end date for EPA's review of the NOC, and chemical identity.

TABLE II—29 NOCS RECEIVED FROM 8/25/14 TO 9/15/14

Case no.	Received date	Commencement notice end date	Chemical
P–01–0357 ...	8/22/2014	8/5/2014	(G) *N,N'* substituted aniline sulfonic acid, compound with 2,2',2''-nitrilotris [ethanol].
P–14–0539 ...	8/22/2014	8/6/2014	(G) Siloxanes and silicones, di-me, 3-(2-hydroxyethoxy)alkyl group-terminated, polymers with 1,4-alkanediol, di-et carbonate, alkene glycol, 1,6-alkanediol and 1,1-alkylenebis[4-isocyanatocycloalkane].
P–14–0540 ...	8/22/2014	8/6/2014	(G) Siloxanes and silicones, di-me, 3-(2-hydroxyethoxy)alkyl group-terminated, polymers with 1,4-alkanediol, di-et carbonate, alkene glycol, 1,6-alkanediol and 1,1-alkylenebis[4-isocyanatocycloalkane].
P–14–0052 ...	8/25/2014	8/3/2014	(G) Polymer modified multifunctional silane.
P–14–0500 ...	8/25/2014	8/21/2014	(G) Butanedioic acid, compd. with polyalkylpolyaminoamidine.
P–12–0573 ...	8/26/2014	8/8/2014	(G) Amine substitued quinoacridine product.
P–14–0270 ...	8/26/2014	8/18/2014	(G) Multifunctional novolac type epoxy resin.
P–14–0289 ...	8/26/2014	8/18/2014	(G) Multifunctional novolac type epoxy resin.

TABLE II—29 NOCS RECEIVED FROM 8/25/14 TO 9/15/14—Continued

Case no.	Received date	Commencement notice end date	Chemical
J–14–0017 ...	8/26/2014	8/19/2014	(G) Modified microalgae.
P–12–0115 ...	8/27/2014	8/20/2014	(G) Alkylbenzene sulfonic acid.
P–14–0143 ...	8/28/2014	8/20/2014	(G) Alkanaminium, substituted carbomonocycle alkylamino)carbomonocycle]alkylene]-substituted carbomonocycle, carboxylate salt.
P–13–0907 ...	8/28/2014	8/25/2014	(G) Epoxy resin, reaction products with alkanolamines.
P–12–0116 ...	8/28/2014	8/28/2014	(G) Alkylbenzene sulfonate sodium salt.
P–14–0487 ...	8/29/2014	8/5/2014	(G) Polyalkylaminoalkaryloxy, carboxylic acid, metal salt.
P–14–0336 ...	8/29/2014	8/20/2014	(S) Dodecanedioic acid, polymer with 2,2-dimethyl-1,3-propanediol.
P–14–0417 ...	9/2/2014	8/26/2014	(G) Aliphatic ether ethyl alcohol.
P–14–0418 ...	9/2/2014	8/26/2014	(G) Styrene-methacrylate copolymer.
P–13–0919 ...	9/2/2014	8/30/2014	(G) Glycerides, C_{14}-C_{18}, C_{16}-C_{18} unsaturated, from algal fermentation.
P–14–0308 ...	9/2/2014	8/30/2014	(G) Algal biomass from fermentation.
P–14–0447 ...	9/4/2014	8/9/2014	(S) Alcohols, C_{18-22}, distillation residues.
P–14–0448 ...	9/4/2014	8/9/2014	(S) Alcohols, C_{12-22}, distillation residues.
P–14–0556 ...	9/5/2014	8/21/2014	(S) Oils, peach pulp.
P–13–0650 ...	9/8/2014	9/3/2014	(G) Epoxy-amine adduct, neutralized.
P–14–0547 ...	9/9/2014	9/5/2014	(G) Organometallic, reaction product with zirconium metallocene, silica, and aluminum alkyl.
P–14–0337 ...	9/10/2014	8/20/2014	(S) Poly(oxy(methyl-1,2-ethanediyl)], -hydro—hydroxy-, polymer with 1,6-diisocyanatohexane and 1,1'-methylenebis[4-isocyanatocyclohexane], caprolactam- and polyethylene glycol mono-me ether-blocked.
P–14–0450 ...	9/10/2014	9/2/2014	(G) Siliconate potassium.
P–14–0504 ...	9/11/2014	9/3/2014	(G) Alkylated urethane copolymer.
P–08–0271 ...	9/12/2014	9/4/2014	(S) Molybdenum, borate neodecanoate oxo complexes.
P–14–0566 ...	9/15/2014	9/6/2014	(G) Disubstituted alkenal.

If you are interested in information that is not included in these tables, you may contact EPA as described in Unit III. to access additional non-CBI information that may be available.

Authority: 15 U.S.C. 2601 *et. seq.*

Dated: September 23, 2014.

Chandler Sirmons,

Acting Director, Information Management Division, Office of Pollution Prevention and Toxics.

[FR Doc. 2014–23772 Filed 10–3–14; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–9917–47–Region–9]

Strategic Sciences Removal Site, Sylmar, CA; Notice of Proposed CERCLA Settlement Agreement for Recovery of Response Costs

AGENCY: Environmental Protection Agency.

ACTION: Notice; request for comment.

SUMMARY: In accordance with Section 122(i) of the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended (CERCLA), 42 U.S.C. 9622(i), notice is hereby given of a proposed administrative settlement with two parties for recovery of response costs concerning the Strategic Sciences Superfund Site in Sylmar, California. The settlement is entered into pursuant to Section 122(h)(1) of CERCLA, 42 U.S.C. 9622(h)(1), and it requires the settling party to pay $40,000 to the United States Environmental Protection Agency (Agency). The settlement includes a covenant not to sue the settling party pursuant to Sections 106 or 107(a) of CERCLA, 42 U.S.C. 9606 or 9607(a). For thirty (30) days following the date of publication of this Notice in the **Federal Register**, the Agency will receive written comments relating to the settlement. The Agency will consider all comments received and may modify or withdraw its consent to the settlement if comments received disclose facts or considerations which indicate the proposed settlement is inappropriate, improper, or inadequate. The Agency's response to any comments received will be available for public inspection at 75 Hawthorne Street, San Francisco, CA 94105.

DATES: Comments must be submitted on or before November 5, 2014.

ADDRESSES: The proposed settlement is available for public inspection at EPA Region IX, 75 Hawthorne Street, San Francisco, California. A copy of the proposed settlement may be obtained from J. Andrew Helmlinger, EPA Region IX, 75 Hawthorne Street, ORC–3, San Francisco, CA 94105, telephone number 415–972–3904. Comments should reference the Strategic Sciences Superfund Site, Sylmar, California, and should be addressed to J. Andrew Helmlinger at the above address.

FOR FURTHER INFORMATION CONTACT: J. Andrew Helmlinger, Assistant Regional Counsel (ORC–3), Office of Regional Counsel, U.S. EPA Region IX, 75 Hawthorne Street, San Francisco, CA 94105; phone: (415) 972–3904; fax: (417) 947–3570; email: *helmlinger.andrew@epa.gov.*

SUPPLEMENTARY INFORMATION:

Respondent to the Proposed Settlement: K&W Properties, Inc.

Dated: September 25, 2014.

Enrique Manzanilla,

Director, Superfund Division, U.S. EPA, Region IX.

[FR Doc. 2014–23816 Filed 10–3–14; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

[3060–0855]

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 Communications Commission (FCC or Commission)

invites the general public and other Federal agencies to take this opportunity to comment on the following information collections. Comments are requested concerning: whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees.

The FCC may not conduct or sponsor a collection of information unless it displays a currently valid 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 November 5, 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 Nicole Ongele, FCC, via email *PRA@fcc.gov* and to *Nicole.Ongele@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 Nicole Ongele at (202) 418–2991.

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: 3060–0855.

Title: Telecommunications Reporting Worksheets and Related Collections, FCC Forms 499–A and 499–Q.

Form Number: FCC Forms 499–A and 499–Q.

Type of Review: Revision of a currently approved collection.

Respondents: Business or other for-profit and not-for-profit institutions.

Number of Respondents and Responses: 6,700 respondents; 41,650 responses.

Estimated Time per Response: 0.25 hours to 25 hours per response.

Frequency of Response: Annually, quarterly, recordkeeping and on occasion reporting requirements.

Obligation to Respond: Mandatory. Statutory authority for this collection of information is contained in 151, 154(i), 154(j), 155, 157, 159, 201, 205, 214, 225, 254, 303(r), 715 and 719 of the Act, 47 U.S.C. 151, 154(i), 154(j), 155, 157, 159, 201, 205, 214, 225, 254, 303(r), 616, and 620.

Total Annual Burden: 247,375 hours.

Annual Cost Burden: No cost.

Privacy Act Impact Assessment: No impact(s).

Nature and Extent of Confidentiality: The Commission will allow respondents to certify that data contained in their submissions is privileged or confidential commercial or financial information and that disclosure of such information would likely cause substantial harm to the competitive position of the entity filing the FCC worksheets. If the Commission receives a request for or proposes to disclose the information, the respondent would be required to make the full showing pursuant to the Commission's rules for withholding from public inspection information submitted to the Commission.

Needs and Uses: This information collection requires contributors to the federal universal service fund, telecommunications relay service fund, and numbering administration to file, pursuant to sections 151, 225, 251 and 254 of the Act, a Telecommunications Reporting Worksheet on an annual basis (FCC Form 499–A and/or on a quarterly basis (FCC Form 499–Q). The information is also used to calculate FCC regulatory fees for interstate telecommunications service providers.

This information collection is being revised to require online electronic filing for FCC Forms 499–A and 499–Q (currently, the forms may be filed either electronically or on paper). Also, the third-party disclosure requirement is being eliminated.

Federal Communications Commission.

Marlene H. Dortch,

Secretary, Office of the Secretary, Office of the Managing Director.

[FR Doc. 2014–23785 Filed 10–3–14; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060–1156]

Information Collection Being Reviewed by the Federal Communications Commission

AGENCY: Federal Communications Commission.

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–3520), the Federal Communications Commission (FCC or the Commission) invites the general public and other Federal agencies to take this opportunity to comment on the following information collection. Comments are requested concerning: Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees. The FCC may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid Office of Management and Budget (OMB) control number.

DATES: Written PRA comments should be submitted on or before December 5, 2014. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should

advise the contact listed below as soon as possible.

ADDRESSES: Direct all PRA comments to Cathy Williams, FCC, via email *PRA@fcc.gov* and to *Cathy.Williams@fcc.gov.*

FOR FURTHER INFORMATION CONTACT: For additional information about the information collection, contact Cathy Williams at (202) 418–2918.

SUPPLEMENTARY INFORMATION:

OMB Control No.: 3060–1156.

Title: 47 CFR 43.62, Annual Reporting Requirements for U.S. Providers of International Services and Circuits.

Form No.: N/A.

Type of Review: Revision of a currently approved information collection.

Respondents: Business or other for-profit.

Number of Respondents: 2,328 respondents; 14,606 responses.

Estimated Time per Response: 1–50 hours.

Frequency of Response: Annual reporting requirement.

Obligation to Respond: Required to obtain or retain benefits. The statutory authority for this information collection is contained under Sections 1, 4(i)-4(j), 11, 201–205, 211, 214, 219, 220, 303(r), 309 and 403 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154(i)-154(j), 161, 201–205, 211, 214, 219–220, 303(r), 309, 403.

Total Annual Burden: 14,606 hours.

Annual Cost Burden: $2,400.

Privacy Act Impact Assessment: No impact(s).

Nature and Extent of Confidentiality: In general, there is no need for confidentiality with this collection of information. The Commission, however, will allow filing entities to seek confidential treatment of their data.

Needs and Uses: The Federal Communications Commission (Commission) is requesting that the Office of Management and Budget (OMB) approve a revision of OMB Control No. 3060–1156. The purpose of the revision is to obtain OMB approval of the annual reporting requirements stipulated under 47 CFR 43.62 which requires that entities providing international services file annual circuit capacity reports and annual traffic and revenue reports, in a format set out in a Filing Manual.

Upon the OMB's approval of the proposed changes in this information collection, the Commission plans to eliminate two existing information collections from the Commission's inventory, OMB Control Number 3060–0106 (47 CFR 43.61 annual traffic and revenue reports) and OMB Control Number 3060–0572 (47 CFR 43.82 annual circuit-status reports).

In order for carriers to comply with annual reporting requirements stipulated in 47 CFR 43.62, the Commission is developing a web-based system for filers to submit their reports. Filers will access the filing system via a portal on the FCC Web site, *www.FCC.gov* The software for the web-based system is now under development and the Commission is seeking final OMB approval for the new requirements in 47 CFR 43.62, the new consolidated Filing Manual and the electronic filing of the data.

Without this collection of information, the Commission would not be able to ensure compliance with its international rules and policies. Furthermore, the Commission would not have sufficient information to take measures to prevent anticompetitive conduct in the provision of international communications services. The Commission would not have adequate information to respond to failures in the U.S.-international market. The Commission would not be able to promote effective competition in the global market for communications services. The lack of effective competition would adversely affect the U.S. revenues in the telecommunications industry. The agency would not be able to comply with the international regulations stated in the World Trade Organization (WTO) Basic Telecom Agreement. Carriers and other entities outside the Commission, such as other government agencies, international organizations, and academia, use the information to analyze industry trends. Other government agencies use the information in merger analyses and negotiations with foreign countries. If the information collection was not conducted, carriers, government agencies and other entities would not have accurate industry data available in order to conduct analyses.

Federal Communications Commission.

Marlene H. Dortch,

Secretary, Office of the Secretary, Office of the Managing Director.

[FR Doc. 2014–23784 Filed 10–3–14; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060–0783]

Information Collection Being Reviewed by the Federal Communications Commission Under Delegated Authority

AGENCY: Federal Communications Commission.

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–3520), the Federal Communications Commission (FCC or the Commission) invites the general public and other Federal agencies to take this opportunity to comment on the following information collection. Comments are requested concerning: whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees. The FCC may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid Office of Management and Budget (OMB) control number.

DATES: Written PRA comments should be submitted on or before December 5, 2014. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Submit your PRA comments to Benish Shah, Federal Communications Commission, via the Internet at *Benish.Shah@fcc.gov.* To submit your PRA comments by email send them to: *PRA@fcc.gov.*

FOR FURTHER INFORMATION CONTACT: Benish Shah, Office of Managing Director, (202) 418–7866.

SUPPLEMENTARY INFORMATION:

OMB Control No.: 3060–0783.

Title: Section 90.176, Coordination Notification Requirements on Frequencies Below 512

MHz or at 764–776/794–806 MHz.

Form No.: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit.

Number of Respondents: 15 respondents; 3,900 responses.

Estimated Time per Response: 0.5 hours.

Frequency of Response: On occasion reporting requirement and third party disclosure requirement.

Obligation to Respond: Required to obtain or retain benefits. Statutory authority for this information collection (IC) is contained in sections 47 U.S.C. 154(i), 161, 303(g), 303(r) and 332(c)(7) of the Communications Act of 1934, as amended.

Total Annual Burden: 1,950 hours.

Annual Cost Burden: N/A.

Privacy Act Impact Assessment: N/A.

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

Needs and Uses: This collection will be submitted as an extension (no change in the reporting requirements and/or third party disclosure requirements) after this 60 day comment period to Office of Management and Budget (OMB) in order to obtain the full three year clearance. Section 90.176 requires each Private Land Mobile frequency coordinator to provide, within one business day, a listing of their frequency recommendations to all other frequency coordinators in their respective pool, and if requested, an engineering analysis.

Any method can be used to ensure this compliance with the ''one business day requirement'' and must provide, at a minimum, the name of the applicant; frequency or frequencies recommended; antenna locations and heights; and effective radiated power; the type(s) of emissions; the description of the service area; and the date and time of the recommendation. If a conflict in recommendations arises, the effected coordinators are jointly responsible for taking action to resolve the conflict, up to and including notifying the Commission that an application may have to be returned.

This requirement seeks to avoid situations where harmful interference is created because two or more coordinators recommend the same frequency in the same area at approximately the same time to different applicants.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. 2014–23783 Filed 10–3–14; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

Radio Broadcasting Services; AM or FM Proposals To Change The Community of License

AGENCY: Federal Communications Commission.

ACTION: Notice.

SUMMARY: The following applicants filed AM or FM proposals to change the community of license: Birach Broadcasting Corporation, Station WMFN, Facility ID 55089, BP–20140715AAF, From Zeeland, MI, To Peotone, IL; Isleta Radio Company, Station KQNM, Facility ID 22391, BP–20140715ABR, From Milan, NM, To Sandia, NM; Max Henry & Associates, Station NEW, Facility ID 191528, BMPH–20140715AAT, From Harrison, MI, To Big Rapids, MI; Radio Fargo-Moorhead, Inc., Station KSKK, Facility ID 49094, BPH–20140917ABQ, From Staples, MN, To Frazee, MN; Results Radio of Redding Licensee, LLC, Station KNCQ, Facility ID 40828, BPH–20140828ACE, From Redding, CA, To Weaverville, CA; Results Radio of Redding Licensee, LLC, Station KHRD, Facility ID 82720, BPH–20140828ACG, From Weaverville, CA, To Redding, CA; Sacred Heart University, Inc., Station WSHU, Facility ID 43126, BP–20140821AFR, From Westport, CT, To Seymour, CT; SSR Communications, Inc., Station WYAB, Facility ID 77646, BPH–20140826ACE, From Flora, MS, To Pocahontas, MS; Sunnylands Broadcasting LLC, Station NEW, Facility ID 189496, BNPH–20110630AGJ, From Ilwaco, WA, To Central Park, WA.

DATES: The agency must receive comments on or before December 5, 2014.

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

FOR FURTHER INFORMATION CONTACT: Tung Bui, 202–418–2700.

SUPPLEMENTARY INFORMATION: The full text of these applications is available for inspection and copying during normal business hours in the Commission's Reference Center, 445 12th Street SW., Washington, DC 20554 or electronically via the Media Bureau's Consolidated Data Base System, *http://svartifoss2.fcc.gov/prod/cdbs/pubacc/prod/cdbs_pa.htm.* A copy of this application may also be purchased from the Commission's duplicating contractor, Best Copy and Printing, Inc., 445 12th Street SW., Room CY–B402, Washington, DC 20554, telephone 1–800–378–3160 or *www.BCPIWEB.com.*

Federal Communications Commission.

James D. Bradshaw,

Deputy Chief, Audio Division, Media Bureau.

[FR Doc. 2014–23778 Filed 10–3–14; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL ELECTION COMMISSION

Sunshine Act Meetings

AGENCY: Federal Election Commission.

DATE AND TIME: Thursday, October 9, 2014 at 10 a.m.

PLACE: 999 E Street NW., Washington, DC (ninth floor).

STATUS: This meeting will be open to the public.

ITEMS TO BE DISCUSSED:

Correction and Approval of Minutes for September 18, 2014

Citizens United v. *FEC* Rulemaking

McCutcheon v. *FEC* Interim Final Rule

McCutcheon v. *FEC* Advance Notice of Proposed Rulemaking

Draft Advisory Opinion 2014–12: Democratic National Committee and Republican National Committee

Draft Advisory Opinion 2014–14: John Trammell

Draft Advisory Opinion 2014–15: David Alan Brat

Management and Administrative Matters

Individuals who plan to attend and require special assistance, such as sign language interpretation or other reasonable accommodations, should contact Shawn Woodhead Werth, Secretary and Clerk, at (202)694–1040, at least 72 hours prior to the meeting date.

PERSON TO CONTACT FOR INFORMATION: Judith Ingram, Press Officer, Telephone: (202) 694–1220.

Shawn Woodhead Werth,

Secretary and Clerk of the Commission.

[FR Doc. 2014–23952 Filed 10–2–14; 4:15 pm]

BILLING CODE 6715–01–P

FEDERAL MARITIME COMMISSION

[Docket No. 14–13]

Metro Freight Services, Inc. d/b/a Maritime Express Lines—Possible Violations of the Shipping Act; Order of Investigation and Hearing

The Federal Maritime Commission (Commission) deems it appropriate and in the public interest that a proceeding be, and hereby is, instituted pursuant to section 11 of the Shipping Act of 1984 (Shipping Act), 46 U.S.C. 41302, against respondent Metro Freight Services, Inc., a licensed and bonded ocean freight forwarder and non-vessel-operating common carrier (NVOCC), for possible violations of the Commission's regulations at 46 CFR 515.18(c) and 515.42(i) and section 19(e)(3) of the Shipping Act, 46 U.S.C. 40904(c).

Based on information provided to it, the Commission's Bureau of Enforcement makes the following allegations:

Statement of Facts Constituting Basis of Violations

1. Metro Freight Services, Inc. dba Maritime Express Lines (M.E.L.) (Metro Freight) is a licensed, tariffed and bonded ocean transportation intermediary (OTI), providing service as a freight forwarder and NVOCC (Org. No. 006490).

2. Metro Freight's offices are located at 1225 West St. George Avenue, Linden, New Jersey 07036.

3. Metro Freight was incorporated in the State of New York in 1985, and is registered with the State of New Jersey as a foreign corporation doing business in that state.

4. Metro Freight holds itself out to do OTI business through its Internet Web site, *www.metroiff.com.*

5. Metro Freight holds itself out as an NVOCC through its automated tariff (#006490–001) published by Distribution Publications, Inc at *http://www.dpiusa.com.*

6. Metro Freight maintains an NVOCC bond, No. 570364, in the amount of $75,000 and a freight forwarder bond, No. W6009, in the amount of $50,000 with American Alternative Insurance Corporation in Princeton, New Jersey.

7. Through April 2010, OTI licensing records maintained by the Commission's Bureau of Certification and Licensing (BCL) identify Georges T. Samaha as the sole Qualifying Individual (QI) for Metro Freight.

8. On or about February 29, 2012, Metro Freight submitted to the Commission's Bureau of Enforcement (BOE) written responses to an OTI compliance questionnaire, dated February 2, 2012.

9. Metro Freight's February 29, 2012 response identified its QI, Georges Samaha, as deceased.

10. On information and belief, the former QI and owner of Metro Freight, Georges Samaha, passed away on August 6, 2011.

11. Metro Freight's February 29, 2012 response identified Metro Freight as having handled 634 export ocean shipments as an OTI ocean freight forwarder in the 12 months immediately prior.

12. Metro Freight's February 29, 2012 response identified G&M Export Corporation as a shipper of cargo affiliated with Metro Freight.

13. Metro Freight's February 29, 2012 response identified G&M Export's address as 1225 West St. George Avenue, Linden, New Jersey 07036.

14. Metro Freight's February 29, 2012 response identified G&M Export as sharing office space, expenses and/or personnel with Metro Freight.

15. Metro Freight's February 29, 2012 response identified Paola C. Samaha as the 100% owner of G&M Export.

16. By letter dated March 6, 2012, BOE advised Metro Freight of its obligation to submit an application for a proposed replacement QI. 46 CFR 515.18(c).

17. By follow-up letter to BOE dated March 16, 2012, Metro Freight advised that it had collected freight forwarder compensation on 28 shipments in which G&M Export was the shipper named on the bill of lading issued by the ocean common carrier, United Arab Shipping Company (UASC).

18. On or about May 11, 2012, Metro Freight submitted an application designating Paola C. Samaha as the proposed QI for Metro Freight, replacing Georges Samaha. Mrs. Samaha was identified therein as the President and 100% owner of Metro Freight.

19. In support of its application, Metro Freight submitted a copy of a corporate resolution dated January 3, 2012, designating Paola Samaha as President of Metro Freight to replace the ''decedent President, Mr. Georges T. Samaha.''

20. On June 26, 2012, Metro Freight was notified by letter that the Commission's Bureau of Certification and Licensing (BCL) closed its application for failure to demonstrate that the proposed QI, Paola Samaha, met the requirements to demonstrate prior OTI-related work experience.

21. BCL's June 26, 2012 letter notified Metro Freight that it was required to promptly submit another application to replace the QI, and that continued operation could result in civil penalties.

22. BCL receive no response from Metro Freight regarding the letter issued June 26, 2012.

23. Through September 1, 2014, the Commission's Bureau of Certification and Licensing has not approved a replacement QI for Metro Freight.

24. According to records of the New York State Division of Corporations, G&M Export was incorporated in the State of New York in 1990.

25. According to records of the New York State Division of Corporations, G&M Export's address is 1225 West St. George Avenue, Linden, New Jersey 07036.

26. According to records of the New York State Division of Corporations, Paola C. Samaha is currently the Chairman and CEO of G&M Export.

27. According to records in the Commission's SERVCON database, G&M Export is identified as the shipper party named in service contracts with United Arab Shipping Company (UASC), an ocean common carrier.

28. UASC service contract No. 2009–130 was first executed on or about February 20, 2009 and signed by Georges T. Samaha as President and CEO of G&M Export.

29. In entering into UASC service contract No. 2009–130, G&M Export certified that its shipper status was cargo owner.

30. The term of UASC service contract No. 2009–130 was February 20, 2009 through February 19, 2010. UASC service contract No. 2009–130 was extended by contract amendments through March 31, 2011.

31. UASC service contract No. 124288 was first executed on or about April 1, 2011 and signed by Paola C. Kamel as President and CEO of G&M Export.

32. In entering into UASC service contract No. 124288, G&M Export certified that its shipper status was cargo owner.

33. The term of UASC service contract No. 124288 was April 1, 2011 through March 31, 2012.

34. UASC service contract No. 187966 was first executed on or about April 17, 2012 and signed by Paola Samaha on behalf of G&M Export.

35. On information and belief, Paola C. Kamel and Paola C. Samaha are the same person.

36. In entering into UASC service contract No. 187996, G&M Export certified that its shipper status was cargo owner.

37. The term of UASC service contract No. 187966 was April 1, 2012 through April 30, 2013. UASC service contract No. 187966 was terminated by

Amendment 3, effective February 5, 2013.

38. With respect to the 25 shipments identified in Attachment A, G&M Export was identified as the shipper on the UASC ocean bill of lading.

39. With respect to the 25 shipments identified in Attachment A, Metro Freight invoiced or collected freight forwarder compensation for shipments in which G&M Exports was the shipper.

40. On May 28, 2014, the Commission's New York Area Representative Ron Podlaskowich visited Metro Freight's offices and interviewed staff at the offices of Metro Freight, and confirmed that Metro Freight was still operating as an OTI in the absence of an approved QI.

The Commission's Jurisdiction and Requirements of Law

41. Each OTI licensee must have and continuously maintain an approved Qualifying Individual having the necessary experience in OTI activities and the necessary character to render OTI services. The Commission's regulations at 46 CFR 515.18(a)(6) and (c) require that when a corporation has been licensed on the basis of the qualifications of an officer of the company and that individual no longer serves in a full time and active capacity, the licensee must report such change to the Commission within 30 days and within that time period furnish to the Commission the names and detailed intermediary experience of any other active officer who may qualify the licensee.

42. Section 19(e) of the Shipping Act, 46 U.S.C. 40904 states that an ocean freight forwarder may not ''receive compensation from a common carrier for a shipment in which the ocean freight forwarder has a direct or indirect beneficial interest.'' The Commission regulations further specify that a freight forwarder ''may not receive compensation from a common carrier with respect to any shipment in which the forwarder has a beneficial interest or with respect to any shipment in which the holding company, subsidiary, affiliate, officer, director, agent or executive of such forwarder has a beneficial interest.'' 46 CFR 515.42(i).

43. The activities of Metro Freight, identified above, were provided as part of and in connection with transportation by water of cargo between the United States and a foreign country for compensation over which the Commission has jurisdiction.

44. Under 46 U.S.C. 41302(a), the Commission is empowered to investigate any conduct or agreement that the Commission believes may be in violation of the Shipping Act.

45. The Commission may, after notice and opportunity for hearing, issue an order relating to any violation of the Shipping Act, including assessment of a civil penalty. 46 U.S.C. 41304.

46. The Commission may suspend or revoke an OTI license if the Commission finds that the OTI willfully failed to comply with an order or regulation of the Commission. 46 U.S.C. 40903(a).

Violations of the Shipping Act and Commission Regulations

47. It is alleged that Metro Freight violated the Commission's regulations at 46 CFR 515.18(a)(6) and (c) by failing to promptly notify the Commission of the death of its QI and failing to timely seek and obtain approval of a replacement Qualifying Individual.

48. It is alleged that, with respect to the 25 shipments identified in Attachment A, Metro Freight violated section 19(e)(3) of the Shipping Act and the Commission's regulations at 46 CFR 515.42(i), by receiving freight forwarder compensation from a common carrier for shipments in which Metro Freight had a direct or indirect beneficial interest.

Order

Now therefore, it is ordered, That pursuant to sections 11 and 14 of the Shipping Act, 46 U.S.C. 41302 and 41304, an investigation is instituted to determine: (1) Whether Metro Freight Services Inc. violated (a) the Commission's regulations at 46 CFR 515.18(a)(6) and (c) by failing to promptly notify the Commission of the death of its QI and to timely seek and obtain approval of a replacement QI; and (b) section 19(e)(3) of the Shipping Act, 46 U.S.C. 40904(c), and the Commission's regulations at 46 CFR 515.42(i), by receiving freight forwarder compensation for shipments in which the forwarder had a direct or indirect beneficial interest; (2) in the event violations of the Shipping Act or the Commission's regulations are found, whether civil penalties should be assessed against Metro Freight, and in what amount; (3) whether the OTI license of Metro Freight should be suspended or revoked pursuant to section 19 of the Shipping Act; and (4) whether appropriate cease and desist orders should be entered;

It is further ordered, That Metro Freight Services, Inc. is designated Respondent in this proceeding;

It is further ordered, That the Commission's Bureau of Enforcement is made a party to this proceeding;

It is further ordered, That within 25 days from date of publication of this Order in the **Federal Register**, Respondent must file with the Commission and serve upon the Bureau of Enforcement an Answer to the allegations in this Order, in accordance with the requirements of the Commission's regulations set forth in 46 CFR 502.63(c). Respondent's answer must be verified and admit or deny all allegations in this Order. Allegations not denied shall be deemed admitted;

It is further ordered, That this matter be assigned for hearing before an Administrative Law Judge of the Commission's Office of Administrative Law Judges at a date and place to be determined by the Administrative Law Judge in compliance with Rule 61 of the Commission's Rules of Practice and Procedure, 46 CFR 502.61. This hearing shall include oral testimony and cross-examination in the discretion of the presiding Administrative Law Judge only after consideration has been given by the parties and the presiding Administrative Law Judge to the use of alternative forms of dispute resolution, and upon a proper showing that there are genuine issues of material fact that cannot be resolved on the basis of sworn statements, affidavits, depositions, or other documents or that the nature of the matters in issue is such that an oral hearing and cross-examination are necessary for the development of an adequate record;

It is further ordered, That failure of Respondent to timely file an answer to this Order may be deemed to constitute default and authorize the presiding Administrative Law Judge, without further notice to Respondent, to find the facts to be as alleged and to enter a decision containing appropriate findings, conclusions, and an order;

It is further ordered, That other persons having an interest in participating in this proceeding may file motions for leave to intervene in accordance with Rule 68 of the Commission's Rules of Practice and Procedure, 46 CFR 502.68;

It is further ordered, That all further notices, orders, and/or decisions issued by or on behalf of the Commission in this proceeding, including notice of the time and place of hearing or prehearing conference, shall be served on the parties of record;

It is further ordered, That all documents filed by any party of record in this proceeding shall be directed to the Secretary, Federal Maritime Commission, Washington, DC 20573, in accordance with Rule 2 of the Commission's Rules of Practice and

Procedure, 46 CFR 502.2, and shall be served on the parties of record; and

It is further ordered, That in accordance with Rule 61 of the Commission's Rules of Practice and Procedure, 46 CFR 502.61, the initial decision of the Administrative Law Judge shall be issued by September 29, 2015, and the final decision of the Commission shall be issued by March 28, 2016.

By the Commission.

Karen V. Gregory,

Secretary.

Order of Investigation and Hearing

Attachment A

SHIPMENTS UPON WHICH METRO FREIGHT SERVICES INC. ALLEGEDLY OBTAINED FORWARDER COMPENSATION IN VIOLATION OF SECTION 19(e) OF THE SHIPPING ACT

No.	UASC Ocean bill of lading number	Date of issue
1	USCQG028534	12/11/2010
2	USCQG027253	12/12/2010
3	USCQG029247	12/23/2010
4	USCQG029603	01/03/2011
5	USCQG030665	01/20/2011
6	USCQG032192	01/27/2011
7	USCQG040363	05/12/2011
8	USCQG041856	05/26/2011
9	USCQG042415	05/26/2011
10	USCQG040722	05/29/2011
11	USCQG043224	06/16/2011
12	USCQG043092	06/23/2011
13	USCQG044329	06/23/2011
14	USCQG043103	06/30/2011
15	USCQG044899	06/30/2011
16	USCQG043090	06/30/2011
17	USCQG043105	07/07/2011
18	USCQG046169	07/14/2011
19	USCQG045558	07/14/2001
20	USCQG048972	08/22/2011
21	USCQG049349	08/25/2011
22	USCQG053301	10/08/2011
23	USCQG053172	10/15/2011
24	USCQG057132	11/17/2011
25	USCQG060236	12/27/2011

[FR Doc. 2014–23645 Filed 10–3–14; 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.*

ACE International, Inc. (NVO & OFF), 144 Riverview Park Road, Jackson, GA 30233, Officers: Norma K. Williams, Secretary (QI), David Higgs, President, Application Type: Removal of Trade Name Ocean Cargo Express and QI Change.

AFCO Shipping Line, LLC (NVO & OFF), 1501 NW 12th Avenue, Pompano Beach, FL 33069, Officer: Avi Nir, General Manager (QI), Application Type: New NVO & OFF License.

AIT Ocean Systems Inc. (NVO), 701 W. Rohlwing Road, Itasca, IL 60143, Officers: Gregory W. Weigel, Vice President (QI), Vaughn Moore, President, Application Type: Transfer to AIT Worldwide Logistics, Inc.

Global Port Ship Lines, Inc. (NVO & OFF), 103 East 3rd Street, Bevington, IA 50033, Officer: Timothy Pontier, President (QI), Application Type: Add NVO Service.

Grandbelle International, Inc. (NVO), 145 Hook Creek Boulevard, Suite B6A, Valley Stream, NY 11581, Officer: Francisca Enyaosa, CEO (QI), Application Type: New NVO License.

GreenShields Cowie (U.S.A.) Inc. (OFF), 1635 East Highway 50, Suite 200, Clermont, FL 34711, Officers: Sary S. Chun, Secretary (QI), Lee Chacksfield, President, Application Type: QI Change.

Interlog USA, Inc. (NVO), 9380 Central Avenue NE, Suite 350, Blaine, MN 55434, Officers: David Canfield, President (QI), Justin Engelmeier, Secretary, Application Type: QI Change.

International Cargotrans Inc. (NVO & OFF), 9245 Laguna Springs Drive, Suite 200, Elk Grove, CA 95758, Officers: Karl W. Tede, Director (QI), Linda S. Cardenas, Director, Application Type: New NVO & OFF License.

Latam Cargo USA LLC (NVO & OFF), 4624 NW 74th Avenue, Miami, FL 33166, Officer: Jose G. Suarez, Managing Member (QI), Application Type: New NVO & OFF License.

Sam Taghavi dba US General Shipping (NVO & OFF), 24328 S. Vermont Avenue, Suite 222, Harbor City, CA 90710, Officers: Sam Taghavi, Sole Proprietor (QI), Application Type: New NVO & OFF License.

Versailles Shipping, LLC (NVO & OFF), 1759 N. Florida Mango Rd, Suite 8, West Palm Beach, FL 33409, Officers: Sheldon Serrao, Manager (QI), Ricardo Charles, Member, Application Type: New NVO & OFF License.

Pursuant To The Commission's Direct Final Rule (79 FR 56522), Beginning October 20, 2014, These Notices Will No Longer Be Posted In The **Federal Register**. After October 20, 2014, This Information Will Be Available On The Commission's Web site at *http://www.Fmc.Gov.* See *OTI Licensing Updates.*

By the Commission.

Dated: September 30, 2014.

Karen V. Gregory,

Secretary.

[FR Doc. 2014–23649 Filed 10–3–14; 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.: 014257N.

Name: Trans-Union Group New York Co., Ltd.

Address: One Cross Island Plaza, Suite 229–C, Rosedale, NY 11422.

Date Reissued: September 3, 2014.

Pursuant to the Commission's direct final rule (79 FR 56522), beginning October 20, 2014, these notices will no longer be posted in the **Federal Register**. After October 20, 2014, this information will be available on the Commission's Web site at *http:/www.fmc.gov.* See *OTI Licensing Updates.*

Sandra L. Kusumoto,

Director, Bureau of Certification and Licensing.

[FR Doc. 2014–23648 Filed 10–3–14; 8:45 am]

BILLING CODE 6730–01–P

FEDERAL MARITIME COMMISSION

Ocean Transportation Intermediary License Rescission of Order of Revocation

The Commission gives notice that the Order revoking the following Ocean Transportation Intermediary license has been rescinded pursuant to section 19 of the Shipping Act of 1984 (46 U.S.C. 40101).

License Number: 019113N.

Name: Amoy International, LLC dba Amoy Line dba VMS Lines.

Address: 14145 Proctor Avenue, Suite 14, City of Industry, CA 91746.

Order Published: September 19, 2014 (79 FR 56367 DOC No. 2014–22385)

Pursuant to the Commission's direct final rule (79 FR 56522), beginning October 20, 2014, these notices will no longer be posted in the **Federal Register**. After October 20, 2014, this information will be available on the Commission's Web site at *http://www.fmc.gov.* See *OTI Licensing Updates.*

Sandra L. Kusumoto,

Director, Bureau of Certification and Licensing.

[FR Doc. 2014–23647 Filed 10–3–14; 8:45 am]

BILLING CODE 6730–01–P

FEDERAL MARITIME COMMISSION

Ocean Transportation Intermediary License Revocations and Surrenders

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.: 014257F.

Name: Trans-Union Group New York Co., Ltd.

Address: One Cross Island Plaza, Suite 229–C, Rosedale, NY 11422.

Date Revoked: September 3, 2014.

Reason: Failed to maintain a valid bond.

License No.: 17509N.

Name: Global Alliance Logistics (L.A.) Inc.

Address: 9133 S La Cienega Blvd., Suite 270, Inglewood, CA 90301.

Date Revoked: September 12, 2014.

Reason: Failed to maintain a valid bond.

License No.: 17688F.

Name: International Services Corporation.

Address: 1629 K Street NW., Suite 700, Washington, DC 20006.

Date Surrendered: August 31, 2014.

Reason: Voluntary surrender of license.

License No.: 022502NF.

Name: Conquests International Freight LLC.

Address: 4454 NW 74th Avenue, Miami, FL 33166.

Date Surrendered: September 3, 2014.

Reason: Voluntary surrender of license.

License No.: 022985F.

Name: Ruky International Shipping Line LLC.

Address: 100 Menlo Park Drive, Suite 204, Edison, NJ 08837.

Date Revoked: September 12, 2014.

Reason: Failed to maintain a valid bond.

Pursuant to the Commission's direct final rule (79 FR 56522), beginning October 20, 2014, these notices will no longer be posted in the **Federal Register**. After October 20, 2014, this information will be available on the Commission's Web site at *http:/www.fmc.gov.* See *OTI Licensing Updates.*

Sandra L. Kusumoto,

Director, Bureau of Certification and Licensing.

[FR Doc. 2014–23646 Filed 10–3–14; 8:45 am]

BILLING CODE 6730–01–P

FEDERAL TRADE COMMISSION

Agency Information Collection Activities; Proposed Collection; Comment Request

AGENCY: Federal Trade Commission (''FTC'' or ''Commission'').

ACTION: Notice.

SUMMARY: The FTC intends to ask the Office of Management and Budget (''OMB'') to extend for an additional three years the current Paperwork Reduction Act (''PRA'') clearance for information collection requirements contained in its rule on Use of Prenotification Negative Option Plans (''Negative Option Rule'' or ''Rule''). That clearance expires on December 31, 2014.

DATES: Comments must be submitted by November 5, 2014.

ADDRESSES: Interested parties may file a comment online or on paper, by following the instructions in the Request for Comment part of the **SUPPLEMENTARY INFORMATION** section below. Write ''Negative Option Rule: FTC File No. P064202'' on your comment. File your comment online at *https://ftcpublic.commentworks.com/ftc/NegOptionPRA2* 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 J), 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 J), Washington, DC 20024.

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be addressed to Robert M. Frisby, Attorney, Division of Enforcement, Bureau of Consumer Protection, Federal Trade Commission, 600 Pennsylvania Avenue NW., Mailstop-CC–9528, Washington, DC 20580, (202) 326–2098.

SUPPLEMENTARY INFORMATION:

Title: Negative Option Rule, 16 CFR part 425.

OMB Control Number: 3084–0104.

Type of Review: Extension of currently approved collection.

Abstract: On July 24, 2014, the Commission sought comment on the information collection requirements associated with the Negative Option Rule. No comments were received. Pursuant to the OMB regulations, 5 CFR part 1320, that implement the PRA, 44 U.S.C. 3501 et seq., the FTC is providing a second opportunity for the public to comment while seeking OMB approval to renew the pre-existing clearance for the Rule.

Estimated Annual Burden: 3,125 hours.

Estimated Number of Respondents, Estimated Average Burden per Year per Respondent: (35 existing clubs × 75 hours each of disclosure burden per year) + (5 new clubs per year × 100 hours each, including start-up time).[1]

Estimated annual cost burden: $153,950 (solely related to labor costs).

Estimated Capital or Other Non-Labor Cost: $0 or de minimis.

Request for Comment: You can file a comment online or on paper. For the FTC to consider your comment, we must receive it on or before November 5, 2014. Write ''Negative Option Rule: FTC File No. P064202'' 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

[1] The details and assumptions underlying these estimates and for estimated annual labor and non-labor costs were set forth in the July 24, 2014 **Federal Register** notice.

other individually identifiable health information. In addition, do not include any ''[t]rade secret or any commercial or financial information which is obtained from any person and which is privileged or confidential . . . , '' as provided 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). 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).[2] Your comment will be kept confidential only if the FTC General Counsel 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, or to send them to the Commission by courier or overnight service. To make sure that the Commission considers your online comment, you must file it at *https://ftcpublic.commentworks.com/ftc/NegOptionPRA2* 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 ''Negative Option Rule: FTC File No. P064202'' on your comment and on the envelope, and mail it to the following address: Federal Trade Commission, Office of the Secretary, 600 Pennsylvania Avenue NW., Suite CC–5610 (Annex J), 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 J), 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. 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 November 5, 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.*

Comments on the information collection requirements subject to review under the PRA should additionally be submitted to OMB. If sent by U.S. mail, they should be addressed to Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for the Federal Trade Commission, New Executive Office Building, Docket Library, Room 10102, 725 17th Street NW., Washington, DC 20503. Comments sent to OMB by U.S. postal mail, however, are subject to delays due to heightened security precautions. Thus, comments instead should be sent by facsimile to (202) 395–5806.

David C. Shonka,

Principal Deputy General Counsel.

[FR Doc. 2014–23682 Filed 10–3–14; 8:45 am]

BILLING CODE 6750–01–P

[2] 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).

FEDERAL TRADE COMMISSION

[File No. 132 3094]

Norm Thompson Outfitters, Inc.; Analysis 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 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 October 29, 2014.

ADDRESSES: Interested parties may file a comment at *https://ftcpublic.commentworks.com/ftc/normthompsonconsent/* online or on paper, by following the instructions in the Request for Comment part of the **SUPPLEMENTARY INFORMATION** section below. Write ''In the Matter of Norm Thompson Outfitters, Inc.—Consent Agreement; File No. 132 3094'' on your comment. File your comment online at *https://ftcpublic.commentworks.com/ftc/normthompsonconsent/* 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: David Newman, Western Region—San Francisco, (415) 848–5123, 901 Market Street, Suite 570, San Francisco, CA 94103.

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 September 29, 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 October 29, 2014. Write ''In the Matter of Norm Thompson Outfitters, Inc.—Consent Agreement; File No. 132 3094'' 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 Commission considers your online comment, you must file it at *https://ftcpublic.commentworks.com/ftc/normthompsonconsent/* 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 ''In the Matter of Norm Thompson Outfitters, Inc.—Consent Agreement; File No. 132 3094'' 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 October 29, 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.*

[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).

Analysis of Proposed Consent Order To Aid Public Comment

The Federal Trade Commission (''FTC'' or ''Commission'') has accepted, subject to final approval, an Agreement Containing Consent Order from Norm Thompson Outfitters, Inc. (''respondent''). 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.

This matter involves the advertising, marketing, and sale by respondent of women's undergarments that are infused with microencapsulated caffeine and other ingredients. Respondent has marketed the garments through its mail order catalogs and through Web sites under the names Norm Thompson Outfitters, Sahalie, Solutions, Body Essentials and Body*Belle. According to the FTC complaint, respondent claimed the garments would slim and reshape the body and reduce cellulite.

Specifically, the FTC complaint alleges that respondent represented that wearing the garments eight hours a day for 30 days eliminates or substantially reduces cellulite; causes a reduction of up to two inches in the wearer's hip measurements and up to one inch in the wearer's thigh measurements in one month or less; and that the reduction in thigh and hip measurements can be achieved without effort. The complaint alleges that these claims are unsubstantiated and thus violate the FTC Act. The complaint also alleges that respondent represented that scientific tests prove that wearing the garments results in a substantial reduction in hip and thigh measurement and that scientific tests prove that wearing the garments five days a week, for eight hours a day, for 28 days will reduce a wearer's hip measurement by two inches and a wearer's thigh measurement by one inch. The complaint alleges that these claims are false and thus violate the FTC Act.

The proposed consent order contains provisions designed to prevent respondent from engaging in similar acts or practices in the future. Specifically, Parts I–III address the unsubstantiated claims alleged in the complaint. Part I prohibits respondent from claiming that any Covered Product—*i.e.,* a garment that contains any drug or cosmetic—causes substantial weight or fat loss or a substantial reduction in body size. The Commission has publicly advised that any claim that a product worn on the body causes substantial weight loss is always false.

Part II covers any representation, other than representations covered under Part I, that any Covered Product or any drug or cosmetic causes weight or fat loss or a reduction in body size. Part II prohibits respondent from making such representations unless the representation is non-misleading, and, at the time of making such representation, respondent possesses and relies upon competent and reliable scientific evidence that substantiates that the representation is true. For purposes of Part II, the proposed order defines ''competent and reliable scientific evidence'' as at least two randomized, double-blind, placebo-controlled human clinical studies that are conducted by independent, qualified researchers and that conform to acceptable designs and protocols, and whose results, when considered in light of the entire body of relevant and reliable scientific evidence, are sufficient to substantiate that the representation is true.

Part III of the proposed order prohibits respondent from making any representation, other than representations covered under Parts I or II, that use of a Covered Product or a drug or cosmetic reduces or eliminates cellulite, unless the representation is non-misleading, and, at the time of making such representation, respondent possesses and relies upon competent and reliable scientific evidence that is sufficient in quality and quantity based on standards generally accepted in the relevant scientific fields, when considered in light of the entire body of relevant and reliable scientific evidence, to substantiate that the representation is true. For purposes of Part III, the proposed order defines ''competent and reliable scientific evidence'' as tests, analyses, research, or studies that have been conducted and evaluated in an objective manner by qualified persons, and that are generally accepted in the profession to yield accurate and reliable results.

Part IV of the proposed order addresses the allegedly false claims that scientific tests prove that wearing the advertised garments results in the reduction in the wearer's body size. Part IV prohibits respondent, when

advertising any product, from misrepresenting the existence, contents, validity, results, conclusions, or interpretations of any test, study, or research, or misrepresenting that the benefits of the product are scientifically proven.

Part V of the proposed order provides a safe harbor for representations that are permitted in labeling for that drug under any tentative or final standard promulgated by the Food and Drug Administration (''FDA''), any new drug application approved by the FDA, or FDA regulations pursuant to the Nutrition Labeling and Education Act of 1990 or the FDA Modernization Act of 1997.

Part VII of the proposed order requires respondent to pay two hundred thirty thousand dollars ($230,000) to the Commission to be used for equitable relief, including restitution. The order also requires respondent to administer and bear the costs of the redress program. To facilitate the payment of redress, Part VI of the proposed order requires respondent to provide to the Commission a searchable electronic file containing the name and contact information of all consumers who purchased the garments from respondent from March 20, 2011, through the date of entry of the order.

Part VIII of the proposed order is triggered whenever the human clinical testing requirement in either Part II or Part III applies. Part VIII of the proposed order requires the company to secure and preserve all underlying or supporting data and documents generally accepted by experts in the field as relevant to an assessment of the test. There is an exception for a ''Reliably Reported'' test defined as a test published in a peer-reviewed journal that was not conducted, controlled, or sponsored by any proposed respondent or supplier. Also, the published report must provide sufficient information about the test for experts in the relevant field to assess the reliability of the results.

Part IX of the proposed order contains recordkeeping requirements for advertisements and substantiation relevant to any representation covered by the proposed order. Parts X, XI and XII of the proposed order require respondent to provide copies of the order to its personnel; to notify the Commission of changes in corporate structure that might affect compliance obligations under the order; and to file compliance reports with the Commission. Part XIII provides that the order will terminate after twenty (20) years, with certain exceptions.

The purpose of this analysis is to facilitate public comment on the proposed order, and it is not intended to constitute an official interpretation of the complaint and proposed order or to modify the proposed order's terms in any way.

By direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 2014–23680 Filed 10–3–14; 8:45 am]

BILLING CODE 6750–01–P

FEDERAL TRADE COMMISSION

[File No. 132 3095]

Wacoal America, Inc.; Analysis 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 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 October 29, 2014.

ADDRESSES: Interested parties may file a comment at *https://ftcpublic.commentworks.com/ftc/wacoalamericaconsent* online or on paper, by following the instructions in the Request for Comment part of the **SUPPLEMENTARY INFORMATION** section below. Write ''In the Matter of Wacoal America, Inc.—Consent Agreement; File No. 132 3095'' on your comment. File your comment online at *https://ftcpublic.commentworks.com/ftc/wacoalamericaconsent* 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: David Newman, Western Region—San Francisco, (415) 848–5123, 901 Market Street, Suite 570, San Francisco, CA 94103.

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 September 29, 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 October 29, 2014. Write ''In the Matter of Wacoal America, Inc.—Consent Agreement; File No. 132 3095'' 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 Commission considers your online comment, you must file it at *https://ftcpublic.commentworks.com/ftc/wacoalamericaconsent* 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 ''In the Matter of Wacoal America, Inc.—Consent Agreement; File No. 132 3095'' 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 October 29, 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 (''FTC'' or ''Commission'') has accepted, subject to final approval, an Agreement Containing Consent Order from Wacoal America, Inc. (''respondent''). 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.

This matter involves the advertising, marketing, and sale by respondent of iPants, women's undergarments that are infused with microencapsulated caffeine and other ingredients. Respondent has marketed the iPants garments to consumers through third-party retailers and through its Web site. According to the FTC complaint, respondent claimed the iPants garments would slim and reshape the body and reduce cellulite.

Specifically, the FTC complaint alleges that respondent represented that wearing iPants garments eliminates or substantially reduces cellulite; causes a substantial reduction in the wearer's thigh measurements; and that iPants garments contain caffeine that causes the destruction of fat cells and results in substantial slimming. The complaint alleges that these claims are unsubstantiated and thus violate the FTC Act. The complaint also alleges that respondent represented that scientific tests prove that most iPant wearers achieve a substantial reduction in thigh measurement and that scientific tests prove that wearing the iPants garments for eight hours a day for 28 days will substantially reduce a wearer's thigh measurement. The complaint alleges that these claims are false and thus violate the FTC Act.

The proposed consent order contains provisions designed to prevent respondent from engaging in similar acts or practices in the future. Specifically, Parts I–III address the unsubstantiated claims alleged in the complaint. Part I prohibits respondent from claiming that any Covered Product—i.e., a garment that contains any drug or cosmetic—causes substantial weight or fat loss or a substantial reduction in unclad body size. The Commission has publicly advised that any claim that a product worn on the body causes substantial weight loss is always false.

Part II covers any representation, other than representations covered under Part I, that any Covered Product or any drug or cosmetic causes weight or fat loss or a reduction in unclad body size. Part II prohibits respondent from making such representations unless the representation is non-misleading, and, at the time of making such representation, respondent possesses and relies upon competent and reliable scientific evidence that substantiates that the representation is true. For purposes of Part II, the proposed order defines ''competent and reliable scientific evidence'' as at least two randomized, double-blind, placebo-controlled human clinical studies that are conducted by independent, qualified researchers and that conform to acceptable designs and protocols, and whose results, when considered in light of the entire body of relevant and reliable scientific evidence, are sufficient to substantiate that the representation is true.

Part III of the proposed order prohibits respondent from making any representation, other than representations covered under Parts I or II, that use of a Covered Product or a drug or cosmetic reduces or eliminates cellulite, unless the representation is non-misleading, and, at the time of making such representation, respondent possesses and relies upon competent and reliable scientific evidence that is sufficient in quality and quantity based on standards generally accepted in the relevant scientific fields, when considered in light of the entire body of relevant and reliable scientific evidence, to substantiate that the representation is true. For purposes of Part III, the proposed order defines ''competent and reliable scientific evidence'' as tests, analyses, research, or studies that have been conducted and evaluated in an objective manner by qualified persons, and that are generally accepted in the profession to yield accurate and reliable results.

Part IV of the proposed order addresses the allegedly false claims that scientific tests prove that wearing iPants garments result in reduction of the wearer's thigh measurement. Part IV prohibits respondent, when advertising any product, from misrepresenting the existence, contents, validity, results, conclusions, or interpretations of any test, study, or research, or misrepresenting that the benefits of the product are scientifically proven.

Part V of the proposed order provides a safe harbor for representations that are permitted in labeling for that drug under any tentative or final standard promulgated by the Food and Drug Administration (''FDA''), any new drug application approved by the FDA, or FDA regulations pursuant to the Nutrition Labeling and Education Act of 1990 or the FDA Modernization Act of 1997.

Part VII of the proposed order requires respondent to pay one million three

[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).

hundred thousand dollars ($1,300,000) to the Commission to be used for equitable relief, including restitution, and any attendant expenses for the administration of such equitable relief. To facilitate the payment of redress, Part VI of the proposed order requires Wacoal America to provide to the Commission a searchable electronic file containing the name and contact information of all consumers who purchased the iPants garments directly from respondent from January 1, 2011, through the date of entry of the order. Part VIII of the proposed order requires respondent to comply with the provisions of Appendix A to the order, which sets out the methods for notifying consumers who may be entitled to file a claim for consumer redress.

Part IX of the proposed order is triggered whenever the human clinical testing requirement in either Part II or Part III applies. Part IX of the proposed order requires the company to secure and preserve all underlying or supporting data and documents generally accepted by experts in the field as relevant to an assessment of the test. There is an exception for a ''Reliably Reported'' test defined as a test published in a peer-reviewed journal that was not conducted, controlled, or sponsored by any proposed respondent or supplier. Also, the published report must provide sufficient information about the test for experts in the relevant field to assess the reliability of the results.

Part X of the proposed order contains recordkeeping requirements for advertisements and substantiation relevant to any representation covered by the proposed order. Parts XI, XII and XIII of the proposed order require respondent to provide copies of the order to its personnel; to notify the Commission of changes in corporate structure that might affect compliance obligations under the order; and to file compliance reports with the Commission. Part XIV provides that the order will terminate after twenty (20) years, with certain exceptions.

The purpose of this analysis is to facilitate public comment on the proposed order, and it is not intended to constitute an official interpretation of the complaint or and proposed order or to modify the proposed order's terms in any way.

By direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 2014–23681 Filed 10–3–14; 8:45 am]

BILLING CODE 6750–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Announcement of Availability of the Report on Carcinogens, Thirteenth Edition

AGENCY: National Toxicology Program (NTP), National Institute of Environmental Health Sciences (NIEHS); National Institutes of Health (NIH).

ACTION: Availability of the Report on Carcinogens, Thirteenth Edition (13th RoC).

SUMMARY: The Department of Health and Human Services released the 13th RoC to the public on October 2, 2014. The report is available on the RoC Web site at: *http://ntp.niehs.nih.gov/go/roc13* or electronically from the Office of the RoC (see **ADDRESSES** below).

DATES: The 13th RoC is available to the public on October 2, 2014.

ADDRESSES: Dr. Ruth Lunn, Director, Office of the RoC, NTP, NIEHS, P.O. Box 12233, MD K2–14, Research Triangle Park, NC 27709; telephone: (919) 316–4637; FAX: (301) 480–2970; *lunn@niehs.nih.gov.*

FOR FURTHER INFORMATION CONTACT: Questions or comments concerning the 13th RoC should be directed to Dr. Ruth Lunn (telephone: (919) 316–4637 or *lunn@niehs.nih.gov*).

SUPPLEMENTARY INFORMATION:

Background Information on the RoC

The RoC is a congressionally mandated document that identifies and discusses agents, substances, mixtures, or exposure circumstances (collectively referred to as ''substances'') that may pose a hazard to human health by virtue of their carcinogenicity. Substances are listed in the report as either *known* or *reasonably anticipated to be human carcinogens.* The listing of a substance in the RoC indicates a potential hazard, but does not establish the exposure conditions that pose a cancer hazard to individuals in their daily lives. For each listed substance, the RoC provides information from cancer studies that support the listing as well as information about potential sources of exposure and current federal regulations to limit exposures. Each edition of the RoC is cumulative, that is, it lists newly reviewed substances in addition to substances listed in the previous edition. Information about the RoC is available on the RoC Web site (*http://ntp.niehs.nih.gov/go/roc13*) or by contacting Dr. Lunn (see **ADDRESSES** above).

The NTP prepares the RoC on behalf of the Secretary of Health and Human Services. For the 13th RoC, the NTP followed an established, multi-step process with multiple opportunities for public input, and used established criteria to evaluate the scientific evidence on each candidate substance under review (*http://ntp.niehs.nih.gov/go/rocprocess*).

New Listings to the 13th RoC

The 13th RoC contains 243 listings, some of which consist of a class of structurally related chemicals or agents. There are three new listings and one revised listing in this edition. The revised listing is for *ortho*-toluidine, which was previously listed as *reasonably anticipated to be a human carcinogen* and is now listed as *known to be a human carcinogen.* The new listings in the 13th RoC are three substances—1-bromopropane, cumene, and pentachlorophenol and by-products of its synthesis—each listed as *reasonably anticipated to be a human carcinogen.*

Dated: September 26, 2014.

Linda S. Birnbaum,

Director, National Institute of Environmental Health Sciences, and National Toxicology Program.

[FR Doc. 2014–23748 Filed 10–3–14; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Submission for OMB Review; Comment Request

Title: Temporary Assistance for Needy Families/National Directory of New Hires Match Results Report

OMB No.: 0970–0311

Description: Section 453(j)(3) of the Social Security Act (the Act) allows for matching between the National Directory of New Hires (maintained by the Federal Office of Child Support Enforcement (OCSE) and State TANF Agencies for purposes of carrying out responsibilities under programs funded under part A of Title IV of the Act. To assist OCSE and the Office of Family Assistance (OFA) in measuring savings to the TANF program attributable to the use of NDNH data matches, the State TANF Agencies have agreed to provide OCSE with a written description of the performance outputs and outcomes attributable to the State TANF Agency's use of NDNH match results. This information will help OCSE

demonstrate how the NDNH supports the OCSE's mission and strategic goals.

Respondents: State TANF Agencies

ANNUAL BURDEN ESTIMATES

Instrument	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
TANF/NDNH Match Results Report	12	4	0.17	8.16

Estimated Total Annual Burden Hours: 8.16

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. 2014–23670 Filed 10–3–14; 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: Refugee Assistance Program Estimates: CMA—ORR–1

OMB No.: 0970–0030

Description: The ORR–1, Cash and Medical Assistance (CMA) Program Estimates, is the application for grants under the CMA program. The application is required by the Office of Refugee Resettlement (ORR) program regulations at 45 CFR 400.11(b). The regulation specifies that States must submit, as their application for this program, estimates of the projected costs they anticipate incurring in providing cash and medical assistance for eligible recipients and the costs of administering the program. Under the CMA program, States are reimbursed for the costs of providing these services and benefits for eight months after an eligible recipient arrives in this country. The eligible recipients for these services and benefits are refugees, Amerasians, Cuban and Haitian Entrants, asylees, Afghans and Iraqi with Special Immigrant Visas, and victims of a severe form of trafficking. States that provide services for unaccompanied refugee minors also provide an estimate for the cost of these services for the year for which they are applying for grants.

Respondents: Respondents are the 47 States and the District of Columbia that participate in the Refugee Resettlement program.

ANNUAL BURDEN ESTIMATES

Instrument	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
ORR–1, Cash and Medical Assistance Program Estimates	47	1	0.60	28.20.

Estimated Total Annual Burden Hours: 28.20

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. 2014–23672 Filed 10–3–14; 8:45 am]

BILLING CODE 4184–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Neurological Disorders and Stroke; 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 materials,

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 Neurological Disorders and Stroke Initial Review Group, Neurological Sciences and Disorders C.

Date: October 16–17, 2014.

Time: 8:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: The Kinzie Hotel, 20 West Kinzie Street, Chicago, IL 60654.

Contact Person: William C Benzing, Ph.D., Scientific Review Officer, Scientific Review Branch, Division of Extramural Research, NINDS/NIH/DHHS/Neuroscience Center, 6001 Executive Boulevard, Suite 3208, MSC 9529, Bethesda, MD 20892–9529, 301–496–0660, *benzingw@mail.nih.gov*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Neurological Sciences Training Initial Review Group, NST–2 Subcommittee.

Date: October 27–28, 2014.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: The Fairmont Washington, D.C, 2401 M Street NW., Washington, DC 20037.

Contact Person: JoAnn McConnell, Ph.D., Scientific Review Officer, Scientific Review Branch, Division of Extramural Research, NINDS/NIH/DHHS/Neuroscience Center, 6001 Executive Boulevard, Suite 3208, MSC 9529, Bethesda, MD 20892–9529., 301–496–5324, *mcconnej@ninds.nih.gov.*

Name of Committee: National Institute of Neurological Disorders and Stroke Initial Review Group, Neurological Sciences and Disorders B.

Date: October 27–28, 2014.

Time: 8:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Admiral Fell Inn, 888 South Broadway, Baltimore, MD 21231.

Contact Person: Birgit Neuhuber, Ph.D., Scientific Review Officer, Scientific Review Branch, Division of Extramural Research, NINDS/NIH/DHHS/Neuroscience Center, 6001 Executive Boulevard, Suite 3208, MSC 9529, Bethesda, MD 20892–9529, 301–496–3562, *neuhuber@ninds.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.853, Clinical Research Related to Neurological Disorders; 93.854, Biological Basis Research in the Neurosciences, National Institutes of Health, HHS).

Dated: September 26, 2014.

Carolyn Baum,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2014–23723 Filed 10–3–14; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer 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 meetings of the Board of Scientific Counselors for Clinical Sciences and Epidemiology, National Cancer Institute and the Board of Scientific Counselors for Basic Sciences, National Cancer Institute.

The meetings will be closed to the public as indicated below in accordance with the provisions set forth in section 552b(c)(6), Title 5 U.S.C., as amended for the review, discussion, and evaluation of individual intramural programs and projects conducted by the National Cancer Institute, including consideration of personnel qualifications and performance, and the competence of individual investigators, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Board of Scientific Counselors for Clinical Sciences and Epidemiology, National Cancer Institute.

Date: November 17–18, 2014.

Time: 8:00 a.m. to 4:00 p.m.

Agenda: To review and evaluate personal qualifications and performance, and competence of individual investigators.

Place: National Institutes of Health, 31 Center Drive, Building 31, C-Wing, 6th Floor, Conference Room 6, Bethesda, MD 20892.

Contact Person: Brian E. Wojcik, Ph.D. Executive Secretary, Institute Review Office, Office of the Director, National Cancer Institute, National Institutes of Health, 9609 Medical Center Drive, Room 3W414, Rockville, MD 20850, 240–276–5660, *wojcikb@mail.nih.gov.*

Name of Committee: Board of Scientific Counselors for Basic Sciences, National Cancer Institute.

Date: November 18, 2014.

Time: 9:00 a.m. to 1:00 p.m.

Agenda: To review and evaluate personal qualifications and performance, and competence of individual investigators.

Place: National Institutes of Health, 31 Center Drive, Building 31, C Wing, 6th Floor, Conference Room 6, Bethesda, MD 20892.

Contact Person: Mehrdad Tondravi, Ph.D., Chief, Institute Review Office, Office of the Director, National Cancer Institute, National Institutes of Health, 9609 Medical Center Drive, Room 3W302, Rockville, MD 20850, 240–276–5660, *tondravim@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.392, Cancer Construction; 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control, National Institutes of Health, HHS).

Dated: September 30, 2014.

Melanie J. Gray,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2014–23733 Filed 10–3–14; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center For Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Brain Disorders and Clinical Neuroscience Integrated Review Group; Developmental Brain Disorders Study Section.

Date: October 23–24, 2014.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Beacon Hotel and Corporate Quarters, 1615 Rhode Island Avenue NW., Washington, DC 20036.

Contact Person: Pat Manos, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5200, MSC 7846, Bethesda, MD 20892, 301–408–9866, *manospa@csr.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Topics in Bacterial Pathogenesis.

Date: October 27–28, 2014.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Marine's Memorial Club & Hotel, 609 Sutter Street, San Francisco, CA 94102.

Contact Person: Richard G Kostriken, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3192, MSC 7808, Bethesda, MD 20892, 240–519–7808, *kostrikr@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; PAR Panel: Synthetic Psychoactive Drugs and Strategic Approaches to Counteract Their Deleterious Effects.

Date: October 28, 2014.

Time: 11:00 a.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892.

Contact Person: Nicholas Gaiano, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5178, MSC 7844, Bethesda, MD 20892–7844, 301–435–1033, *gaianonr@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Neural Trauma and Stroke.

Date: October 28, 2014.

Time: 12:30 p.m. to 4:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Alexei Kondratyev, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5200, MSC 7846, Bethesda, MD 20892, 301–435–1785, *kondratyevad@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Cognition and Perception.

Date: October 30, 2014.

Time: 12:00 p.m. to 3:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Serena Chu, Ph.D., Scientific Review Officer, BBBP IRG, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3178, MSC 7848, Bethesda, MD 20892, 301–500–5829, *sechu@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Genetics of Health and Disease Overflow.

Date: October 31, 2014.

Time: 11:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Virtual Meeting).

Contact Person: Cheryl M Corsaro, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 2204, MSC 7890, Bethesda, MD 20892, (301) 435–1045, *corsaroc@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; RFA Panel: Molecular and Cellular Substrates of Complex Brain Disorders.

Date: November 3, 2014.

Time: 8:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Embassy Suites at the Chevy Chase Pavilion, 4300 Military Road NW, Washington, DC 20015.

Contact Person: Deborah L Lewis, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4183, MSC 7850, Bethesda, MD 20892, 301–408–9129, *lewisdeb@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Small Business: Risk Prevention, and Health Behavior.

Date: November 3–4, 2014.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Pier 2620 Hotel, 2620 Jones Street, San Francisco, CA 94133.

Contact Person: Claire E Gutkin, Ph.D., MPH, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3106, MSC 7808, Bethesda, MD 20892, (301) 594–3139, *gutkincl@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Small Business: Cardiovascular and Surgical Devices.

Date: November 3, 2014.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Hilton Alexandria Mark Center, 5000 Seminary Road, Alexandria, VA 22311.

Contact Person: Donald S Wright, MD, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5108, MSC 7854, Bethesda, MD 20892, (301) 435–8363, *wrightds@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Small Business: Non-HIV Microbial Vaccine Development.

Date: November 3, 2014.

Time: 8:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Embassy Suites at the Chevy Chase Pavilion, 4300 Military Road, NW, Washington, DC 20015.

Contact Person: Andrea Keane-Myers, Scientific Review Officer, National Institutes of Health, Center for Scientific Review, 6701 Rockledge Dr., Room 4218, Bethesda, MD 20892, (301)435–1221, *andrea.keanne-myers@nih.gov*.

Name of Committee: Brain Disorders and Clinical Neuroscience Integrated Review Group; Clinical Neuroscience and Neurodegeneration Study Section.

Date: November 3–4, 2014.

Time: 3:00 p.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892.

Contact Person: Samuel C Edwards, Ph.D., Chief, Brain Disorders and Clinical Neuroscience, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5210, MSC 7846, Bethesda, MD 20892, (301) 435–1246, *edwardss@csr.nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS).

Dated: September 30, 2014.

Melanie J. Gray,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2014–23731 Filed 10–3–14; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer 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 Cancer Institute Special Emphasis Panel; Omnibus SEP–5.

Date: November 13–14, 2014.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Gaithersburg Marriott Washingtonian Center, 9751 Washingtonian Boulevard, Gaithersburg, MD 20878.

Contact Person: Thomas A. Winters, Ph.D., Scientific Review Officer, Special Review Branch, Division of Extramural Activities, National Cancer Institute, 9609 Medical Center Drive, Room 7W240, Bethesda, MD 20892–9750, 240–276–6386, *twinters@mail.nih.gov*.

Name of Committee: National Cancer Institute Special Emphasis Panel; Provocative Questions Group A.

Date: November 17, 2014.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Cancer Institute Shady Grove, 9609 Medical Center Drive, Room 2E908, Rockville, MD 20850, (Telephone Conference Call).

Contact Person: Thomas Vollberg, Ph.D., Scientific Review Officer, Research Technology and Contract Review Branch, Division of Extramural Activities, National Cancer Institute, 9609 Medical Center Drive, Room 7W102, Rockville, MD 20850, 240–276–6341, *vollbert@mail.nih.gov*.

Name of Committee: National Cancer Institute Special Emphasis Panel;

Technologies for Biospecimen Science (IMAT).

Date: November 19, 2014.

Time: 12:00 p.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Hyatt Regency Hotel, 1 Bethesda Metro Center, Bethesda, MD 20814.

Contact Person: Jeffrey E. DeClue, Ph.D., Scientific Review Officer, Research Technology and Contract Review Branch, Division of Extramural Activities, National Cancer Institute, NIH, 9609 Medical Center Drive, 7W238, Rockville, MD 20850, 240–276–6371, *decluej@mail.nih.gov*.

Name of Committee: National Cancer Institute Special Emphasis Panel; IMAT.

Date: November 20, 2014.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Hyatt Regency Hotel, 1 Bethesda Metro Center, Bethesda, MD 20814.

Contact Person: Jeffrey E. DeClue, Ph.D., Scientific Review Officer, Research Technology and Contract Review Branch, Division of Extramural Activities, National Cancer Institute, 9609 Medical Center Drive, Room 7W238, Rockville, MD 20850, 240–276–6371, *declue@mail.nih.gov*.

Information is also available on the Institute's/Center's home page: *http://deainfo.nci.nih.gov/advisory/sep/sep.htm*, where an agenda and any additional information for the meeting will be posted when available.

(Catalogue of Federal Domestic Assistance Program Nos. 93.392, Cancer Construction; 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control, National Institutes of Health, HHS).

Dated: September 30, 2014.

Melanie J. Gray,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2014–23735 Filed 10–3–14; 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 contract proposals 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 and contract proposals, 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 Topic 73 Phase II: Evaluating Obstructive Sleep Apnea Dental Device Treatment Compliance.

Date: October 31, 2014.

Time: 1:00 p.m. to 3:00 p.m.

Agenda: To review and evaluate contract proposals.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Kristen Page, Ph.D. Scientific Review Officer, Office of Scientific Review/DERA, National Heart, Lung, and Blood Institute, 6701 Rockledge Drive, Room 7185, Bethesda, MD 20892, 301–435–0725, *kristen.page@nih.gov.*

Name of Committee: National Heart, Lung, and Blood Institute Special Emphasis Panel, NHLBI Conference Grant Review (R13).

Date: November 5, 2014.

Time: 9:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Susan Wohler Sunnarborg, Ph.D., Scientific Review Officer, Office of Scientific Review/DERA, National Heart, Lung, and Blood Institute, 6701 Rockledge Drive, Room 7182, Bethesda, MD 20892, *sunnarborgsw@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: September 30, 2014.

Michelle Trout,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2014–23730 Filed 10–3–14; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of General Medical Sciences; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of General Medical Sciences Special Emphasis Panel; SCORE Panel on Neuroscience and Physiology.

Date: November 3, 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: Brian R. Pike, Ph.D., Scientific Review Officer, Office of Scientific Review, National Institute of General Medical Sciences, National Institutes of Health, 45 Center Drive, Room 3An.18, Bethesda, MD 20892, 301–594–3907, *pikebr@mail.nih.gov.*

Name of Committee: National Institute of General Medical Sciences Special Emphasis Panel; Review of COBRE Phase III—Transitional Centers.

Date: November 3, 2014.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Residence Inn Bethesda Downtown, 7335 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Lisa A. Newman, SCD, Scientific Review Officer, Office of Scientific Review, National Institute of General Medical Sciences, National Institutes of Health, 45 Center Drive, Room 3As.18A, Bethesda, MD 20892, 301–435–0965, *newmanla2@nigms.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.375, Minority Biomedical Research Support; 93.821, Cell Biology and Biophysics Research; 93.859, Pharmacology, Physiology, and Biological Chemistry Research; 93.862, Genetics and Developmental Biology Research; 93.88, Minority Access to Research Careers; 93.96, Special Minority Initiatives, National Institutes of Health, HHS).

Dated: September 30, 2014.

Melanie J. Gray,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2014–23734 Filed 10–3–14; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Office of The Director, National Institutes of Health; Notice of Meeting

Pursuant to section 10(a) of the Federal Advisory Committee Act, as

amended (5 U.S.C. App.), notice is hereby given of a meeting of the Office of AIDS Research Advisory Council.

The meeting will be open to the public, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

Name of Committee: Office of AIDS Research Advisory Council.

Date: November 13, 2014.

Time: 8:30 a.m. to 5:00 p.m.

Agenda: The Office of AIDS Research Advisory Council (OARAC) meeting will be devoted to presentations and discussions on the impact of inflammation and immune activation on HIV disease progression. An update also will be provided on the latest changes made to the federal treatment and prevention guidelines by the OARAC Working Groups responsible for the guidelines as well as an update on the HIV/AIDS priority/portfolio review.

Place: National Institutes of Health, 5635 Fishers Lane, Terrace Level, Suite T–500, Rockville, MD 20852.

Contact Person: Joan Romaine, M.P.H., Supervisory Program Analyst, Office of AIDS Research, Office of the Director, NIH, 5635 Fishers Lane, MSC 9310, Suite 4000, Rockville, MD 20852, (301) 496–4564, *joan.romaine@nih.gov.*

Any interested person may file written comments with the committee by forwarding the statement to the Contact Person listed on this notice. The statement should include the name, address, telephone number and when applicable, the business or professional affiliation of the interested person.

Information is also available on the OAR's home page: *http://www.oar.nih.gov,* where additional information for the meeting will be posted when available.

(Catalogue of Federal Domestic Assistance Program Nos. 93.14, Intramural Research Training Award; 93.22, Clinical Research Loan Repayment Program for Individuals from Disadvantaged Backgrounds; 93.232, Loan Repayment Program for Research Generally; 93.39, Academic Research Enhancement Award; 93.936, NIH Acquired Immunodeficiency Syndrome Research Loan Repayment Program; 93.187, Undergraduate Scholarship Program for Individuals from Disadvantaged Backgrounds, National Institutes of Health, HHS).

Dated: September 30, 2014.

Melanie J. Gray,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2014–23725 Filed 10–3–14; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Cancer Institute Special Emphasis Panel Omnibus SEP–3.

Date: November 6–7, 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: Viatcheslav Soldatenkov, Ph.D., Scientific Review Officer, Special Review Branch, Division of Extramural Activities, National Cancer Institute, 9609 Medical Center Drive, Room 7W254, Bethesda, MD 20892–9750, 240–276–6378, *soldatenkovv@mail.nih.gov.*

Information is also available on the Institute's/Center's home page: *http://deainfo.nci.nih.gov/advisory/sep/sep.htm,* where an agenda and any additional information for the meeting will be posted when available.

(Catalogue of Federal Domestic Assistance Program Nos. 93.392, Cancer Construction; 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control, National Institutes of Health, HHS).

Dated: September 30, 2014.

Melanie J. Gray,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2014–23722 Filed 10–3–14; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Diabetes and Digestive and Kidney Diseases; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel; NIDDK Career Awards Review.

Date: October 31, 2014.

Time: 11:00 a.m. to 12:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Two Democracy Plaza, 6707 Democracy Boulevard, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Carol J. Goter-Robinson, Ph.D., Scientific Review Officer, Review Branch, DEA, NIDDK, National Institutes of Health, Room 748, 6707 Democracy Boulevard, Bethesda, MD 20892–5452, (301) 594–7791, *goterrobinsonc@extra.niddk.nih.gov.*

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel; NIDDK Ancillary R01 Telephone SEP.

Date: November 5, 2014.

Time: 12:00 p.m. to 2:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Two Democracy Plaza, 6707 Democracy Boulevard, Bethesda, MD 20892.

Contact Person: Xiaodu Guo, MD, Ph.D., Scientific Review Officer, Review Branch, DEA, NIDDK, National Institutes of Health, Room 761, 6707 Democracy Boulevard, Bethesda, MD 20892–5452, (301) 594–4719, *guox@extra.niddk.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.847, Diabetes, Endocrinology and Metabolic Research; 93.848, Digestive Diseases and Nutrition Research; 93.849, Kidney Diseases, Urology and Hematology Research, National Institutes of Health, HHS).

Dated: September 30, 2014.

David Clary,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2014–23724 Filed 10–3–14; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Small Business: Rehabilitation.

Date: October 24, 2014.

Time: 8:00 a.m. to 8:30 a.m.

Agenda: To review and evaluate grant applications.

Place: Embassy Suites Alexandria, 1900 Diagonal Road, Alexandria, VA 22314.

Contact Person: Jo Pelham, BA, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4102, MSC 7814, Bethesda, MD 20892, (301) 435–1786, *pelhamj@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Molecular Targets for Cancer Intervention.

Date: October 27–28, 2014.

Time: 7:30 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Doubletree Guest Suites Santa Monica, 1707 Fourth Street, Santa Monica, CA 90401.

Contact Person: Careen K Tang-Toth, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6214, MSC 7804, Bethesda, MD 20892, (301) 435–3504, *tothct@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Neurovascular Disorders.

Date: October 27, 2014.

Time: 1:00 p.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Alexander Yakovlev, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5206, MSC 7846, Bethesda, MD 20892–7846, 301–435–1254, *yakovleva@csr.nih.gov.*

Name of Committee: Brain Disorders and Clinical Neuroscience Integrated Review Group; Acute Neural Injury and Epilepsy Study Section.

Date: October 28–29, 2014.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Embassy Suites DC Convention Center, 900 10th NW., Washington, DC 20001.

Contact Person: Seetha Bhagavan, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5194, MSC 7846, Bethesda, MD 20892, (301) 237–9838, *bhagavas@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; RFA Panel: Investigations on Primary Immunodeficiency Diseases.

Date: October 28, 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, Bethesda, MD 20892, (Virtual Meeting).

Contact Person: Jin Huang, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge, Drive, Room 4095G, MSC 7812, Bethesda, MD 20892, 301–435–1230, *jh377p@nih.gov.*

Name of Committee: Bioengineering Sciences & Technologies Integrated Review Group; Gene and Drug Delivery Systems Study Section.

Date: October 29–30, 2014.

Time: 7:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Hotel Kabuki, 1625 Post Street, San Francisco, CA 94115.

Contact Person: Amy L Rubinstein, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5152, MSC 7844, Bethesda, MD 20892, 301–408–9754, *rubinsteinal@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Surgical Sciences and Bioengineering.

Date: October 30, 2014.

Time: 1:00 p.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Virtual Meeting).

Contact Person: John Firrell, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5118, MSC 7854, Bethesda, MD 20892, 301–435–2598, *firrellj@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Overflow: IHD.

Date: November 4–5, 2014.

Time: 6:00 a.m. to 7:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Virtual Meeting).

Contact Person: Scott Jakes, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4198, MSC 7812, Bethesda, MD 20892, 301–435–1506, *jakesse@mail.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Adult Psychopathology and Disorders of Aging.

Date: November 4, 2014.

Time: 12:00 p.m. to 1:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Virtual Meeting).

Contact Person: Andrea B Kelly, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3182, MSC 7770, Bethesda, MD 20892, (301) 455–1761, *kellya2@csr.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS).

Dated: September 30, 2014.

Michelle Trout,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2014–23729 Filed 10–3–14; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Mental Health; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Mental Health Special Emphasis Panel; National Cooperative Drug Discovery/

Development Groups (NCDDG) and National Cooperative Reprogrammed Cell Research Groups (NCRCRG).

Date: October 24, 2014.

Time: 10:00 a.m. to 12:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852 (Telephone Conference Call).

Contact Person: Vinod Charles, Ph.D., Scientific Review Officer, Division of Extramural Activities, National Institute of Mental Health, NIH Neuroscience Center, 6001 Executive Blvd., Room 6151, MSC 9606, Bethesda, MD 20892–9606, 301–443–1606, *charlesvi@mail.nih.gov.*

Name of Committee: National Institute of Mental Health Special Emphasis Panel; Early Phase Clinical Trials.

Date: October 27, 2014.

Time: 8:30 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: St. Gregory Hotel, 2033 M Street NW., Washington, DC 20036.

Contact Person: David I. Sommers, Ph.D., Scientific Review Officer, Division of Extramural Activities, National Institute of Mental Health, National Institutes of Health, 6001 Executive Blvd., Room 6154, MSC 9606, Bethesda, MD 20892–9606, 301–443–7861, *dsommers@mail.nih.gov.*

Name of Committee: National Institute of Mental Health Special Emphasis Panel; NRSA Institutional Research Training (T32).

Date: October 27, 2014.

Time: 8:30 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Hotel Monaco, 700 F Street NW., Washington, DC 20001.

Contact Person: David W. Miller, Ph.D., Scientific Review Officer, Division of Extramural Activities, National Institute of Mental Health, NIH, Neuroscience Center, 6001 Executive Blvd, Room 6140, MSC 9608, Bethesda, MD 20892–9608, 301–443–9734, *millerda@mail.nih.gov.*

Name of Committee: National Institute of Mental Health Special Emphasis Panel; Confirmatory Efficacy Clinical Trials of Non-Pharmacological Interventions for Mental Disorders (R01).

Date: October 27, 2014.

Time: 1:00 p.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852, (Telephone Conference Call).

Contact Person: Marcy Ellen Burstein, Ph.D., Scientific Review Officer, Division of Extramural Activities, National Institute of Mental Health, NIH, Neuroscience Center, 6001 Executive Blvd., Room 6143, MSC 9606, Bethesda, MD 20892–9606, 301–443–9699, *bursteinme@mail.nih.gov.*

Name of Committee: National Institute of Mental Health Special Emphasis Panel; Silvio O. Conte Centers for Basic or Translational Mental Health Research (P50).

Date: October 28, 2014.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Hotel Monaco, 700 F Street NW., Washington, DC 20001.

Contact Person: Megan Kinnane, Ph.D., Scientific Review Officer, Division of Extramural Activities, National Institute of Mental Health, NIH, Neuroscience Center, 6001 Executive Blvd., Room 6148, MSC 9609, Rockville, MD 20852–9609, 301–402–6807, *libbeym@mail.nih.gov.*

Name of Committee: National Institute of Mental Health Special Emphasis Panel; The Brain Somatic Mosaicism.

Date: October 29, 2014.

Time: 1:00 p.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852 (Telephone Conference Call).

Contact Person: Vinod Charles, Ph.D., Scientific Review Officer, Division of Extramural Activities, National Institute of Mental Health, NIH, Neuroscience Center, 6001 Executive Blvd., Room 6151, MSC 9606, Bethesda, MD 20892–9606, 301–443–1606, *charlesvi@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program No. 93.242, Mental Health Research Grants, National Institutes of Health, HHS).

Dated: September 29, 2014.

Carolyn A. Baum,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2014–23728 Filed 10–3–14; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Allergy and Infectious Diseases Special Emphasis Panel; Partnerships for Diagnostics to Address Antimicrobial Resistance of Select Bacterial Pathogens (R01).

Date: November 3–4, 2014.

Time: 8:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Hilton Washington/Rockville 1750 Rockville Pike, Rockville, MD 20852.

Contact Person: Maryam Feili-Hariri, Ph.D., Scientific Review Officer, Scientific Review Program, Division of Extramural Activities, National Institutes of Health/NIAID, 6700B Rockledge Drive, MSC 7616, Bethesda, MD 20892–7616, 301–594–3243, *haririmf@niaid.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS).

Dated: September 30, 2014.

David Clary,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2014–23726 Filed 10–3–14; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Center for Complementary & Alternative Medicine; 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 Center for Complementary and Alternative Medicine Special Emphasis Panel; Multi-Site Clinical Trial and Data Center.

Date: October 21, 2014.

Time: 1:00 p.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Two Democracy Plaza, 6707 Democracy Boulevard, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Peter Kozel, Ph.D., Scientific Review Officer, NCCAM, 6707 Democracy Boulevard, Suite 401, Bethesda, MD 20892–5475, 301–496–8004, *kozelp@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.213, Research and Training

in Complementary and Alternative Medicine, National Institutes of Health, HHS).

Dated: September 30, 2014.

Michelle Trout,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2014–23727 Filed 10–3–14; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of General Medical Sciences; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of General Medical Sciences Special Emphasis Panel, Review of NIH Pathway to Independence Award (K99/R00) Grants.

Date: October 28, 2014.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: The Ritz-Carlton Washington DC, 1150 22nd Street NW., Washington, DC 20037.

Contact Person: Lee Warren Slice, Ph.D., Scientific Review Officer, Office of Scientific Review, National Institute of General Medical Sciences, National Institutes of Health, 45 Center Drive, Room 3An.12, Bethesda, MD 20892, 301–435–0807, *slicelw@mail.nih.gov.*

Name of Committee: National Institute of General Medical Sciences Special Emphasis Panel, Peer Review of T32 Grant Applications.

Date: October 28, 2014.

Time: 11:00 a.m. to 3:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Natcher Building, 45 Center Drive, Room 3An.12, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Saraswathy Seetharam, Ph.D., Scientific Review Officer, Office of Scientific Review, National Institute of General Medical Sciences, National Institutes of Health, 45 Center Drive, Room 3An.12C, Bethesda, MD 20892, 301–594–2763, *seetharams@nigms.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.375, Minority Biomedical Research Support; 93.821, Cell Biology and Biophysics Research; 93.859, Pharmacology, Physiology, and Biological Chemistry Research; 93.862, Genetics and Developmental Biology Research; 93.88, Minority Access to Research Careers; 93.96, Special Minority Initiatives, National Institutes of Health, HHS).

Dated: September 30, 2014.

Melanie J. Gray,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2014–23732 Filed 10–3–14; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Cancer Institute Special Emphasis Panel NCI U01 Review.

Date: December 4, 2014.

Time: 11:00 a.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Cancer Institute Shady Grove, 9609 Medical Center Drive, Room 7W538, Rockville, MD 20850, (Telephone Conference Call).

Contact Person: Caron A. Lyman, Ph.D., Chief, Scientific Review Officer, Research Programs Review Branch, Division of Extramural Activities, National Cancer Institute, 9609 Medical Center Drive, Room 7W126, Bethesda, MD 20892–9750, 240–276–6348, *lymanc@mail.nih.gov.*

Information is also available on the Institute's/Center's home page: *http://deainfo.nci.nih.gov/advisory/sep/sep.htm,* where an agenda and any additional information for the meeting will be posted when available.

(Catalogue of Federal Domestic Assistance Program Nos. 93.392, Cancer Construction; 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control, National Institutes of Health, HHS).

Dated: September 30, 2014.

Melanie J. Gray,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2014–23737 Filed 10–3–14; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Cancer Institute Special Emphasis Panel; NCI Subcommittee A-Cancer Centers.

Date: December 11, 2014.

Time: 8:00 a.m. to 3:30 p.m.

Agenda: To review and evaluate grant applications.

Place: Bethesda North Marriott Hotel & Conference Center, 5701 Marinelli Road, North Bethesda, MD 20852.

Contact Person: Sonya Roberson, Ph.D., Scientific Review Officer, Resources and Training Review Branch, Division of Extramural Activities, National Cancer Institute, 9609 Medical Center Drive, Room 7W116, Bethesda, MD 20892–9750, 240–276–6347, *robersos@mail.nih.gov.*

Information is also available on the Institute's/Center's home page: *http://deainfo.nci.nih.gov/advisory/sep/sep.htm,* where an agenda and any additional information for the meeting will be posted when available.

(Catalogue of Federal Domestic Assistance Program Nos. 93.392, Cancer Construction; 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control, National Institutes of Health, HHS).

Dated: September 30, 2014.

Melanie J. Gray,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2014–23736 Filed 10–3–14; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HOMELAND SECURITY

[Docket No. DHS–2014–0050]

Agency Information Collection Activities: Regulation on Agency Protests

AGENCY: Office of Chief Procurement Officer, Acquisition Policy and Legislation Office, DHS.

ACTION: 60-day notice and request for comments; extension without change, 1600–0004.

SUMMARY: The Department of Homeland Security, Office of Chief Procurement Officer, Acquisition Policy and Legislation Office, will submit 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 (Pub. L. 104–13, 44 U.S.C. Chapter 35).

DATES: Comments are encouraged and will be accepted until December 5, 2014. This process is conducted in accordance with 5 CFR 1320.1.

ADDRESSES: You may submit comments, identified by docket number DHS–2014–0050, by one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Please follow the instructions for submitting comments.
- *Email: dhs.pra@hq.dhs.gov.* Please include docket number DHS–2014–0050 in the subject line of the message.

SUPPLEMENTARY INFORMATION: The Federal Acquisition Regulation (FAR); 48 CFR Chapter 1 provides general procedures on handling protests submitted by contractors to federal agencies. This regulation provides detailed guidance for contractors doing business with acquisition offices within the Department of Homeland Security (DHS) to implement the FAR. FAR Part 33.103, Protests, Disputes, and Appeals prescribe policies and procedures for filing protests and for processing contract disputes and appeals.

DHS will not be asking for anything outside of what is already required in the FAR. Should anything outside the FAR arise, DHS will submit a request for Office of Management and Budget (OMB) approval. The prior information collection request for OMB No. 1600–004 was approved through May 31, 2014 by OMB in a Notice of OMB Action.

The information being collected will be obtained from contractors as part of their submissions whenever they file a bid protest with the Department's Components. The information will be used by DHS officials in deciding how the protest should be resolved. Failure to collect this information would result in delayed resolution of agency protests.

According to Federal Procurement Data System (FPDS), the number of protest has increased each year over the past two years in annual respondent and burden hours. This increase in current protest activity is not the result of a deliberate program change, but from a new estimate of actions that are not controllable by the Federal government. Although, the number of protests has increased, there has not been any change in the information being collected.

The Office of Management and Budget is particularly interested in comments which:

1. Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
2. Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
3. Enhance the quality, utility, and clarity of the information to be collected; and
4. Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submissions of responses.

Analysis

Agency: Office of Chief Procurement Officer, Acquisition Policy and Legislation Office, DHS.

Title: Regulation on Agency Protests.

OMB Number: 1600–0004.

Frequency: Annually.

Affected Public: Private Sector.

Number of Respondents: 95.

Estimated Time per Respondent: 2 hours.

Total Burden Hours: 190.

Dated: September 24, 2014.

Margaret H. Graves,

Deputy Chief Information Officer.

[FR Doc. 2014–23688 Filed 10–3–14; 8:45 am]

BILLING CODE 9110–9B–P

DEPARTMENT OF HOMELAND SECURITY

[Docket No. DHS–2014–0049]

Agency Information Collection Activities: Various Contract Related Forms That Will Be Included in the Homeland Security Acquisition Regulation, DHS Form 0700–01, DHS Form 0700–02, DHS Form 0700–03, DHS FORM 0700–04

AGENCY: Office of Chief Procurement Officer, Acquisition Policy and Legislation Office, DHS.

ACTION: 60-Day Notice and request for comments; Extension without Change, 1600–0002.

SUMMARY: The Department of Homeland Security, Office of Chief Procurement Officer, Acquisition Policy and Legislation Office, will submit 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 (Pub. L. 104–13, 44 U.S.C. Chapter 35).

DATES: Comments are encouraged and will be accepted until December 5, 2014. This process is conducted in accordance with 5 CFR 1320.1.

ADDRESSES: You may submit comments, identified by docket number DHS–2014–0049, by one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Please follow the instructions for submitting comments.
- *Email: dhs.pra@hq.dhs.gov* Please include docket number DHS–2014–0049 in the subject line of the message.

SUPPLEMENTARY INFORMATION: This information collection under the HSAR is necessary in order to implement applicable parts of the FAR (48 CFR). The four forms under this collection of information request are used by offerors, contractors, and the general public to comply with requirements in contracts awarded by the Department of Homeland Security (DHS). The four forms are DHS Form 0700–01, Cumulative Claim and Reconciliation Statement; DHS Form 0700–02, Contractor's Assignment of Refund, Rebates, Credits and Other Amounts; DHS Form 0700–03, Contractor's Release; and DHS Form 0700–04, Employee Claim for Wage Restitution. These four forms will be used by contractors and/or contract employees during contract administration.

The information will be used by DHS contracting officers to ensure compliance with terms and conditions

of DHS contracts and to complete reports required by other Federal agencies such as the General Services Administration and the Department of Labor. If this information is not collected, the DHS could inadvertently violate statutory or regulatory requirements and the DHS's interest concerning inventions and contractor's claims would not be protected.

There has been an increase in the estimated annual burden hours previously reported for this collection. An adjustment in annual burden is necessary at this time in the amount of 902 actions and hours. The initial annual burden was based on a lower number of contract actions which related to the fact that DHS was a new agency with consolidated acquisition procedures, processes, and policies. Although, there is an increase in the estimated burdened hours, there is no change in the information being collected.

The Office of Management and Budget is particularly interested in comments which:

1. Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

2. Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

3. Enhance the quality, utility, and clarity of the information to be collected; and

4. Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submissions of responses.

Analysis

Agency: Office of Chief Procurement Officer, Acquisition Policy and Legislation Office, DHS.

Title: Various Contract Related Forms That Will Be Included in the Homeland Security Acquisition Regulation.

OMB Number: 1600–0002.

Frequency: On Occasion.

Affected Public: Private Sector.

Number of Respondents: 9537.

Estimated Time per Respondent: 1 hours.

Total Burden Hours: 9537.

Dated: September 24, 2014.

Margaret H. Graves,

Deputy Chief Information Officer.

[FR Doc. 2014–23687 Filed 10–3–14; 8:45 am]

BILLING CODE 9110–9B–P

DEPARTMENT OF HOMELAND SECURITY

Homeland Security Academic Advisory Council

[Docket No. DHS–2014–0043]

Committee Management; Notice of Federal Advisory Committee Meeting

AGENCY: Department of Homeland Security.

SUMMARY: The Homeland Security Academic Advisory Council will meet on October 22, 2014 in Washington, DC. The meeting will be open to the public.

DATES: The Homeland Security Academic Advisory Council will meet Wednesday, October 22, 2014, from 10:00 a.m. to 3:30 p.m. Please note that the meeting may close early if the Council has completed its business.

ADDRESSES: The meeting will be held at the Ronald Reagan International Trade Center, 1300 Pennsylvania Avenue NW., Floor B, Room B1.5–10, Washington, DC 20004. All visitors to the Ronald Reagan International Trade Center must bring a Government-issued photo ID. Please use the main entrance on 14th Street NW.

For information on facilities or services for individuals with disabilities or to request special assistance at the meeting, send an email to *AcademicEngagement@hq.dhs.gov* or contact Lindsay Burton at 202–447–4686 as soon as possible.

To facilitate public participation, we are inviting public comment on the issues to be considered by the Council prior to the adoption of the recommendations as listed in the **SUPPLEMENTARY INFORMATION** section below. Comments must be submitted in writing no later than Tuesday, October 14, 2014, must include DHS–2014–0043 as the identification number, and may be submitted using *one* of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Email: AcademicEngagement@hq.dhs.gov.* Include the docket number in the subject line of the message.
- *Fax:* 202–447–3713
- *Mail:* Academic Engagement; MGMT/Office of Academic Engagement/Mailstop 0440, Department of Homeland Security, 245 Murray Lane SW., Washington, DC 20528–0440

Instructions: All submissions received must include the words ''Department of Homeland Security'' and the docket number for this action. Comments received will be posted without alteration at *http://www.regulations.gov,* including any personal information provided.

Docket: For access to the docket, to read background documents or comments received by the Homeland Security Academic Advisory Council, go to *http://www.regulations.gov* and search for ''Homeland Security Academic Advisory Council'' then select the notice dated October 3, 2014.

One thirty-minute public comment period will be held during the meeting on October 22, 2014 after the conclusion of the presentation of draft recommendations, but before the Council deliberates. Speakers will be requested to limit their comments to three minutes. Contact the Office of Academic Engagement as indicated below to register as a speaker.

FOR FURTHER INFORMATION CONTACT: Lindsay Burton, Office of Academic Engagement/Mailstop 0440, Department of Homeland Security; 245 Murray Lane SW., Washington, DC 20528–0440, email: *AcademicEngagement@hq.dhs.gov,* tel: 202–447–4686 and fax: 202–447–3713.

SUPPLEMENTARY INFORMATION: Notice of this meeting is given under the *Federal Advisory Committee Act,* 5 U.S.C. Appendix. The Homeland Security Academic Advisory Council provides advice and recommendations to the Secretary and senior leadership on matters relating to student and recent graduate recruitment; international students; academic research; campus and community resiliency, security and preparedness; faculty exchanges; and cybersecurity.

Agenda: The six Council subcommittees (Student and Recent Graduate Recruitment, Homeland Security Academic Programs, Academic Research and Faculty Exchange, International Students, Campus Resilience, and Cybersecurity) will give progress reports and may present draft recommendations for action in response to the taskings issued by the Department. DHS senior leadership will provide an update on the Department's efforts in implementing the Council's approved recommendations as well as its recent initiatives with the academic community.

The meeting materials will be posted to the Council Web site at: *http://www.dhs.gov/homeland-security-academic-advisory-council-hsaac* on or before October 17, 2014.

Responsible DHS Official: Lauren Kielsmeier, *AcademicEngagement@hq.dhs.gov,* 202–447–4686.

Dated: September 30, 2014.

Lauren Kielsmeier,

Executive Director for Academic Engagement.

[FR Doc. 2014–23782 Filed 10–3–14; 8:45 am]

BILLING CODE 9110–9B–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Citizenship and Immigration Services

[OMB Control Number 1615–0035]

Agency Information Collection Activities: Application To Adjust Status from Temporary to Permanent Resident, Form I–698; Revision of a Currently Approved Collection

ACTION: 30-Day notice.

SUMMARY: The Department of Homeland Security (DHS), U.S. Citizenship and Immigration Services (USCIS) will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995. The information collection notice was previously published in the **Federal Register** on May 13, 2014, at 79 FR 27340, allowing for a 60-day public comment period. USCIS did not receive any comment in connection with the 60-day notice.

DATES: The purpose of this notice is to allow an additional 30 days for public comments. Comments are encouraged and will be accepted until November 5, 2014. This process is conducted in accordance with 5 CFR 1320.10.

ADDRESSES: Written comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, must be directed to the OMB USCIS Desk Officer via email at *oira_submission@omb.eop.gov.* Comments may also be submitted via fax at (202) 395–5806. All submissions received must include the agency name and the OMB Control Number 1615–0035.

You may wish to consider limiting the amount of personal information that you provide in any voluntary submission you make. For additional information please read the Privacy Act notice that is available via the link in the footer of *http://www.regulations.gov.*

SUPPLEMENTARY INFORMATION:

Comments

Note: The address listed in this notice should only be used to submit comments concerning this information collection. Please do not submit requests for individual case status inquiries to this address. If you are seeking information about the status of your individual case, please check ''My Case Status'' online at: *https://egov.uscis.gov/cris/Dashboard.do,* or call the USCIS National Customer Service Center at 1–800–375–5283.

Written comments and suggestions from the public and affected agencies should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of This Information Collection

(1) *Type of Information Collection Request:* Revision of a Currently Approved Collection.

(2) *Title of the Form/Collection:* Application to Adjust Status from Temporary to Permanent Resident.

(3) *Agency form number, if any, and the applicable component of the DHS sponsoring the collection:* Form I–698; USCIS.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract: Primary:* Individuals and Households. The data collected on Form I–698 is used by USCIS to determine the eligibility to adjust an applicant's residence status.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 211 responses at 1 hour and 15 minutes (1.25 hours) per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 263 annual burden hours.

If you need a copy of the information collection instrument with supplementary documents, or need additional information, please visit *http://www.regulations.gov.* We may also be contacted at: USCIS, Office of Policy and Strategy, Regulatory Coordination Division, 20 Massachusetts Avenue NW., Washington, DC 20529–2134; Telephone 202–272–8377.

Dated: September 30, 2014.

Laura Dawkins,

Chief, Regulatory Coordination Division, Office of Policy and Strategy, U.S. Citizenship and Immigration Services, Department of Homeland Security.

[FR Doc. 2014–23786 Filed 10–3–14; 8:45 am]

BILLING CODE 9111–97–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

[Docket No. USCBP–2014–0026]

The U.S. Customs and Border Protection Airport and Seaport Inspections User Fee Advisory Committee (UFAC)

AGENCY: U.S. Customs and Border Protection, Department of Homeland Security (DHS).

ACTION: Committee Management; Notice of Federal Advisory Public Committee Meeting.

SUMMARY: The U.S. Customs and Border Protection Airport and Seaport Inspections User Fee Advisory Committee (UFAC) will meet on Wednesday, October 22, 2014, in Washington, DC. The meeting will be open to the public.

DATES: The UFAC will meet on Wednesday, October 22, 2014, from 1:00 p.m. to 3:00 p.m. EST. Please note that the meeting is scheduled for two hours and that the meeting may close early if the committee completes its business.

Pre-Registration: Meeting participants may attend either in person or via webinar after pre-registering using a method indicated below:

—For members of the public who plan to attend the meeting in person, please register either online at *https://apps.cbp.gov/te_reg/index.asp?w=30,* by email to *tradeevents@dhs.gov;* or by fax to 202–325–4290 by 5:00 p.m. EST on October 20, 2014.

—For members of the public who plan to participate via webinar, please register online at *https://apps.cbp.gov/te_reg/index.asp?w=31* by 5:00 p.m. EST on October 20, 2014. Feel free to share this information with other interested members of your organization or association.

Members of the public who are pre-registered and later require cancellation, please do so in advance of the meeting by accessing one (1) of the following links:

https://apps.cbp.gov/te_reg/cancel.asp?w=30 to cancel an in person registration, or

https://apps.cbp.gov/te_reg/cancel.asp?w=31 to cancel a webinar registration.

ADDRESSES: The meeting will be held at the U.S. International Trade Commission, 500 E Street SW., Courtroom B, Washington, DC 20436. All visitors to the International Trade Commission should proceed through the main lobby to Courtroom B.

For information on facilities or services for individuals with disabilities or to request special assistance at the meeting, contact Ms. Wanda Tate, Office of Trade Relations, U.S. Customs and Border Protection at 202–344–1661 as soon as possible.

To facilitate public participation, we are inviting public comment on the issues to be considered by the committee prior to the formulation of recommendations as listed in the ''Agenda'' section below.

Comments must be submitted in writing no later than October 15, 2014, and must be identified by Docket No. USCBP–2014–0026, and may be submitted by one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Email: Tradeevents@dhs.gov.* Include the docket number in the subject line of the message.
- *Fax:* 202–325–4290.
- *Mail:* Ms. Wanda Tate, Office of Trade Relations, U.S. Customs and Border Protection, 1300 Pennsylvania Avenue NW., Room 3.5A, Washington, DC 20229.

Instructions: All submissions received must include the words ''Department of Homeland Security'' and the docket number for this action. Comments received will be posted without alteration at *http://www.regulations.gov,* including any personal information provided. Do not submit personal information to this docket.

Docket: For access to the docket to read background documents or comments, go to *http://www.regulations.gov* and search for Docket Number USCBP–2014–0026. To submit a comment, see the link on the Regulations.gov Web site for ''How do I submit a comment?'' located on the right hand side of the main site page.

There will be two (2) public comment periods held during the meeting on October 22, 2014. Speakers are requested to limit their comments to two (2) minutes or less to facilitate greater participation. Contact the individual listed below to register as a speaker. Please note that the public comment periods for speakers may end before the times indicated on the schedule that is posted on the CBP Web page, *http://www.cbp.gov/trade/stakeholder-engagement/user-fee-advisory-committee.*

FOR FURTHER INFORMATION CONTACT: Ms. Wanda Tate, Office of Trade Relations, U.S. Customs and Border Protection, 1300 Pennsylvania Avenue NW., Room 3.5A, Washington, DC 20229; telephone 202–344–1440; facsimile 202–325–4290.

SUPPLEMENTARY INFORMATION: Pursuant to the Federal Advisory Committee Act (5 U.S.C. Appendix), DHS hereby announces the meeting of the U.S. Customs and Border Protection Airport and Seaport Inspections User Fee Advisory Committee (UFAC). The UFAC is tasked with providing advice to the Secretary of Homeland Security (DHS) through the Commissioner of U.S. Customs and Border Protection (CBP) on matters related to the performance of airport and seaport inspections coinciding with the assessment of an agriculture, customs, or immigration user fee. The UFAC meeting will be held on the date and time specified above.

Agenda

The UFAC will meet to discuss and report the work completed by the Financial Assessment and Options Subcommittee and the Processes Subcommittee:

1. The Financial Assessment and Options Subcommittee will be responsible for providing Customs and Border Protection an overview of current worldwide user fees being paid by industry, mapping how industry collects and transmits user fees to Customs and Border Protection, and discussing the option of having a third party study that would improve the committee and Customs and Border Protection's understanding of the universe of Customs and Border Protection's budget, costs, and funding sources.

2. The Processes Subcommittee will be responsible for developing advice that would enhance CBP operational efficiencies.

Dated: October 1, 2014.

Maria Luisa Boyce,

Senior Advisor for Private Sector Engagement, Office of Trade Relations, U.S. Customs and Border Protection.

[FR Doc. 2014–23744 Filed 10–3–14; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–HQ–IA–2014–N211; FXIA16710900000–156–FF09A30000]

Endangered Species; Marine Mammals; Issuance of Permits

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of issuance of permits.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), have issued the following permits to conduct certain activities with endangered species, marine mammals, or both. We issue these permits under the Endangered Species Act (ESA) and Marine Mammal Protection Act (MMPA).

ADDRESSES: Brenda Tapia, U.S. Fish and Wildlife Service, Division of Management Authority, Branch of Permits, MS: IA, 5275 Leesburg Pike, Falls Church, VA 22041; fax (703) 358–2281; or email *DMAFR@fws.gov.*

FOR FURTHER INFORMATION CONTACT: Brenda Tapia, (703) 358–2104 (telephone); (703) 358–2281 (fax); *DMAFR@fws.gov* (email).

SUPPLEMENTARY INFORMATION: On the dates below, as authorized by the provisions of the ESA (16 U.S.C. 1531 *et seq.*), as amended, and/or the MMPA, as amended (16 U.S.C. 1361 *et seq.*), we issued requested permits subject to certain conditions set forth therein. For each permit for an endangered species, we found that (1) The application was filed in good faith, (2) The granted permit would not operate to the disadvantage of the endangered species, and (3) The granted permit would be consistent with the purposes and policy set forth in section 2 of the ESA.

Permit number	Applicant	Receipt of application FEDERAL REGISTER notice	Permit issuance date
36200B	John House	79 FR 35375; June 20, 2014	September 3, 2014.
37734B	Louis Degregorio	79 FR 36090; June 25, 2014	September 16, 2014.

Permit number	Applicant	Receipt of application FEDERAL REGISTER notice	Permit issuance date
38540B	Arthur Erickson	79 FR 39409; July 10, 2014	September 16, 2014.
40124B	Jan Lundberg	79 FR 48244; August 15, 2014	September 23, 2014.

Permit number	Applicant	Receipt of application FEDERAL REGISTER notice	Permit issuance date
40066B	Spiegel TV	79 FR 48244; August 15, 2014	September 23, 2014.

Availability of Documents

Documents and other information submitted with these applications are available for review, subject to the requirements of the Privacy Act and Freedom of Information Act, by any party who submits a written request for a copy of such documents to: U.S. Fish and Wildlife Service, Division of Management Authority, Branch of Permits, MS: IA, 5275 Leesburg Pike, Falls Church, VA 22041; fax (703) 358–2281.

Brenda Tapia,

Program Analyst/Data Administrator, Branch of Permits, Division of Management Authority.

[FR Doc. 2014–23742 Filed 10–3–14; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–HQ–IA–2014–N210; FXIA16710900000–156–FF09A30000]

Endangered Species; Receipt of Applications for Permit

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of receipt of applications for permit.

SUMMARY: We, the U.S. Fish and Wildlife Service, invite the public to comment on the following applications to conduct certain activities with endangered species. With some exceptions, the Endangered Species Act (ESA) prohibits activities with listed species unless Federal authorization is acquired that allows such activities.

DATES: We must receive comments or requests for documents on or before November 5, 2014.

ADDRESSES: Brenda Tapia, U.S. Fish and Wildlife Service, Division of Management Authority, Branch of Permits, MS: IA, 5275 Leesburg Pike, Falls Church, VA 22041; fax (703) 358–2281; or email *DMAFR@fws.gov.*

FOR FURTHER INFORMATION CONTACT: Brenda Tapia, (703) 358–2104 (telephone); (703) 358–2281 (fax); *DMAFR@fws.gov* (email).

SUPPLEMENTARY INFORMATION:

I. Public Comment Procedures

A. How do I request copies of applications or comment on submitted applications?

Send your request for copies of applications or comments and materials concerning any of the applications to the contact listed under **ADDRESSES**. Please include the **Federal Register** notice publication date, the PRT-number, and the name of the applicant in your request or submission. We will not consider requests or comments sent to an email or address not listed under **ADDRESSES**. If you provide an email address in your request for copies of applications, we will attempt to respond to your request electronically.

Please make your requests or comments as specific as possible. Please confine your comments to issues for which we seek comments in this notice, and explain the basis for your comments. Include sufficient information with your comments to allow us to authenticate any scientific or commercial data you include.

The comments and recommendations that will be most useful and likely to influence agency decisions are: (1) Those supported by quantitative information or studies; and (2) Those that include citations to, and analyses of, the applicable laws and regulations. We will not consider or include in our administrative record comments we receive after the close of the comment period (see **DATES**) or comments delivered to an address other than those listed above (see **ADDRESSES**).

B. May I review comments submitted by others?

Comments, including names and street addresses of respondents, will be available for public review at the street address listed under **ADDRESSES**. The public may review documents and other information applicants have sent in support of the application unless our allowing viewing would violate the Privacy Act or Freedom of Information Act. 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.

II. Background

To help us carry out our conservation responsibilities for affected species, and in consideration of section 10(a)(1)(A) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*), along with Executive Order 13576, ''Delivering an Efficient, Effective, and Accountable Government,'' and the President's Memorandum for the Heads of Executive Departments and Agencies of January 21, 2009—Transparency and Open Government (74 FR 4685; January 26, 2009), which call on all Federal agencies to promote openness and transparency in Government by disclosing information to the public, we invite public comment on these permit applications before final action is taken.

III. Permit Applications

A. Endangered Species

Applicant: University of Illinois-Zoological Pathology Program, Maywood, IL; PRT–187330

The applicant requests a permit to import biological specimens taken worldwide from dead wild and captive-held threatened and endangered species of Canidae (wolves, foxes, dholes and wild dogs), Hyaenidae (hyaenas), Felidae (cats), and Mustelidae (otters, not including marine and sea otters) for the purpose of enhancement of the survival of the species through disease and death investigations. This notification covers activities to be conducted by the applicant over a 5-year period.

Applicant: American Museum of Natural History, New York, NY; PRT–39265B

The applicant requests a permit to import four 6-mm green sea turtle (*Chelonia mydas*) tissue plugs for the purpose of scientific research. This notification covers activities to be conducted by the applicant over a 5-year period.

Applicant: Utah's Hogle Zoo, Salt Lake City, UT; PRT–45002B

The applicant requests a permit to import one, captive-bred, Amur leopard (*Panthera pardus orientalis*) for the purpose of enhancement of the survival of the species. This notification covers activities to be conducted by the applicant over a 1-year period.

Applicant: Morani River Ranch, Uvalde, TX; PRT–46687A

The applicant requests amendment of their captive-bred wildlife registration under 50 CFR 17.21(g) to add Cuvier's gazelle (*Gazella cuvieri*) to enhance their propagation or survival. This notification covers activities to be conducted by the applicant over a 5-year period.

Applicant: Jeff Heidecker, Jacksonville, FL; PRT–103836

The applicant requests a captive-bred wildlife registration under 50 CFR 17.21(g) for radiated tortoise (*Astrochelys radiata*) and Galapagos tortoise (*Chelonoidis nigra*) to enhance the species' propagation or survival. This notification covers activities to be conducted by the applicant over a 5-year period.

Multiple Applicants

The following applicants each request a permit to import the sport-hunted trophy of one male bontebok (*Damaliscus pygargus pygargus*) culled from a captive herd maintained under the management program of the Republic of South Africa, for the purpose of enhancement of the survival of the species.

Applicant: Donald Harter, Weidman, MI; PRT–39886B

Applicant: Russell Pelan, Jefferson, MD; PRT–43434B

Applicant: Brian Quaca, Groesbeck, TX; PRT–44170B

Applicant: Matthew McCann, Macedonia, OH; PRT–44171B

Applicant: Mark Alger, Flagstaff, AZ; PRT–42321B

Applicant: Peter Brownell, Grinell, LA; PRT–43912B

Brenda Tapia,

Program Analyst/Data Administrator, Branch of Permits, Division of Management Authority.

[FR Doc. 2014–23741 Filed 10–3–14; 8:45 am]

BILLING CODE 4310–55–P

INTERNATIONAL TRADE COMMISSION

Investigation No. 731–TA–1022 (Second Review)

Refined Brown Aluminum Oxide From China

Determination

On the basis of the record [1] developed in the subject five-year review, the United States International Trade Commission (''Commission'') determines, pursuant to section 751(c) of the Tariff Act of 1930 (19 U.S.C. 1675(c)), that revocation of the antidumping duty order on refined brown aluminum oxide from China would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.

Background

The Commission instituted this review on February 3, 2014 (79 FR 6225) and determined on May 9, 2014 that it would conduct an expedited review (79 FR 48248, August 15, 2014).

The Commission completed and filed its determination in this review on October 1, 2014. The views of the Commission are contained in USITC Publication 4492 (October 2014), entitled *Refined Brown Aluminum Oxide from China: Investigation No. 731–TA–1022 (Second Review).*

By order of the Commission.

Issued: October 1, 2014.

Lisa R. Barton,

Secretary to the Commission.

[FR Doc. 2014–23801 Filed 10–3–14; 8:45 am]

BILLING CODE 7020–02–P

[1] The record is defined in sec. 207.2(f) of the Commission's Rules of Practice and Procedure (19 CFR § 207.2(f)).

INTERNATIONAL TRADE COMMISSION

[Investigation No. 332–345]

Recent Trends in U.S. Services Trade, 2015 Annual Report

AGENCY: United States International Trade Commission.

ACTION: Schedule for 2015 report and opportunity to submit information.

SUMMARY: The Commission has prepared and published annual reports in this series under investigation No. 332–345, Recent Trends in U.S. Services Trade, since 1996. The 2015 report, which the Commission plans to publish in April 2015, will provide aggregate data on cross-border trade in services for the period ending in 2013, and transactions by affiliates based outside the country of their parent firm for the period ending in 2012. The report's analysis will focus on distribution services (logistics, maritime transport, and retail services). The Commission is inviting interested members of the public to furnish information and views in connection with the 2015 report.

DATES: November 6, 2014: Deadline for filing written submissions.

April 30, 2015: Anticipated date for publishing the report.

ADDRESSES: All Commission offices are located in the United States International Trade Commission Building, 500 E St. SW., Washington, DC. All written submissions should be addressed to the Secretary, United States International Trade Commission, 500 E St. SW., Washington, DC 20436. The public record for this investigation may be viewed on the Commission's electronic docket information system (EDIS) at *https://edis.usitc.gov/edis3-internal/app.*

FOR FURTHER INFORMATION CONTACT: Project Leader Erick Oh (202–205–3033 or *erick.oh@usitc.gov*) or Acting Services Division Chief Jennifer Powell (202–205–3250 or *jennifer.powell@usitc.gov*) for information specific to this investigation. For information on the legal aspects of these investigations, contact William Gearhart of the Commission's Office of the General Counsel (202–205–3091 or *william.gearhart@usitc.gov*). The media should contact Margaret O'Laughlin, Office of External Relations (202–205–1819 or *margaret.olaughlin@usitc.gov*). Hearing-impaired individuals may obtain information on this matter by contacting the Commission's TDD terminal at 202–205–1810. General information concerning the Commission may also be obtained by accessing its Internet server *http://www.usitc.gov.* Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000.

Background: The 2015 annual services trade report will provide aggregate data on cross-border trade and

affiliate transactions in services, and more specific data and information on trade in distribution services (logistics, maritime transport, and retail services). Under Commission investigation No. 332–345, the Commission publishes two annual reports, one on services trade (Recent Trends in U.S. Services Trade), and a second on merchandise trade (Shifts in U.S. Merchandise Trade). The Commission's 2014 annual report in the series of reports on Recent Trends in U.S. Services Trade is now available online at *http://www.usitc.gov.*

The initial notice of institution of this investigation was published in the **Federal Register** on September 8, 1993 (58 FR 47287) and provided for what is now the report on merchandise trade. The Commission expanded the scope of the investigation to cover services trade in a separate report, which it announced in a notice published in the **Federal Register** on December 28, 1994 (59 FR 66974). The separate report on services trade has been published annually since 1996, except in 2005. As in past years, the report will summarize trade in services in the aggregate and provide analyses of trends and developments in selected services industries during the latest period for which data are published by the U.S. Department of Commerce, Bureau of Economic Analysis. As indicated above, the 2015 report will focus on trade in distribution services (logistics, maritime transport, and retail services).

Written Submissions: Interested parties are invited to file written submissions and other information concerning the matters to be addressed by the Commission in its report on this investigation. For the upcoming 2015 annual report, the Commission is particularly interested in receiving information relating to trade in distribution services (logistics, maritime transport, and retail services). Submissions should be addressed to the Secretary. To be assured of consideration by the Commission, written submissions related to the Commission's report should be submitted at the earliest practical date and should be received not later than 5:15 p.m., November 6, 2014. All written submissions must conform with the provisions of section 201.8 of the Commission's Rules of Practice and Procedure (19 CFR 201.8). Section 201.8 and the Commission's Handbook on Filing Procedures require that interested parties file documents electronically on or before the filing deadline and submit eight (8) true paper copies by 12:00 p.m. eastern time on the next business day. In the event that confidential treatment of a document is requested, interested parties must file, at the same time as the eight paper copies, at least four (4) additional true paper copies in which the confidential information must be deleted (see the paragraph below for further information regarding confidential business information). Persons with questions regarding electronic filing should contact the Secretary (202–205–2000).

The Commission intends to publish summaries of the positions of interested persons in this report. If you wish to have a summary of your position included in an appendix of the report, please include a summary with your written submission. The summary may not exceed 500 words, should be in MSWord format or a format that can be easily converted to MSWord, and should not include any confidential business information. The summary will be published as provided if it meets these requirements and is germane to the subject matter of the investigation. In the report the Commission will identify the name of the organization furnishing the summary, and will include a link to the Commission's Electronic Document Information System (EDIS) where the full written submission can be found.

Any submissions that contain confidential business information (CBI) must also conform with the requirements in section 201.6 of the Commission's Rules of Practice and Procedure (19 CFR 201.6). Section 201.6 of the rules requires that the cover of the document and the individual pages be clearly marked as to whether they are the ''confidential'' or ''non-confidential'' version, and that the confidential business information is clearly identified by means of brackets. All written submissions, except for confidential business information, will be made available for inspection by interested parties.

The Commission intends to prepare only a public report in this investigation. The report that the Commission makes available to the public will not contain confidential business information. Any confidential business information received by the Commission in this investigation and used in preparing the report will not be published in a manner that would reveal the operations of the firm supplying the information.

Issued: October 1, 2014.

By order of the Commission.

Lisa R. Barton,

Secretary to the Commission.

[FR Doc. 2014–23753 Filed 10–3–14; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Notice of Lodging of Proposed Consent Decree Under the Clean Air Act

Notice is hereby given that, for a period of 30 days, the United States will receive public comments on a proposed Consent Decree in *United States* v. *Delek Refining, Ltd.* (Civil Action No. 6:14–cv–0783), which was lodged with the United States District Court for the Eastern District of Texas on September 29, 2014.

The Complaint in this Clean Air Act case was filed against Delek Refining, Ltd. (''Delek'') concurrently with the lodging of the proposed Consent Decree. This is a civil action brought pursuant to Section 113(b)(2) of the Clean Air Act (''CAA''), 42 U.S.C. 7413(b)(2), against Delek for alleged violations of Sections 112(r)(1) and 112(r)(7)(E) of the CAA, 42 U.S.C. 7412(r)(1) and 7412(r)(7)(E), and the Chemical Accident Prevention Provisions promulgated at 40 CFR Part 68 (the ''Risk Management Program'' regulations) at Delek's petroleum refinery located at 1702 East Commerce Street in Tyler, Texas (''Refinery''). Delek's alleged violations relate to acts and omissions leading up to and following a pipe rupture and fire that occurred at the Refinery on November 20, 2008. Pursuant to Section 113(b)(2) of the CAA, 42 U.S.C. 7413(b)(2), the United States seeks the assessment of civil penalties and injunctive relief based on Delek's violations of Section 112(r) of the Act and the Risk Management Program regulations. The Consent Decree proposes to resolve the civil action by requiring Delek to perform corrective measures and pay a penalty of $475,000.

The publication of this notice opens a period for public comment on the proposed Consent Decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and should refer to *United States* v. *Delek Refining, Ltd.,* D.J. Ref. No. 90–5–2–1–08279/1. All comments must be submitted no later than thirty (30) days after the publication date of this notice. Comments may be submitted either by email or by mail:

To submit comments:	*Send them to:*
By email	*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 proposed Consent Decree may be examined and downloaded at this Justice Department Web site: *http://www.usdoj.gov/enrd/Consent_Decrees.html.* We will provide a paper copy of the proposed Consent Decree 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 $3.75 (25 cents per page reproduction cost) payable to the United States Treasury.

Maureen Katz,

Assistant Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 2014–23749 Filed 10–3–14; 8:45 am]

BILLING CODE 4410–15–P

DEPARTMENT OF JUSTICE

Notice of Lodging of Proposed Consent Decree Under the Clean Water Act and the Clean Air Act

On September 25, 2014, the Department of Justice lodged with the United States District Court for the Southern District of Iowa a proposed Consent Decree in *United States* v. *Griffin Pipe Products Co., LLC,* Civil Action No. 1:14-cv-00027–JAJ–RAW.

This civil action asserts claims for civil penalties and other appropriate relief against Griffin Pipe Products Co., LLC for alleged violations of the Clean Air Act, 42 U.S.C. 7410, and the Iowa State Implementation Plan adopted thereunder, and the Clean Water Act, 33 U.S.C. 1311, 1317, 1318, and 1342, at the Defendant's facility located in Council Bluffs, Iowa. To resolve the United States' claims Defendant will pay a civil penalty of $950,000 and implement other appropriate mitigation measures.

The publication of this notice opens a period for public comment on the Consent Decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and should refer to *United States* v. *Griffin Pipe Products Co., LLC,* Civil Action No. 1:14–cv–00027–JAJ–RAW, DJ Reference Number 90–5–2–1–10126.

All comments must be submitted no later than thirty (30) days after the publication date of this notice. Comments may be submitted either by email or by mail:

To submit comments:	*Send them to:*
By email	*pubcomment-ees.enrd@usdoj.gov.*
By mail	Assistant Attorney General, U.S. DOJ—ENRD, P.O. Box 7611, Washington, D.C. 20044–7611.

During the public comment period, the Consent Decree may be examined and downloaded at this Justice Department Web site: *http://www.usdoj.gov/enrd/Consent_Decrees.html.* We will provide a paper copy of the Consent Decree 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 $ 5.50 (25 cents per page reproduction cost) payable to the United States Treasury.

Susan M. Akers,

Assistant Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 2014–23679 Filed 10–3–14; 8:45 am]

BILLING CODE 4410–15–P

DEPARTMENT OF JUSTICE

Notice of Lodging of Proposed Settlement Agreement under the Comprehensive Environmental Response, Compensation, and Liability Act

On September 29, 2014, a proposed Consent Decree was lodged with the United States District Court for the Western District of Oklahoma in the case entitled *U.S.* v. *Blackwell Zinc Company, Inc., et al.,* Case No. 5:14–cv–01050–M (W.D. Okla.).

The Consent Decree resolves claims in a Complaint filed the same day under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, 42 U.S.C. 9601 *et seq.,* relating to the Blackwell Zinc Superfund Site located in Blackwell, Kay County, Oklahoma (the ''Site''). The Complaint seeks the recovery of response costs at the Site against Blackwell Zinc Company, Inc. and the Blackwell Industrial Authority (''Settling Defendants'') and a declaratory judgment for future response costs. Under the proposed Consent Decree, Settling Defendants will pay EPA $547,931.39 in past response costs, *i.e.,* costs incurred through August 31, 2013, as well as EPA's costs at the Site costs incurred after August 31, 2013 and through September 1, 2023.

The publication of this notice opens a period for public comment on the proposed Consent Decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and should refer to *U.S.* v. *Blackwell Zinc Company, Inc., et al.,* Case No. 5:14–cv–01050–M (W.D. Okla.), D.J. Ref. No. 90–11–3–08495. All comments must be submitted no later than thirty (30) days after the publication date of this notice. Comments may be submitted either by email or by mail:

To submit comments:	Send them to:
By email	*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 proposed consent decree may be examined and downloaded at this Justice Department Web site: *http://www.usdoj.gov/enrd/Consent_Decrees.html.* We will provide a paper copy of the proposed consent decree 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 $8.75 (25 cents per page reproduction cost) payable to the United States Treasury.

Maureen Katz,

Assistant Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 2014–23774 Filed 10–3–14; 8:45 am]

BILLING CODE 4410–15–P

LIBRARY OF CONGRESS

Copyright Royalty Board

[Docket No. 14–CRB–0006 DART SR (2013)]

Distribution of 2013 DART Sound Recordings Fund Royalties

AGENCY: Copyright Royalty Board, Library of Congress.

ACTION: Notice soliciting comments on motion for partial distribution.

SUMMARY: The Copyright Royalty Judges solicit comments on a motion for partial distribution in connection with 2013 DART Sound Recordings Fund royalties.

DATES: Comments are due on or before November 5, 2014.

ADDRESSES: The Notice and Request is posted on the agency's Web site (*www.loc.gov/crb*). Submit electronic comments to *crb@loc.gov.* See the Supplementary Information section below for instructions on submitting comments in other formats.

FOR FURTHER INFORMATION CONTACT: LaKeshia Keys, Program Specialist, by telephone at (202) 707–7658 or email at *crb@loc.gov.*

SUPPLEMENTARY INFORMATION: On August 19, 2014, the Alliance of Artists and Recording Companies (''AARC''), on behalf of itself and claimants with which it has reached settlements (the ''Settling Claimants'') filed with the Copyright Royalty Judges (Judges) a *Notice of Settlement and Request for Partial Distribution of the 2013 DART Sound Recordings Fund Featured Recording Artists and Copyright Owners Subfunds Royalties* (''Notice and Request''). In the Notice and Request, AARC states that the Settling Claimants have reached a settlement among themselves concerning distribution of the 2013 DART Sound Recordings Fund Royalties. With respect to the Featured Recording Artists Subfund, AARC represents that it has reached settlements with all but three claimants for that subfund and that the nonsettling claimants have unit sales totaling 76,269.86[1] in a universe of over one billion claimants' sound recordings sold in 2013. *Notice and Request* at 2. With respect to the Copyright Owners Subfund, AARC represents that it has reached settlements with all but five claimants. AARC represents that the nonsettling claimants have combined unit sales of 16,693 in a universe of over one billion claimants' record sales in 2013. *Id.*

AARC requests a partial distribution of 98% from each of the subfunds pursuant to Section 801(b)(3)(C) of the Copyright Act. Under that section of the Copyright Act, before ruling on a partial distribution motion the Judges must publish a notice in the **Federal Register** seeking responses to the motion to ascertain whether any claimant entitled to receive such royalty fees has a reasonable objection to the proposed distribution. Consequently, this Notice seeks comments from interested claimants on whether any reasonable objection exists that would preclude the distribution of 98% of the 2013 DART Sound Recordings Royalty funds (Featured Recording Artists Subfund and Copyright Owners Subfund) to the Settling Claimants. ANY PARTY WISHING TO ADVISE THE JUDGES OF THE EXISTENCE AND EXTENT OF AN OBJECTION MUST DO SO, IN WRITING, BY THE END OF THE COMMENT PERIOD. THE JUDGES WILL NOT CONSIDER ANY OBJECTIONS WITH RESPECT TO THE PARTIAL DISTRIBUTION MOTION THAT COME TO THEIR ATTENTION AFTER THE CLOSE OF THAT PERIOD.

The Judges have received notice of apparent objections from non-settling claimants George Clinton and Ronald Ford (by email, which is not an acceptable method of filing), and Eugene Curry/Tajai Music Inc., all appearing *pro se.* All three claimants state, *inter alia,* that the figures representing sales of their copyrighted material were not accurately calculated by the moving party's expert. *Notice of Individual Claimant Eugene Curry/Tajai Music Inc, for the Request for the Distribution of the Remaining 2% of the Copyright Owners 2013 Subfund Royalties at 1 (September 19, 2014); Email to crb (Copyright Royalty Board) from Carlon Thompson regarding claimants Clinton and Ford at 2 (August 25, 2014, 1:43 p.m.).*

The Judges will also accept comments addressing the three claimants' informal objections by the end of the comment period.

How To Submit Comments

Interested claimants must submit comments to only one of the following addresses. Unless responding by email, claimants must submit an original, five paper copies, and an electronic version on a CD.

Email: crb@loc.gov; or

U.S. mail: Copyright Royalty Board, PO Box 70977, Washington, DC 20024–0977; or

Overnight service (only USPS Express Mail is acceptable): Copyright Royalty Board, P.O. Box 70977, Washington, DC 20024–0977; or

Commercial courier: Address package to: Copyright Royalty Board, Library of Congress, James Madison Memorial Building, LM–403, 101 Independence Avenue SE., Washington, DC 20559–6000. Deliver to: Congressional Courier Acceptance Site, 2nd Street NE and D Street NE., Washington, DC; or

Hand delivery: Library of Congress, James Madison Memorial Building, LM–401, 101 Independence Avenue SE., Washington, DC 20559–6000.

Dated: September 30, 2014.

Suzanne M. Barnett,

Chief U.S. Copyright Royalty Judge.

[FR Doc. 2014–23654 Filed 10–3–14; 8:45 am]

BILLING CODE 1410–72–P

[1] The decimal in this figure represents credit for part of the sale of an album. Mr. Clinton and Mr. Ford have some tracks on albums sold, and they get credit for those tracks.

NUCLEAR REGULATORY COMMISSION

[Docket No. NRC–2013–0085]

Agency Information Collection Activities: Submission for the Office of Management and Budget (OMB) Review; Comment Request

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of the OMB review of information collection and solicitation of public comment.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) has recently submitted to OMB for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35). The NRC hereby informs potential respondents that an agency may not conduct or sponsor, and that a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The NRC published a **Federal Register** notice with a 60-day comment period on this information collection May 14, 2013.

1. *Type of submission, new, revision, or extension:* Revision.

2. *The title of the information collection:* 10 CFR Part 50, ''Domestic Licensing of Production and Utilization Facilities.''

3. *Current OMB approval number:* 3150–0011.

4. *The form number if applicable:* Not applicable.

5. *How often the collection is required:* As necessary in order for the NRC to meet its responsibilities to conduct a detailed review of applications for licenses and amendments thereto to construct and operate nuclear power plants, preliminary or final design approvals, design certifications, research and test facilities, reprocessing plants and other utilization and production facilities, licensed pursuant to the Atomic Energy Act of 1954, as amended (the Act) and to monitor their activities. Reports are submitted daily, monthly, quarterly, annually, semi-annually, and on occasion.

6. *Who will be required or asked to report:* Licensees and applicants for nuclear power plants and research and test facilities.

7. *An estimate of the number of annual responses:* 45,202.

8. *The estimated number of annual respondents:* 151.

9. *An estimate of the total number of hours needed annually to complete the requirement or request:* 4.38M hours; 1.64M hours reporting (an average of 36.5 hrs/response) + 2.73M hours recordkeeping (an average of 18.1K hrs/recordkeeper).

10. *Abstract:* Part 50 of Title 10 of the *Code of Federal Regulations* (10 CFR), ''Domestic Licensing of Production and Utilization Facilities,'' specifies technical information and data to be provided to the NRC or maintained by applicants and licensees so that the NRC may take determinations necessary to protect the health and safety of the public, in accordance with the Act. The reporting and recordkeeping requirements contained in 10 CFR part 50 are mandatory for the affected licensees and applicants. The NRC has removed information collections associated with the generic communications program from the part 50 clearance. The NRC intends to obtain a separate OMB clearance for generic communications. Public comment was solicited on the generic communications program on July 30, 2014 (79 FR 44208).

The public may examine and have copied for a fee publicly-available documents, including the final supporting statement, at the NRC's Public Document Room, Room O–1F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852. The OMB clearance requests are available at the NRC's Web site: *http://www.nrc.gov/public-involve/doc-comment/omb/.* The document will be available on the NRC's home page site for 60 days after the signature date of this notice.

Comments and questions should be directed to the OMB reviewer listed below by November 5, 2014. Comments received after this date will be considered if it is practical to do so, but assurance of consideration cannot be given to comments received after this date.

Danielle Jones, Desk Officer,
Office of Information and Regulatory Affairs (3150–0011),
NEOB–10202,
Office of Management and Budget,
Washington, DC 20503.

Comments can also be emailed to *Danielle_Y_Jones@omb.eop.gov* or submitted by telephone at 202–395–1741.

The NRC Clearance Officer is Tremaine Donnell, telephone: 301–415–6258.

Dated at Rockville, Maryland, this 30th day of September, 2014.

For the Nuclear Regulatory Commission.

Tremaine Donnell,

NRC Clearance Officer, Office of Information Services.

[FR Doc. 2014–23675 Filed 10–3–14; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. NRC–2014–0141]

Agency Information Collection Activities: Submission for the Office of Management and Budget (OMB) Review; Comment Request

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of the OMB review of information collection and solicitation of public comment.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) has recently submitted to OMB for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35). The NRC hereby informs potential respondents that an agency may not conduct or sponsor, and that a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The NRC published a **Federal Register** notice with a 60-day comment period on this information collection on July 21, 2014.

1. *Type of submission, new, revision, or extension:* Extension.

2. *The title of the information collection:* 10 CFR Part 9, ''Public Records.''

3. *Current OMB approval number:* 3150–0043.

4. *The form number if applicable:* NRC Form 509; NRC Form 509A.

5. *How often the collection is required:* On Occasion.

6. *Who will be required or asked to report:* Individuals requesting access to records under the Freedom of Information (FOIA) or Privacy Acts (PA), through the Public Document Room (PDR), and submitters of information containing trade secrets or confidential commercial or financial information who have been notified that the NRC has made an initial determination that the information should be disclosed.

7. *An estimate of the number of annual responses:* 6,970.

8. *The estimated number of annual respondents:* 6,970.

9. *An estimate of the total number of hours needed annually to complete the requirement or request:* 1,968.1.

10. *Abstract:* Part 9 of Title 10 of the *Code of Federal Regulations* (10 CFR), prescribes procedures for individuals making requests for records under the FOIA or PA, and through the PDR. It contains information collection requirements for requests to waive or reduce fees for searching for and reproducing records in response to FOIA requests; appeals of denied requests; and requests for expedited processing. The information required from the public is necessary to justify requests for waivers or reductions in searching or copying fees; or to justify expedited processing. Section 9.28(b) provides that if the submitter of information designated to be trade secrets or confidential commercial or financial information objects to the disclosure, he must provide a written statement within 30 days that specifies all grounds why the information is a trade secret or commercial or financial information that is privileged or confidential.

The public may examine and have copied for a fee publicly-available documents, including the final supporting statement, at the NRC's Public Document Room, Room O–1F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852. The OMB clearance requests are available at the NRC's Web site: *http://www.nrc.gov/public-involve/doc-comment/omb/.* The document will be available on the NRC's home page site for 60 days after the signature date of this notice.

Comments and questions should be directed to the OMB reviewer listed below by November 5, 2014. Comments received after this date will be considered if it is practical to do so, but assurance of consideration cannot be given to comments received after this date.

Danielle Jones, Desk Officer,
Office of Information and Regulatory Affairs (3150–0043),
NEOB–10202,
Office of Management and Budget,
Washington, DC 20503.

Comments can also be emailed to *Danielle_Y_Jones@omb.eop.gov* or submitted by telephone at 202–395–1741.

The NRC Clearance Officer is Tremaine Donnell, telephone: 301–415–6258.

Dated at Rockville, Maryland, this 30th day of September, 2014.

For the Nuclear Regulatory Commission.

Tremaine Donnell,

NRC Clearance Officer, Office of Information Services.

[FR Doc. 2014–23676 Filed 10–3–14; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. NRC–2014–0215]

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of pending NRC action to submit an information collection request to the Office of Management and Budget (OMB) and solicitation of public comment.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) invites public comment about our intention to request the OMB's approval for renewal of an existing information collection that is summarized below. We are required to publish this notice in the **Federal Register** notice under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35).

Information pertaining to the requirement to be submitted:

1. *The title of the information collection:* 10 CFR part 73, ''Physical Protection of Plants and Materials.''

2. *Current OMB approval number:* 3150–0002.

3. *How often the collection is required:* On occasion, with the exception of the initial submittal of revised Cyber Security Plans, Security Plans, Safeguards Contingency Plans, and Security Training and Qualification Plans. Required reports are submitted and evaluated as events occur.

4. *Who is required or asked to report:* Nuclear power reactor licensees, licensed under part 50 or 52 of Title 10 of the *Code of Federal Regulations* (10 CFR), who possess, use, import, export, transport, or deliver to a carrier for transport, special nuclear material; actively decommissioning reactor licensees, Category I fuel facilities; Category II and III facilities; non-power reactors (research and test reactors); other nuclear materials licensees; and state and Tribal contacts.

5. *The number of annual respondents: 581.*

6. *The number of hours needed annually to complete the requirement or request:* 543,280 (21,255 hours reporting + 486,535 hours recordkeeping + 35,490 hours third party disclosure).

7. *Abstract:* The NRC's regulations in 10 CFR part 73 prescribe requirements to establish and maintain a physical protection system and security organization with capabilities for protection of (1) Special nuclear material (SNM) at fixed sites, (2) SNM in transit, and (3) plants in which SNM is used. The objective is to ensure that activities involving special nuclear material are consistent with interests of common defense and security and that these activities do not constitute an unreasonable risk to public health and safety. The information in the reports and records submitted by licensees is used by the NRC staff to ensure that the health and safety of the public and the environment are protected, and licensee possession and use of special nuclear material is in compliance with license and regulatory requirements.

Submit, by December 5, 2014, comments that address the following questions:

1. Is the proposed collection of information necessary for the NRC to properly perform its functions? Does the information have practical utility?

2. Is the burden estimate accurate?

3. Is there a way to enhance the quality, utility, and clarity of the information to be collected?

4. How can the burden of the information collection be minimized, including the use of automated collection techniques or other forms of information technology?

The public may examine and have copied for a fee publicly-available documents, including the draft supporting statement, at the NRC's Public Document Room, Room O–1F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852. The OMB clearance requests are available at the NRC's Web site: *http://www.nrc.gov/public-involve/doc-comment/omb/.* The document will be available on the NRC's home page site for 60 days after the signature date of this notice.

Comments submitted in writing or in electronic form will be made available for public inspection. Because your comments will not be edited to remove any identifying or contact information, the NRC cautions you against including any information in your submission that you do not want to be publicly disclosed. Comments submitted should reference Docket No. NRC–2014–0215. You may submit your comments by any of the following methods: Electronic comments go to *http://www.regulations.gov* and search for Docket No. NRC–2014–0215. Mail comments to the NRC Clearance Officer, Tremaine Donnell (T–5 F53), U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

Questions about the information collection requirements may be directed to the NRC Clearance Officer, Tremaine Donnell (T–5 F53), U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, by telephone at 301–415–6258, or by email to *INFOCOLLECTS.Resource@NRC.GOV.*

Dated at Rockville, Maryland, this 30th day of September, 2014.

For the Nuclear Regulatory Commission.

Tremaine Donnell,

NRC Clearance Officer, Office of Information Services.

[FR Doc. 2014–23674 Filed 10–3–14; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2014–0209]

Nonmetallic Thermal Insulation for Austenitic Stainless Steel

AGENCY: Nuclear Regulatory Commission.

ACTION: Draft regulatory guide; request for comment.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is issuing for public comment draft regulatory guide (DG), DG–1312, ''Nonmetallic Thermal Insulation for Austenitic Stainless Steel,'' also known as Regulatory Guide (RG) 1.36. The NRC is proposing to revise the guidance toreflect the most current versions of voluntary consensus standards since the initial publication of RG 1.36 in February 1973. The guide describes methods and procedures that the staff of the NRC considers acceptable when selecting and using nonmetallic thermal insulation in the stainless steel portions of the reactor coolant pressure boundary and other systems, in order to minimize any contamination that could promote stress-corrosion cracking. This RG applies to light-water-cooled reactors.

DATES: Submit comments by November 5, 2014. Comments received after this date will be considered if it is practical to do so, but the NRC is able to ensure consideration only for comments received on or before this date. Although a time limit is given, comments and suggestions in connection with items for inclusion in guides currently being developed or improvements in all published guides are encouraged at any time.

ADDRESSES: You may submit comments by any of the following methods (unless this document describes a different

method for submitting comments on a specific subject):

• Federal Rulemaking Web site: Go to *http://www.regulations.gov* and search for Docket ID NRC–2014–0209. Address questions about NRC dockets to Carol Gallagher; telephone: 301–287–3422; email: *Carol.Gallagher@nrc.gov.* For technical questions, contact the individuals listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.

• Mail comments to: Cindy Bladey, Office of Administration, Mail Stop: 3WFN–06–A44M, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

For additional direction on obtaining information and submitting comments, see ''Obtaining Information and Submitting Comments'' in the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: David W. Alley, Office of Nuclear Reactor Regulation, telephone: 301–415–2178, email: *Dave.Alley@nrc.gov,* or Rick Jervey, Office of Nuclear Regulatory Research, telephone: 301–251–7404, email: *Richard.Jervey@nrc.gov.* Both are staff of the U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

SUPPLEMENTARY INFORMATION:

I. Obtaining Information and Submitting Comments

A. Obtaining Information

Please refer to Docket ID NRC–2014–0209 when contacting the NRC about the availability of information for this action. You may obtain publicly-available information related to this action by any of the following methods:

• Federal rulemaking Web site: Go to *http://www.regulations.gov* and search for Docket ID NRC–2014–0209.

• NRC's Agencywide Documents Access and Management System (ADAMS): You may obtain publicly-available documents online in the ADAMS Public Documents collection at *http://www.nrc.gov/reading-rm/adams.html.* To begin the search, select ''*ADAMS Public Documents''* and then select ''*Begin Web-based ADAMS Search.''* For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov.* The ADAMS accession number for each document referenced (if it is available in ADAMS) is provided the first time that it is mentioned in the **SUPPLEMENTARY INFORMATION** section.

• NRC's PDR: You may examine and purchase copies of public documents at the NRC's PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

B. Submitting Comments

Please include Docket ID NRC–2014–0209 in the subject line of your comment submission, in order to ensure that the NRC is able to make your comment submission available to the public in this docket.

The NRC cautions you not to include identifying or contact information in comment submissions that you do not want to be publicly disclosed in your comment submission. The NRC will post all comment submissions at *http://www.regulations.gov* as well as enter the comment submissions into ADAMS, and the NRC does not routinely edit comment submissions to remove identifying or contact information.

If you are requesting or aggregating comments from other persons for submission to the NRC, then you should inform those persons not to include identifying or contact information that they do not want to be publicly disclosed in their comment submission. Your request should state that the NRC does not routinely edit comment submissions to remove such information before making the comment submissions available to the public or entering the comment into ADAMS.

II. Additional Information

The NRC is issuing for public comment a draft guide in the NRC's ''Regulatory Guide'' series. This series was developed to describe and make available to the public such information as methods that are acceptable to the NRC staff for implementing specific parts of the NRC's regulations, techniques that the staff uses in evaluating specific problems or postulated accidents, and data that the staff needs in its review of applications for permits and licenses.

The DG, entitled, ''Nonmetallic Thermal Insulation for Austenitic Stainless Steel,'' is temporarily identified by its task number, DG–1312. This DG is a proposed revision 1 of RG 1.36. The RG describes methods and procedures that the staff of the NRC considers acceptable when selecting and using nonmetallic thermal insulation in the stainless steel portions of the reactor coolant pressure boundary and other systems, to minimize any contamination that could promote stress-corrosion cracking. This guide applies to light-water-cooled reactors. This guidance has been revised to update to the current industry standards which have changed since the initial publication of RG 1.36 in February 1973. The changes update the related standards to those currently available for use. Each type of insulating material should meet the requirements of American Society for Testing and Materials (ASTM) C795, ''Standard Specification for Thermal Insulation for Use in Contact with Austenitic Stainless Steel,'' including, but not limited to, a preproduction corrosion test in accordance with ASTM C692, ''Test Method for Evaluating the Influence of Thermal Insulation on External Stress Corrosion Cracking Tendency of Austenitic Stainless Steel,'' and a chemical analysis acceptance test for each lot of material in accordance with ASTM C871, ''Test Method for Chemical Analysis of Thermal Insulation Materials for Leachable Chloride, Fluoride, Silicate and Sodium Ions.''

III. Backfitting and Issue Finality

Draft regulatory guide-1312/Regulatory Guide 1.36, Revision 1, if finalized, would provide guidance on one acceptable way of meeting the requirements in GDC 1 and GDC 14 with respect to stress-corrosion cracking in austenic steel portions of the reactor coolant pressure boundary which are caused in part by contact with nonmetallic thermal insulation. This DG, if finalized, would not constitute backfitting as defined in § 50.109 of Title 10 of the *Code of Federal Regulations* (10 CFR) (the Backfit Rule), and is not otherwise inconsistent with the issue finality provisions in 10 CFR part 52, ''Licenses, Certifications and Approvals for Nuclear Power Plants.'' The NRC's position is based upon the following considerations.

Existing licensees, part 50 construction permit holders and part 50 operating license holders, and applicants of final design certification rules would not be required to comply with the positions set forth in DG–1312/RG 1.36, Revision 1, if finalized, unless the construction permit or an operating license holder makes a voluntary change to its licensing basis with respect to non-metallic thermal insulation in contact with austenitic stainless steel, and the NRC determines that the safety review must include consideration of the matters addressed in this draft regulatory guide.

Existing design certification rules would not be required to be amended to comply with the positions set forth in DG–1312 unless the NRC addresses the issue finality provisions in 10 CFR 52.63(a).

Existing combined license holders (referencing the AP1000 design certification rule in 10 CFR part 52, Appendix D) would not be required to comply with the positions set forth in DG–1312 unless the NRC addresses the issue finality provisions in 10 CFR 52.63(a).

Draft Regulatory Guide-1312 may be applied to current applications for operating licenses, combined licenses, and certified design rules docketed by the NRC as of the date of issuance of the revision to the regulatory guide, as well as future applications submitted after the issuance of the revised regulatory guide. Such action would not constitute backfitting as defined in § 50.109(a)(1) or be otherwise inconsistent with the applicable issue finality provision in 10 CFR part 52. Neither the Backfit Rule nor the issue finality provisions under part 52—with certain exclusions discussed below—were intended to every NRC action which substantially changes the expectations of current and future applicants.

The exceptions to the general principle are applicable whenever a combined license applicant references a part 52 license (e.g., an early site permit) and/or NRC regulatory approval (e.g., a design certification rule) with specified issue finality provisions. The NRC does not, at this time, intend to impose the positions represented in the DG, if finalized, on combined license applicants in a manner that is inconsistent with any issue finality provisions. If, in the future, the NRC seeks to impose a position in the DG, if finalized, in a manner which does not provide issue finality as described in the applicable issue finality provision, then the NRC must address the criteria for avoiding issue finality as described applicable issue finality provision.

Dated at Rockville, Maryland, this 30th day of September, 2014.

For the Nuclear Regulatory Commission.

Harriet Karagiannis,

Acting Chief, Regulatory Guidance and Generic Issues Branch, Division of Engineering, Office of Nuclear Regulatory Research.

[FR Doc. 2014–23743 Filed 10–3–14; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2014–0210]

Applications of Bioassay for Uranium

AGENCY: Nuclear Regulatory Commission.

ACTION: Draft regulatory guide; request for comment.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is issuing for public comment draft regulatory guide (DG), DG–8054, ''Applications of Bioassay for Uranium.'' This guidance provides acceptable guidance for NRC licensees, for the development and implementation of a bioassay program that will monitor the intake of mixtures of the naturally occurring isotopes of uranium (U–234, U–235, and U–238) by occupational workers. A bioassay is a determination of the kind, quantity, location, or retention of radionuclides in the body by direct (in vivo) measurement or by indirect (in vitro) analysis of material excreted or removed from the body.

DATES: Submit comments by December 5, 2014. Comments received after this date will be considered if it is practical to do so, but the NRC is able to ensure consideration only for comments received on or before this date. Although a time limit is given, comments and suggestions in connection with items for inclusion in NRC regulatory guides currently being developed or improvements in all published NRC regulatory guides are encouraged at any time.

ADDRESSES: You may submit comments by any of the following methods (unless this document describes a different method for submitting comments on a specific subject):

- Federal Rulemaking Web site: Go to *http://www.regulations.gov* and search for Docket ID NRC–2014–0210. Address questions about NRC dockets to Carol Gallagher; telephone: 301–287–3422; email: *Carol.Gallagher@nrc.gov.* For technical questions, contact the individuals listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.
- Mail comments to: Cindy Bladey, Office of Administration, Mail Stop: 3WFN–06–A44M, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

For additional direction on obtaining information and submitting comments, see ''Obtaining Information and Submitting Comments'' in the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: Harriet Karagiannis, telephone: 301–251–7477; email: *harriet.karagiannis@nrc.gov* or Casper Sun, telephone: 301–251–7912; email: *casper.sun@nrc.gov.* Both are staff of the Office of Nuclear Regulatory Research, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

SUPPLEMENTARY INFORMATION:

Obtaining Information and Submitting Comments

A. Obtaining Information

Please refer to Docket ID NRC–2014–0210 when contacting the NRC about the availability of information regarding this document. You may obtain publicly-available information related to this document by any of the following methods:

- Federal Rulemaking Web site: Go to *http://www.regulations.gov* and search for Docket ID NRC–2014–0210. Address questions about NRC dockets to Carol Gallagher; telephone: 301–287–3422; email: *Carol.Gallagher@nrc.gov.* For technical questions, contact the individual(s) listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.
- NRC's Agencywide Documents Access and Management System (ADAMS): You may access publicly available documents online in the NRC Library at *http://www.nrc.gov/reading-rm/adams.html.* To begin the search, select ''*ADAMS Public Documents*'' and then select ''*Begin Web-Based ADAMS Search.*'' For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov.* The draft regulatory guide is available electronically under ADAMS Accession No. ML14133A599. The regulatory analysis may be found in ADAMS under Accession No. ML14133A612.
- NRC's PDR: You may examine and purchase copies of public documents at the NRC's PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, MD 20852.

B. Submitting Comments

Please include Docket ID NRC–2014–0210 in the subject line of your comment submission to ensure that the NRC is able to make your comment submission available to the public in this docket.

The NRC cautions you not to include identifying or contact information that you do not want to be publicly disclosed in your comment submission. The NRC will post all comment submissions at *http://www.regulations.gov* as well as enters the comment submissions into ADAMS. The NRC does not routinely edit comment submissions to remove identifying or contact information.

If you are requesting or aggregating comments from other persons for submission to the NRC, then you should inform those persons not to include

identifying or contact information that they do not want to be publicly disclosed in their comment submission. Your request should state that the NRC will not edit comment submissions to remove such information before making the comment submissions available to the public or entering the comment submissions into ADAMS.

II. Additional Information

The NRC is issuing for public comment a DG in the NRC's ''Regulatory Guide'' series. This series was developed to describe and make available to the public and the regulated community such information as methods that are acceptable to the NRC staff for implementing specific parts of the NRC's regulations, techniques that the staff uses in evaluating specific problems or postulated accidents, and data that the staff needs in its review of applications for permits and licenses.

This DG, entitled, ''Applications of Bioassay for Uranium,'' is temporarily identified by its task number, DG–8054. Draft regulatory guide, DG–8054 is a proposed revision to the NRC Regulatory Guide (RG) 8.11, ''Applications of Bioassay for Uranium,'' (Revision 1 of RG 8.11).

The NRC issued RG 8.11 in June 1974 to provide guidance to NRC licensees on methods of uranium bioassay that the NRC staff found acceptable to demonstrate compliance with the then-current version of NRC's radiation protection regulations in part 20 of Title 10 of the *Code of Federal Regulations* (10 CFR), ''Standards for Protection against Radiation.'' In a 1991 rulemaking, the NRC promulgated amendments to its radiation protection regulations in 10 CFR part 20 (May 21, 1991; 56 FR 23360). As such, DG–8054 cross-references to the relevant sections of the current 10 CFR part 20 regulations. In addition, DG–8054 endorses for use certain sections of a voluntary consensus standard, namely, the American National Standards Institute/Health Physics Society (ANSI/HPS) N13.22–2013 standard, ''Bioassay Programs for Uranium,'' as a means for licensees to demonstrate compliance with the NRC regulations, 10 CFR 20.1201, ''Occupational Dose Limits for Adults,'' and 10 CFR 20.1204, ''Determination of Internal Exposure.'' Specifically, 10 CFR 20.1201(e) requires NRC licensees to limit the soluble uranium intake to an occupational worker to 10 milligrams in a week, in addition to annual occupational dose limits, and 10 CFR 20.1204(a) requires NRC licensees to take suitable and timely measurements of the concentrations of radioactive materials in air in work areas and the quantities of radionuclides in the bodies of occupational workers. Finally, DG–8054 identifies the bioassay interpretation methods in the NRC document NUREG/CR–4884, ''Interpretation of Bioassay Measurement,'' as an acceptable method to comply with NRC requirements.

III. Backfitting and Issue Finality

This DG, if finalized, would apply to current and future holders of special nuclear material licenses under 10 CFR part 70 and certificates of compliance or approvals of a compliance plan for gaseous diffusion plants under 10 CFR part 76 if they are also applicants for or holders of special nuclear materials licenses under 10 CFR part 70. If DG–8054 is finalized and issued as a revision to RG 8.11, such issuance would not constitute backfitting under 10 CFR parts 70 or 76. As stated in the ''Implementation'' section of DG–8054, the NRC has no current intention to impose this regulatory guide on current holders of part 70 licenses or part 76 certificates of compliance.

This DG, if finalized as a revision to RG 8.11, could be applied to applications for part 70 licenses and part 76 certificates of compliance docketed by the NRC as of the date of issuance of the revised RG 8.11, as well as future such applications submitted after the issuance of the revised RG 8.11. Such action would not constitute backfitting as defined in 10 CFR 70.76 and 76.76 inasmuch as such applicants or potential applicants are not within the scope of entities protected by 10 CFR 70.76 and 76.76.

Dated at Rockville, Maryland, this 30th day of September, 2014.

For the Nuclear Regulatory Commission.

Thomas H. Boyce,

Chief, Regulatory Guidance and Generic Issues Branch, Division of Engineering, Office of Nuclear Regulatory Research.

[FR Doc. 2014–23719 Filed 10–3–14; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2013–0264]

Standard Format and Content for a License Application for an Independent Spent Fuel Storage Installation or a Monitored Retrievable Storage Facility

AGENCY: Nuclear Regulatory Commission.

ACTION: Regulatory guide; issuance.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is issuing a revision to Regulatory Guide (RG) 3.50, ''Standard Format and Content for a License Application for an Independent Spent Fuel Storage Installation or a Monitored Retrievable Storage Facility.'' This guide provides a format that the NRC staff considers acceptable for submitting the information for license applications to store spent nuclear fuel, high-level radioactive waste, and reactor-related Greater than Class C (GTCC) waste.

ADDRESSES: Please refer to Docket ID NRC–2013–0264 when contacting the NRC about the availability of information regarding this document. You may obtain publicly-available information related to this document using any of the following methods:

- *Federal Rulemaking Web site:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2014–0021. Address questions about NRC dockets to Carol Gallagher; telephone: 301–287–3422; email: *Carol.Gallagher@nrc.gov.* For technical questions, contact the individual(s) listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.
- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may access publicly available documents online in the NRC Library at *http://www.nrc.gov/reading-rm/adams.html.* To begin the search, select ''ADAMS Public Documents'' and then select ''*Begin Web-based ADAMS Search.''* For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov.* The ADAMS accession number for each document referenced in this notice (if that document is available in ADAMS) is provided the first time that a document is referenced. Revision 2 of Regulatory Guide 3.50 is available in ADAMS under Accession No. ML14043A080. The regulatory analysis may be found in ADAMS under Accession No. ML12087A039.
- *NRC's PDR:* You may examine and purchase copies of public documents at the NRC's PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

Regulatory guides are not copyrighted, and NRC approval is not required to reproduce them.

FOR FURTHER INFORMATION CONTACT: Bernie White, Office of Nuclear Material Safety and Safeguards, telephone: 301–287–0810; email *Bernie.White@nrc.gov* or Jazel Parks, Office of Nuclear Regulatory Research, telephone: 301–251–7690; email *Jazel.Parks@nrc.gov.* Both are staff of the U.S. Nuclear

Regulatory Commission, Washington, DC 20555–0001.

SUPPLEMENTARY INFORMATION:

I. Introduction

The NRC is issuing a revision to an existing guide in the NRC's ''Regulatory Guide'' series. This series was developed to describe and make available to the public information such as methods that are acceptable to the NRC staff for implementing specific parts of the agency's regulations, techniques that the staff uses in evaluating specific problems or postulated accidents, and data that the staff needs in its review of applications for permits and licenses.

Revision 2 of RG 3.50 provides a format that the NRC considers acceptable for submitting the information for license applications to store spent nuclear fuel, high-level radioactive waste, and/or reactor-related GTCC waste. Part 72 of Title 10 of the *Code of Federal Regulations* (10 CFR), ''Licensing Requirements for the Independent Storage of Spent Nuclear Fuel, High-Level Radioactive Waste, and Reactor-Related Greater Than Class C Waste'' Subpart B, ''License Application, Form, and Contents,'' specifies the information that must be in an application for a license to store spent nuclear fuel, high-level radioactive waste, and/or power-reactor-related GTCC waste in an independent spent fuel storage installation (ISFSI) or in a monitored retrievable storage (MRS) facility.

II. Additional Information

The NRC issued the draft version of Revision 2 of RG 3.50 with a temporary identification as draft regulatory guide (DG), DG–3042, and published notice of its issuance in the **Federal Register** on December 6, 2013 (78 FR 73566) for a 30-day public comment period. The public comment period closed on January 24, 2014. Public comments on DG–3042 and the staff responses to the public comments are available under ADAMS Accession Number ML14043A068.

III. Congressional Review Act

This RG is a rule as defined in the Congressional Review Act (5 U.S.C. 801–808). However, the Office of Management and Budget has not found it to be a major rule as defined in the Congressional Review Act.

IV. Backfitting and Issue Finality

This RG provides guidance on one possible means for meeting the NRC's regulatory requirements in 10 CFR part 72 regarding the format and content for license applications for an ISFSI or MRS. This regulatory guide may be applied to license applications for ISFSIs and MRSs docketed by the NRC as of the date of issuance of the final regulatory guide, as well as future applications for such licenses submitted after the issuance of the regulatory guide.

This regulatory guide does not constitute backfitting as defined in 10 CFR 72.62(a). The subject matter of this regulatory guide does not concern matters dealing with either the structures, systems, or components of an ISFSI or MRS, or the procedures or organization for operating an ISFSI or MRS. Therefore, the matters addressed in this draft regulatory guide are not within the scope of the backfitting provisions in § 72.62(a)(1) or (2).

This regulatory guide does not apply to entities protected by issue finality provisions in 10 CFR part 52 with respect to the matters addressed in this regulatory guide. Although part 52 combined license applicants and holders may apply for specific ISFSI licenses, the guidance in this regulatory guide is directed to ISFSI applicants and does not make a distinction between ISFSI applicants who are also combined license applicants or holders and ISFSI applicants who are not combined license applicants and holders, and presents no more onerous guidance for ISFSI applicants who are also combined license applicants or holders versus ISFSI applicants who are not combined license applicants and holders. Accordingly, the NRC concludes that this regulatory guide is not inconsistent with any part 52 issue finality provisions.

Dated at Rockville, Maryland, this 30th day of September, 2014.

For the Nuclear Regulatory Commission.

Harriett Karagiannis,

Acting Chief, Regulatory Guidance and Generic Issues Branch, Division of Engineering, Office of Nuclear Regulatory Research.

[FR Doc. 2014–23718 Filed 10–3–14; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–387, 50–388, and 72–28; NRC–2014–0211]

Susquehanna Steam Electric Station, Units 1 and 2; Consideration of Approval of Transfer of Licenses and Conforming Amendments

AGENCY: Nuclear Regulatory Commission.

ACTION: Application for indirect transfer of license; opportunity to comment, request a hearing, and petition for leave to intervene; order.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) received and is considering approval of an application filed by PPL Susquehanna, LLC (PPL Susquehanna) on July 11, 2014. The application seeks NRC approval of the indirect transfer of NPF–14 and NPF–22 for Susquehanna Steam Electric Station, Units 1 and 2 (SSES), as well as the general license for the SSES Independent Spent Fuel Storage Installation, from the current holder, PPL Corporation to Talen Energy Corporation. The NRC is also considering amending the combined licenses for administrative purposes to reflect the proposed transfer.

DATES: Comments must be filed by November 5, 2014. A request for a hearing must be filed by October 27, 2014. Any potential party as defined in Title 10 of the *Code of Federal Regulations* (10 CFR) 2.4 who believes access to Sensitive Unclassified Non-Safeguards Information (SUNSI) is necessary to respond to this notice must request document access by October 16, 2014.

ADDRESSES: You may submit comments by any of the following methods (unless this document describes a different method for submitting comments on a specific subject):

- *Federal rulemaking Web site:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2014–0211. Address questions about NRC dockets to Carol Gallagher; telephone: 301–287–3422; email: *Carol.Gallagher@nrc.gov.* For technical questions contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.
- *Email comments to: Hearingdocket@nrc.gov.* If you do not receive an automatic email reply confirming receipt, then contact us at 301–415–1677.
- *Fax comments to:* Secretary, U.S. Nuclear Regulatory Commission at 301–415–1101.
- *Mail comments to:* Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, ATTN: Rulemakings and Adjudications Staff.
- *Hand deliver comments to:* 11555 Rockville Pike, Rockville, Maryland 20852, between 7:30 a.m. and 4:15 p.m. (Eastern Time) Federal workdays; telephone: 301–415–1677.

For additional direction on accessing information and submitting comments, see ''Obtaining Information and Submitting Comments'' in the

SUPPLEMENTARY INFORMATION section of this document.

FOR FURTHER INFORMATION CONTACT: Jeffrey A. Whited, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, telephone: 301–415–4090; email: *Jeffrey.Whited@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Obtaining Information and Submitting Comments

A. Obtaining Information

Please refer to Docket ID NRC–2014–0211 when contacting the NRC about the availability of information regarding this document. You may access information related to this document, which the NRC possesses and is publicly available, by any of the following methods:

- *Federal Rulemaking Web site:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2014–0211.
- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may access publicly available documents online in the NRC Library at *http://www.nrc.gov/reading-rm/adams.html.* To begin the search, select ''ADAMS Public Documents'' and then select ''Begin Web-based ADAMS Search.'' For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov.* The application dated July 11, 2014, contains proprietary information and, accordingly, those portions are being withheld from public disclosure. A redacted version of the application is available electronically in ADAMS under Accession No. ML14195A110.
- *NRC's PDR:* You may examine and purchase copies of public documents at the NRC's PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

B. Submitting Comments

Please include Docket ID NRC–2014–0211 in the subject line of your comment submission, in order to ensure that the NRC is able to make your comment submission available to the public in this docket.

The NRC cautions you not to include identifying or contact information that you do not want to be publicly disclosed in your comment submission. The NRC will post all comment submissions at *http://www.regulations.gov* as well as enter the comment submissions into ADAMS. The NRC does not routinely edit comment submissions to remove identifying or contact information.

If you are requesting or aggregating comments from other persons for submission to the NRC, then you should inform those persons not to include identifying or contact information that they do not want to be publicly disclosed in their comment submissions. Your request should state that the NRC does not routinely edit comment submissions to remove such information before making the comment submissions available to the public or entering the comment submissions into ADAMS.

II. Introduction

The NRC is considering the issuance of an order under 10 CFR 50.80 approving the indirect transfer of control of the Renewed Facility Operating Licenses NPF–14 and NPF–22 for the Susquehanna Steam Electric Station, Units 1 and 2, to the extent currently held by PPL Corporation, as owner. The transfer would be to Talen Energy Corporation. The NRC is also considering amending the combined licenses for administrative purposes to reflect the proposed transfer.

According to an application for approval filed by PPL Susquehanna, the indirect transfer of control results from a series of transactions in which PPL Corporation, PPL Susquehanna's ultimate parent, will spin off PPL Energy Supply, LLC, which holds domestic competitive generation and ancillary assets including PPL Susquehanna. The transactions will involve creation of and changes to intermediate holding companies with PPL Energy Supply eventually becoming a direct subsidiary of a new intermediate parent named Talen Energy Holdings, Inc., which in turn will be a direct subsidiary of a new, publicly-owned ultimate parent, named Talen Energy Corporation. Talen Energy Corporation would acquire ownership of PPL Corporation's 90 percent interest in the Susquehanna Steam Electric Station, Units 1 and 2. PPL Susquehanna will continue to operate the facility and hold the license.

No physical changes to the Susquehanna Steam Electric Station, Units 1 and 2, or operational changes are being proposed in the application.

The NRC's regulations at 10 CFR 50.80 state that no license, or any right thereunder, shall be transferred, directly or indirectly, through transfer of control of the license, unless the Commission shall give its consent in writing. The Commission will approve an application for the indirect transfer of a license, if the Commission determines that the proposed transaction, described above, will not affect the qualifications of the licensee to hold the license, and that the transfer is otherwise consistent with applicable provisions of law, regulations, and orders issued by the Commission.

Before issuance of the proposed conforming license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act), and the Commission's regulations.

As provided in 10 CFR 2.1315, unless otherwise determined by the Commission with regard to a specific application, the Commission has determined that any amendment to the license of a utilization facility, or to the license of an Independent Spent Fuel Storage Installation, which does no more than conform the license to reflect the transfer action, involves no significant hazards consideration and no genuine issue as to whether the health and safety of the public will be significantly affected. No contrary determination has been made with respect to this specific license amendment application. In light of the generic determination reflected in 10 CFR 2.1315, no public comments with respect to significant hazards considerations are being solicited, notwithstanding the general comment procedures contained in 10 CFR 50.91.

III. Opportunity To Comment

Within 30 days from the date of publication of this notice, persons may submit written comments regarding the license transfer application, as provided for in 10 CFR 2.1305. The Commission will consider and, if appropriate, respond to these comments, but such comments will not otherwise constitute part of the decisional record. Comments should be submitted as described in the **ADDRESSES** section of this document.

IV. Opportunity To Request a Hearing; Petition for Leave To Intervene

Within 20 days from the date of publication of this notice, any person(s) whose interest may be affected by the Commission's action on the application may request a hearing and intervention via electronic submission through the NRC's E-filing system. Requests for a hearing and petitions for leave to intervene should be filed in accordance with the Commission's rules of practice set forth in Subpart C ''Rules of General Applicability: Hearing Requests, Petitions to Intervene, Availability of Documents, Selection of Specific Hearing Procedures, Presiding Officer Powers, and General Hearing Management for NRC Adjudicatory Hearings,'' of 10 CFR part 2. In particular, such requests and petitions

must comply with the requirements set forth in 10 CFR 2.309, which is available at the NRC's PDR, located at O1F21, 11555 Rockville Pike (first floor), Rockville, Maryland 20852. The NRC's regulations are accessible electronically from the NRC Library on the NRC's public Web site at *http://www.nrc.gov/reading-rm/doc-collections/cfr/.*

A petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding and how that interest may be affected by the results of the proceeding. The petition must provide the name, address, and telephone number of the petitioner and specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order that may be entered in the proceeding on the petitioner's interest.

A petition for leave to intervene must also include a specification of the contentions that the petitioner seeks to have litigated in the hearing. For each contention, the petitioner must provide a specific statement of the issue of law or fact to be raised or controverted, as well as a brief explanation of the basis for the contention. Additionally, the petitioner must demonstrate that the issue raised by each contention is within the scope of the proceeding and is material to the findings that the NRC must make to support the granting of a license amendment in response to the application. The petition must also include a concise statement of the alleged facts or expert opinions which support the position of the petitioner and on which the petitioner intends to rely at the hearing, together with references to the specific sources and documents on which the petitioner intends to rely. Finally, the petition must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact, including references to specific portions of the application for amendment that the petitioner disputes and the supporting reasons for each dispute, or, if the petitioner believes that the application for amendment fails to contain information on a relevant matter as required by law, the identification of each failure, and the supporting reasons for the petitioner's belief. Each contention must be one that, if proven, would entitle the petitioner to relief.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing with respect to resolution of that person's admitted contentions, including the opportunity to present evidence and to submit a cross-examination plan for cross-examination of witnesses, consistent with NRC regulations, policies, and procedures. The Atomic Safety and Licensing Board will set the time and place for any prehearing conferences and evidentiary hearings, and the appropriate notices will be provided.

Requests for hearing, petitions for leave to intervene, and motions for leave to file contentions after the deadline in 10 CFR 2.309(b) will not be entertained absent a determination by the presiding officer that the new or amended filing demonstrates good cause by satisfying the three factors in 10 CFR 2.309(c)(1).

A State, local governmental body, Federally-recognized Indian tribe, or agency thereof may submit a petition to the Commission to participate as a party under 10 CFR 2.309(h)(1). The petition should state the nature and extent of the petitioner's interest in the proceeding. The petition should be submitted to the Commission by October 27, 2014. The petition must be filed in accordance with the filing instructions in Section IV of this document, and should meet the requirements for petitions for leave to intervene set forth in this section, except that under § 2.309(h)(2) a State, local governmental body, or Federally-recognized Indian tribe, or agency thereof does not need to address the standing requirements in 10 CFR 2.309(d) if the facility is located within its boundaries. A State, local governmental body, Federally-recognized Indian tribe, or agency thereof may also have the opportunity to participate under 10 CFR 2.315(c).

If a hearing is granted, any person who does not wish, or is not qualified, to become a party to the proceeding may, in the discretion of the presiding officer, be permitted to make a limited appearance pursuant to the provisions of 10 CFR 2.315(a). A person making a limited appearance may make an oral or written statement of position on the issues, but may not otherwise participate in the proceeding. A limited appearance may be made at any session of the hearing or at any prehearing conference, subject to the limits and conditions as may be imposed by the presiding officer. Persons desiring to make a limited appearance are requested to inform the Secretary of the Commission by December 5, 2014.

V. Electronic Submissions (E-Filing)

All documents filed in NRC adjudicatory proceedings, including a request for hearing, a petition for leave to intervene, any motion or other document filed in the proceeding prior to the submission of a request for hearing or petition to intervene, and documents filed by interested governmental entities participating under 10 CFR 2.315(c), must be filed in accordance with the NRC's E-Filing rule (72 FR 49139; August 28, 2007). The E-Filing process requires participants to submit and serve all adjudicatory documents over the Internet, or in some cases to mail copies on electronic storage media. Participants may not submit paper copies of their filings unless they seek an exemption in accordance with the procedures described below.

To comply with the procedural requirements of E-Filing, at least 10 days prior to the filing deadline, the participant should contact the Office of the Secretary by email at *hearing.docket@nrc.gov,* or by telephone at 301–415–1677, to request (1) a digital identification (ID) certificate, which allows the participant (or its counsel or representative) to digitally sign documents and access the E-Submittal server for any proceeding in which it is participating; and (2) advise the Secretary that the participant will be submitting a request or petition for hearing (even in instances in which the participant, or its counsel or representative, already holds an NRC-issued digital ID certificate). Based upon this information, the Secretary will establish an electronic docket for the hearing in this proceeding if the Secretary has not already established an electronic docket.

Information about applying for a digital ID certificate is available on the NRC's public Web site at *http://www.nrc.gov/site-help/e-submittals/getting-started.html.* System requirements for accessing the E-Submittal server are detailed in the NRC's ''Guidance for Electronic Submission,'' which is available on the NRC's public Web site at *http://www.nrc.gov/site-help/e-submittals.html.* Participants may attempt to use other software not listed on the Web site, but should note that the NRC's E-Filing system does not support unlisted software, and the NRC Meta System Help Desk will not be able to offer assistance in using unlisted software.

If a participant is electronically submitting a document to the NRC in accordance with the E-Filing rule, the

participant must file the document using the NRC's online, Web-based submission form. In order to serve documents through the Electronic Information Exchange System, users will be required to install a Web browser plug-in from the NRC's public Web site. Further information on the Web-based submission form, including the installation of the Web browser plug-in, is available on the NRC's public Web site at *http://www.nrc.gov/site-help/e-submittals.html.*

Once a participant has obtained a digital ID certificate and a docket has been created, the participant can then submit a request for hearing or petition for leave to intervene. Submissions should be in Portable Document Format (PDF) in accordance with the NRC's guidance available on the NRC's public Web site at *http://www.nrc.gov/site-help/e-submittals.html.* A filing is considered complete at the time the documents are submitted through the NRC's E-Filing system. To be timely, an electronic filing must be submitted to the E-Filing system no later than 11:59 p.m. Eastern Time on the due date. Upon receipt of a transmission, the E-Filing system time-stamps the document and sends the submitter an email notice confirming receipt of the document. The E-Filing system also distributes an email notice that provides access to the document to the NRC's Office of the General Counsel and any others who have advised the Office of the Secretary that they wish to participate in the proceeding, so that the filer need not serve the documents on those participants separately. Therefore, applicants and other participants (or their counsel or representative) must apply for and receive a digital ID certificate before a hearing request/petition to intervene is filed so that they can obtain access to the document via the E-Filing system.

A person filing electronically using the NRC's adjudicatory E-Filing system may seek assistance by contacting the NRC Meta System Help Desk through the ''Contact Us'' link located on the NRC's public Web site at *http://www.nrc.gov/site-help/e-submittals.html,* by email to *MSHD.Resource@nrc.gov,* or by a toll-free call to 1–866–672–7640. The NRC Meta System Help Desk is available between 8 a.m. and 8 p.m., Eastern Time, Monday through Friday, excluding government holidays.

Participants who believe that they have a good cause for not submitting documents electronically must file an exemption request, in accordance with 10 CFR 2.302(g), with their initial paper filing requesting authorization to continue to submit documents in paper format. Such filings must be submitted by: (1) First class mail addressed to the Office of the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemaking and Adjudications Staff; or (2) courier, express mail, or expedited delivery service to the Office of the Secretary, Sixteenth Floor, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852, Attention: Rulemaking and Adjudications Staff. Participants filing a document in this manner are responsible for serving the document on all other participants. Filing is considered complete by first-class mail as of the time of deposit in the mail, or by courier, express mail, or expedited delivery service upon depositing the document with the provider of the service. A presiding officer, having granted an exemption request from using E-Filing, may require a participant or party to use E-Filing if the presiding officer subsequently determines that the reason for granting the exemption from use of E-Filing no longer exists.

Documents submitted in adjudicatory proceedings will appear in NRC's electronic hearing docket which is available to the public at *http://ehd1.nrc.gov/ehd/,* unless excluded pursuant to an order of the Commission, or the presiding officer. Participants are requested not to include personal privacy information, such as social security numbers, home addresses, or home phone numbers in their filings, unless an NRC regulation or other law requires submission of such information. However, a request to intervene will require including information on local residence in order to demonstrate a proximity assertion of interest in the proceeding. With respect to copyrighted works, except for limited excerpts that serve the purpose of the adjudicatory filings and would constitute a Fair Use application, participants are requested not to include copyrighted materials in their submission.

The Commission will issue a notice or order granting or denying a hearing request or intervention petition, designating the issues for any hearing that will be held and designating the Presiding Officer. A notice granting a hearing will be published in the **Federal Register** and served on the parties to the hearing.

For further details with respect to this application, see the application dated July 11, 2014.

Order Imposing Procedures for Access to Sensitive Unclassified Non-Safeguards Information for Contention Preparation

A. This Order contains instructions regarding how potential parties to this proceeding may request access to documents containing Sensitive Unclassified Non-Safeguards Information (SUNSI).

B. Within 10 days after publication of this notice of hearing and opportunity to petition for leave to intervene, any potential party who believes access to SUNSI is necessary to respond to this notice may request such access. A ''potential party'' is any person who intends to participate as a party by demonstrating standing and filing an admissible contention under 10 CFR 2.309. Requests for access to SUNSI submitted later than 10 days after publication will not be considered absent a showing of good cause for the late filing, addressing why the request could not have been filed earlier.

C. The requestor shall submit a letter requesting permission to access SUNSI to the Office of the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemakings and Adjudications Staff, and provide a copy to the Associate General Counsel for Hearings, Enforcement and Administration, Office of the General Counsel, Washington, DC 20555–0001. The expedited delivery or courier mail address for both offices is: U.S. Nuclear Regulatory Commission, 11555 Rockville Pike, Rockville, Maryland 20852. The email address for the Office of the Secretary and the Office of the General Counsel are *Hearing.Docket@nrc.gov* and *OGCmailcenter@nrc.gov,* respectively.[1] The request must include the following information:

(1) A description of the licensing action with a citation to this **Federal Register** notice;

(2) The name and address of the potential party and a description of the potential party's particularized interest that could be harmed by the action identified in C.(1); and

(3) The identity of the individual or entity requesting access to SUNSI and the requestor's basis for the need for the information in order to meaningfully participate in this adjudicatory proceeding. In particular, the request must explain why publicly available

[1] While a request for hearing or petition to intervene in this proceeding must comply with the filing requirements of the NRC's ''E-Filing Rule,'' the initial request to access SUNSI under these procedures should be submitted as described in this paragraph.

versions of the information requested would not be sufficient to provide the basis and specificity for a proffered contention.

D. Based on an evaluation of the information submitted under paragraph C.(3) the NRC staff will determine within 10 days of receipt of the request whether:

(1) There is a reasonable basis to believe the petitioner is likely to establish standing to participate in this NRC proceeding; and

(2) The requestor has established a legitimate need for access to SUNSI.

E. If the NRC staff determines that the requestor satisfies both D.(1) and D.(2) above, the NRC staff will notify the requestor in writing that access to SUNSI has been granted. The written notification will contain instructions on how the requestor may obtain copies of the requested documents, and any other conditions that may apply to access to those documents. These conditions may include, but are not limited to, the signing of a Non-Disclosure Agreement or Affidavit, or Protective Order [2] setting forth terms and conditions to prevent the unauthorized or inadvertent disclosure of SUNSI by each individual who will be granted access to SUNSI.

F. Filing of Contentions. Any contentions in these proceedings that are based upon the information received as a result of the request made for SUNSI must be filed by the requestor no later than 20 days after the requestor is granted access to that information. However, if more than 20 days remain between the date the petitioner is granted access to the information and the deadline for filing all other contentions (as established in the notice of hearing or opportunity for hearing), the petitioner may file its SUNSI contentions by that later deadline. This provision does not extend the time for filing a request for a hearing and petition to intervene, which must comply with the requirements of 10 CFR 2.309.

G. Review of Denials of Access.

(1) If the request for access to SUNSI is denied by the NRC staff either after a determination on standing and need for access, or after a determination on trustworthiness and reliability, the NRC staff shall immediately notify the requestor in writing, briefly stating the reason or reasons for the denial.

(2) The requestor may challenge the NRC staff's adverse determination by filing a challenge within five days of receipt of that determination with: (a) the presiding officer designated in this proceeding; (b) if no presiding officer has been appointed, the Chief Administrative Judge, or if he or she is unavailable, another administrative judge, or an administrative law judge with jurisdiction pursuant to 10 CFR 2.318(a); or (c) officer if that officer has been designated to rule on information access issues.

H. Review of Grants of Access. A party other than the requestor may challenge an NRC staff determination granting access to SUNSI whose release would harm that party's interest independent of the proceeding. Such a challenge must be filed with the Chief Administrative Judge within five days of the notification by the NRC staff of its grant of access.

If challenges to the NRC staff determinations are filed, these procedures give way to the normal process for litigating disputes concerning access to information. The availability of interlocutory review by the Commission of orders ruling on such NRC staff determinations (whether granting or denying access) is governed by 10 CFR 2.311.[3]

I. The Commission expects that the NRC staff and presiding officers (and any other reviewing officers) will consider and resolve requests for access to SUNSI, and motions for protective orders, in a timely fashion in order to minimize any unnecessary delays in identifying those petitioners who have standing and who have propounded contentions meeting the specificity and basis requirements in 10 CFR part 2. Attachment 1 to this Order summarizes the general target schedule for processing and resolving requests under these procedures.

It is so ordered.

Dated at Rockville, Maryland, this 30th day of September, 2014.

For the Nuclear Regulatory Commission.

Annette L. Vietti-Cook,

Secretary of the Commission.

ATTACHMENT 1—General Target Schedule for Processing and Resolving Requests for Access to Sensitive Unclassified Non-Safeguards Information in This Proceeding

Day	Event/Activity
0	Publication of **Federal Register** notice of hearing and opportunity to petition for leave to intervene, including order with instructions for access requests.
10	Deadline for submitting requests for access to Sensitive Unclassified Non-Safeguards Information (SUNSI) with information: supporting the standing of a potential party identified by name and address; describing the need for the information in order for the potential party to participate meaningfully in an adjudicatory proceeding.
20	Deadline for submitting petition for intervention containing: (i) demonstration of standing; (ii) all contentions whose formulation does not require access to SUNSI (+25 Answers to petition for intervention; +7 requestor/petitioner reply).
20	Nuclear Regulatory Commission (NRC) staff informs the requestor of the staff's determination whether the request for access provides a reasonable basis to believe standing can be established and shows need for SUNSI. (NRC staff also informs any party to the proceeding whose interest independent of the proceeding would be harmed by the release of the information.) If NRC staff makes the finding of need for SUNSI and likelihood of standing, NRC staff begins document processing (preparation of redactions or review of redacted documents).
25	If NRC staff finds no ''need'' or no likelihood of standing, the deadline for requestor/petitioner to file a motion seeking a ruling to reverse the NRC staff's denial of access; NRC staff files copy of access determination with the presiding officer (or Chief Administrative Judge or other designated officer, as appropriate). If NRC staff finds ''need'' for SUNSI, the deadline for any party to the proceeding whose interest independent of the proceeding would be harmed by the release of the information to file a motion seeking a ruling to reverse the NRC staff's grant of access.
30	Deadline for NRC staff reply to motions to reverse NRC staff determination(s).
40	(Receipt +30) If NRC staff finds standing and need for SUNSI, deadline for NRC staff to complete information processing and file motion for Protective Order and draft Non-Disclosure Affidavit. Deadline for applicant/licensee to file Non-Disclosure Agreement for SUNSI.

[2] Any motion for Protective Order or draft Non-Disclosure Affidavit or Agreement for SUNSI must be filed with the presiding officer or the Chief Administrative Judge if the presiding officer has not yet been designated, within 30 days of the deadline for the receipt of the written access request.

[3] Requestors should note that the filing requirements of the NRC's E-Filing Rule (72 FR 49139; August 28, 2007) apply to appeals of NRC staff determinations (because they must be served on a presiding officer or the Commission, as applicable), but not to the initial SUNSI request submitted to the NRC staff under these procedures.

Day	Event/Activity
A	If access granted: Issuance of presiding officer or other designated officer decision on motion for protective order for access to sensitive information (including schedule for providing access and submission of contentions) or decision reversing a final adverse determination by the NRC staff.
A + 3	Deadline for filing executed Non-Disclosure Affidavits. Access provided to SUNSI consistent with decision issuing the protective order.
A + 23	Deadline for submission of contentions whose development depends upon access to SUNSI. However, if more than 25 days remain between the petitioner's receipt of (or access to) the information and the deadline for filing all other contentions (as established in the notice of hearing or opportunity for hearing), the petitioner may file its SUNSI contentions by that later deadline.
A + 48	(Contention receipt +25) Answers to contentions whose development depends upon access to SUNSI.
A + 55	(Answer receipt +7) Petitioner/Intervenor reply to answers.
>A + 55	Decision on contention admission.

[FR Doc. 2014–23800 Filed 10–3–14; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–255; NRC–2014–0216]

Entergy Nuclear Operations, Inc.; Palisades Nuclear Plant

AGENCY: Nuclear Regulatory Commission.

ACTION: 10 CFR 2.206 request; receipt.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is giving notice that by petition dated March 5, 2014, as supplemented by email dated May 21, 2014, Michael Mulligan (the petitioner) has requested that the NRC take enforcement action against Entergy Nuclear Operations, Inc., due to recent plant events and equipment failures at Palisades Nuclear Plant (PNP). The petitioner's requests are included in the **SUPPLEMENTARY INFORMATION** section of this document.

ADDRESSES: Please refer to Docket ID NRC–2014–0216 when contacting the NRC about the availability of information regarding this document. You may obtain publicly-available information related to this document using any of the following methods:

- *Federal Rulemaking Web site:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2014–0216. Address questions about NRC dockets to Carol Gallagher; telephone: 301–287–3422; email: *Carol.Gallagher@nrc.gov.*
- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly available documents online in the ADAMS Public Documents collection at *http://www.nrc.gov/reading-rm/adams.html.* To begin the search, select ''*ADAMS Public Documents*'' and then select ''*Begin Web-based ADAMS Search.*'' For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov.* The ADAMS accession number for each document referenced in this document (if that document is available in ADAMS) is provided the first time that a document is referenced.
- *NRC's PDR:* You may examine and purchase copies of public documents at the NRC's PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

SUPPLEMENTARY INFORMATION: Notice is hereby given that by petition dated March 5, 2014 (ADAMS Accession No. ML14071A006), as supplemented by email dated May 21, 2014 (ADAMS Accession No. ML14142A101), and the petitioner's addresses to the Petition Review Board dated April 8 and September 3, 2014 (ADAMS Accession Nos. ML14143A212 and ML14259A135, respectively), the petitioner, has asked the NRC to take enforcement action against Entergy Nuclear Operations, Inc., due to recent plant events and equipment failures at PNP. The petitioner was particularly concerned with primary coolant pump (PCP) impeller pieces breaking off and lodging in the reactor vessel.

The petitioner requests the following actions:

- Require PNP to open every PCP for inspection and clear up all flaws.
- Require PNP to replace the PCPs with a design for their intended duty.
- An Office of Inspector General (OIG) inspection on why there are different analysis criteria for similar PCP events between the NRC regions.
- A ten million dollar fine for these events.
- Intensify NRC monitoring of PNP, and return them to yellow or red status.

As the basis for the request, the petitioner stated, in part, the following:

- The petitioner cited other recent plant events and equipment failures, such as leakage from the safety injection refueling water tank, and flaws in the control rod drive mechanisms.
- The petitioner asserted the licensee and the NRC staff used non-conservative engineering judgment during the evaluation of the lodged PCP impeller piece and during the operability evaluation of the existing PCP impellers.
- The petitioner asserts that the NRC staff was not being aggressive in resolving plant equipment issues, not resolving PCP equipment issues uniformly across the NRC regions, and accommodating the nuclear industry.

The request is being treated pursuant to § 2.206 of Title 10 of the *Code of Federal Regulations* (10 CFR), and has been referred to the Director of the Office of Nuclear Reactor Regulation (NRR). In accordance with 10 CFR 2.206, the NRC will take appropriate action on this petition within a reasonable period of time. The petitioner met with the NRR's Petition Review Board on April 8 and September 3, 2014, to discuss the petition. The Petition Review Board considered the results of that discussion in its determination of the petitioner's request for immediate action and in the establishment of the schedule for the review of the petition.

Dated at Rockville, Maryland, this 25th day of September 2014.

For The Nuclear Regulatory Commission.

Daniel H. Dorman,

Acting Director, Office of Nuclear Reactor Regulation.

[FR Doc. 2014–23802 Filed 10–3–14; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2014–0093]

Medical Evaluation of Licensed Personnel for Nuclear Power Plants

AGENCY: Nuclear Regulatory Commission.

ACTION: Regulatory guide; issuance.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is issuing revision 4 to Regulatory Guide (RG) 1.134, ''Medical Assessment of Licensed

Operators or Applicants for Operator Licenses at Nuclear Power Plants.'' The NRC is updating RG 1.134 based upon the regulatory experience gained since the previous revision was issued and to endorse the 2013 revision to the underlying consensus standard, American National Standard Institute/American Nuclear Society (ANSI/ANS) Standard 3.4, ''Medical Certification and Monitoring of Personnel Requiring Licenses for Nuclear Power Plants.'' The guide helps to ensure that medical certifications (and related medical evidence) are sufficient to meet the NRC's nuclear power reactor operator licensing requirements.

ADDRESSES: Please refer to Docket ID NRC–2014–0093 when contacting the NRC about the availability of information regarding this document. You may obtain publicly-available information related to this document using any of the following methods:

- *Federal Rulemaking Web site:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2014–0093. Address questions about NRC dockets to Carol Gallagher; telephone: 301–287–3422; email: *Carol.Gallagher@nrc.gov.* For technical questions, contact the individual(s) listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.
- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may access publicly available documents online in the NRC Library at *http://www.nrc.gov/reading-rm/adams.html.* To begin the search, select ''*ADAMS Public Documents*'' and then select ''*Begin Web-based ADAMS Search.''* For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov.* The ADAMS accession number for each document referenced in this notice (if that document is available in ADAMS) is provided the first time that a document is referenced. Revision 4 of Regulatory Guide 1.134 is available in ADAMS under Accession No. ML14189A385. The regulatory analysis may be found in ADAMS under Accession No. ML13352A279.
- *NRC's PDR:* You may examine and purchase copies of public documents at the NRC's PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

Regulatory guides are not copyrighted, and NRC approval is not required to reproduce them.

FOR FURTHER INFORMATION CONTACT: Lawrence Vick, Office of Nuclear Reactor Regulation, telephone: 301–415–3181, email: *Lawrence.Vick@nrc.gov,* or Richard Jervey, Office of Nuclear Regulatory Research, telephone: 301–251–7404, email: *Richard.Jervey@nrc.gov.* Both are staff of the U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

SUPPLEMENTARY INFORMATION:

I. Introduction

The NRC is issuing a revision to an existing guide in the NRC's ''Regulatory Guide'' series. This series was developed to describe and make available to the public information such as methods that are acceptable to the NRC staff for implementing specific parts of the agency's regulations, techniques that the staff uses in evaluating specific problems or postulated accidents, and data that the staff needs in its review of applications for permits and licenses.

Revision 4 of RG 1.134 was issued with a temporary identification as draft regulatory guide (DG), DG–1310. The guidance is intended for use by nuclear power plant license holders under part 50 of Title 10 of the *Code of Federal Regulations* (10 CFR), ''Domestic Licensing of Production and Utilization Facilities,'' and 10 CFR Part 52, ''Licenses, Certifications, and Approvals for Nuclear Power Plants.'' Licensees of these facilities are required under 10 CFR 50.54, ''Conditions of Licensees,'' to use qualified licensed operators as described in 10 CFR Part 55, ''Operators' Licenses.''

Regulatory Guide 1.134, Revision 3, ''Medical Evaluation of Licensed Personnel for Nuclear Power Plants,'' was issued in 1998 to identify that consensus standard ANSI/ANS 3.4 (1996), ''Medical Certification and Monitoring of Personnel Requiring Operator Licenses for Nuclear Power Plants,'' was a method acceptable to the staff for complying with those portions of the NRC's regulations associated with approval or acceptance of medical examination certifications at nuclear power plants.

The consensus standard ANSI/ANS 3.4 was issued in 2013 to provide clarification and comprehensive medical guidance to improve industry's consistent implementation of the standard. This included clarification of specific minimum requirements, disqualifying conditions, conditional restrictions, examination methods, and monitoring methods for each medical area. The 2013 issue also included consideration of other industry medical standards, including those of the U.S. Department of Transportation and Federal Aviation Administration as well as medical criteria that reflected progressions in medical science including updated terminology, current medical practices, criteria for normality, and risk assessments.

Regulatory Guide 1.134 was revised to identify to licensees that ANSI/ANS 3.4–2013 is acceptable for their use. The guide helps to ensure that medical certifications (and related medical evidence) used to meet the operator licensing requirements of 10 CFR part 55 are sufficient with respect to (1) an applicant's or operator licensee's medical examination, as described in 10 CFR 55.21, ''Medical Examination''; (2) a facility licensee's medical certification, as described in 10 CFR 55.23, ''Certification''; (3) an operator licensee's incapacitation because of disability or illness, as described in 10 CFR 55.25, ''Incapacitation Because of Disability or Illness''; and (4) a facility licensee's medical documentation, as described in 10 CFR 55.27, ''Documentation.''

II. Additional Information

The DG–1310 was published in the **Federal Register** on April 25, 2014 (79 FR 23017), for a 30-day public comment period. The public comment period closed on May 27, 2014. There were no public comments received

III. Congressional Review Act

This RG is a rule as defined in the Congressional Review Act (5 U.S.C. 801–808). However, the Office of Management and Budget has not found it to be a major rule as defined in the Congressional Review Act.

IV. Backfitting and Issue Finality

Regulatory Guide 1.134, Revision 4, provides updated guidance on the methods acceptable to the NRC staff for complying with the NRC's regulations associated with approval or acceptance of the medical assessment of an applicant for, or holder of, an operator or senior operator license at a nuclear power plant. The guide applies to current and future applicants for, and holders of, power reactor licenses under 10 CFR parts 50 and 52 and power reactor operating licenses under 10 CFR part 55. Issuance of RG 1.134, revision 4, does not constitute backfitting under 10 CFR part 50 and is not otherwise inconsistent with the issue finality provisions in 10 CFR Part 52. As discussed in the ''Implementation'' section of RG 1.134, revision 4, the NRC has no current intention to impose the RG on current holders of 10 CFR part 50 operating licenses or 10 CFR part 52 combined licenses. Part 55 does not

contain backfitting or issue finality regulations, and power reactor operating licensees are not protected by the backfitting provisions in 10 CFR 50.109 or the 10 CFR part 52 issue finality provisions because neither 10 CFR 50.109 nor 10 CFR part 52 applies to 10 CFR part 55 power reactor operating licensees.

This RG could be applied to applications for 10 CFR part 50 operating licenses, 10 CFR part 52 combined licenses, or 10 CFR part 55 operator licenses. Such action would not constitute backfitting as defined in 10 CFR 50.109 or be otherwise inconsistent with the applicable issue finality provision in 10 CFR part 52, inasmuch as such applicants are not within the scope of entities protected by 10 CFR 50.109 or the relevant issue finality provisions in 10 CFR part 52.

Dated at Rockville, Maryland, this 30th day of September, 2014.

For the Nuclear Regulatory Commission.

Harriet Karagiannis,

Acting Chief, Regulatory Guidance and Generic Issues Branch, Division of Engineering, Office of Nuclear Regulatory Research.

[FR Doc. 2014–23717 Filed 10–3–14; 8:45 am]

BILLING CODE 7590–01–P

POSTAL REGULATORY COMMISSION

[Docket Nos. MC2014–48 and CP2014–84; Order No. 2200]

New Postal Product

AGENCY: Postal Regulatory Commission.

ACTION: Notice.

SUMMARY: The Commission is noticing a recent Postal Service filing concerning an addition of Priority Mail Contract 94 to the competitive product list. This notice informs the public of the filing, invites public comment, and takes other administrative steps.

DATES: *Comments are due:* October 7, 2014.

ADDRESSES: Submit comments electronically via the Commission's Filing Online system at *http://www.prc.gov.* Those who cannot submit comments electronically should contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section by telephone for advice on filing alternatives.

FOR FURTHER INFORMATION CONTACT: David A. Trissell, General Counsel, at 202–789–6820.

SUPPLEMENTARY INFORMATION:

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I. Introduction
II. Notice of Commission Action
III. Ordering Paragraphs

I. Introduction

In accordance with 39 U.S.C. 3642 and 39 CFR 3020.30 *et seq.,* the Postal Service filed a formal request and associated supporting information to add Priority Mail Contract 94 to the competitive product list.[1]

The Postal Service contemporaneously filed a redacted contract related to the proposed new product under 39 U.S.C. 3632(b)(3) and 39 CFR 3015.5. *Id.* Attachment B.

To support its Request, the Postal Service filed a copy of the contract, a copy of the Governors' Decision authorizing the product, proposed changes to the Mail Classification Schedule, a Statement of Supporting Justification, a certification of compliance with 39 U.S.C. 3633(a), and an application for non-public treatment of certain materials. It also filed supporting financial workpapers.

II. Notice of Commission Action

The Commission establishes Docket Nos. MC2014–48 and CP2014–84 to consider the Request pertaining to the proposed Priority Mail Contract 94 product and the related contract, respectively.

The Commission invites comments on whether the Postal Service's filings in the captioned dockets are consistent with the policies of 39 U.S.C. 3632, 3633, or 3642, 39 CFR part 3015, and 39 CFR part 3020, subpart B. Comments are due no later than October 7, 2014. The public portions of these filings can be accessed via the Commission's Web site (*http://www.prc.gov*).

The Commission appoints James F. Callow to serve as Public Representative in these dockets.

III. Ordering Paragraphs

It is ordered:

1. The Commission establishes Docket Nos. MC2014–48 and CP2014–84 to consider the matters raised in each docket.

2. Pursuant to 39 U.S.C. 505, James F. Callow is appointed to serve as an officer of the Commission to represent the interests of the general public in these proceedings (Public Representative).

3. Comments are due no later than October 7, 2014.

4. The Secretary shall arrange for publication of this order in the **Federal Register**.

[1] Request of the United States Postal Service to Add Priority Mail Contract 94 to Competitive Product List and Notice of Filing (Under Seal) of Unredacted Governors' Decision, Contract, and Supporting Data, September 29, 2014 (Request).

By the Commission.

Shoshana M. Grove,

Secretary.

[FR Doc. 2014–23669 Filed 10–3–14; 8:45 am]

BILLING CODE 7710–FW–P

POSTAL REGULATORY COMMISSION

[Docket Nos. MC2014–49 and CP2014–85; Order No. 2199]

New Postal Product

AGENCY: Postal Regulatory Commission.

ACTION: Notice.

SUMMARY: The Commission is noticing a recent Postal Service filing concerning an addition of Priority Mail Contract 95 to the competitive product list. This notice informs the public of the filing, invites public comment, and takes other administrative steps.

DATES: *Comments are due:* October 7, 2014.

ADDRESSES: Submit comments electronically via the Commission's Filing Online system at *http://www.prc.gov.* Those who cannot submit comments electronically should contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section by telephone for advice on filing alternatives.

FOR FURTHER INFORMATION CONTACT: David A. Trissell, General Counsel, at 202–789–6820.

SUPPLEMENTARY INFORMATION:

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I. Introduction
II. Notice of Commission Action
III. Ordering Paragraphs

I. Introduction

In accordance with 39 U.S.C. 3642 and 39 CFR 3020.30 *et seq.,* the Postal Service filed a formal request and associated supporting information to add Priority Mail Contract 95 to the competitive product list.[1]

The Postal Service contemporaneously filed a redacted contract related to the proposed new product under 39 U.S.C. 3632(b)(3) and 39 CFR 3015.5. *Id.* Attachment B.

To support its Request, the Postal Service filed a copy of the contract, a copy of the Governors' Decision authorizing the product, proposed changes to the Mail Classification Schedule, a Statement of Supporting Justification, a certification of

[1] Request of the United States Postal Service to Add Priority Mail Contract 95 to Competitive Product List and Notice of Filing (Under Seal) of Unredacted Governors' Decision, Contract, and Supporting Data, September 29, 2014 (Request).

compliance with 39 U.S.C. 3633(a), and an application for non-public treatment of certain materials. It also filed supporting financial workpapers.

II. Notice of Commission Action

The Commission establishes Docket Nos. MC2014–49 and CP2014–85 to consider the Request pertaining to the proposed Priority Mail Contract 95 product and the related contract, respectively.

The Commission invites comments on whether the Postal Service's filings in the captioned dockets are consistent with the policies of 39 U.S.C. 3632, 3633, or 3642, 39 CFR part 3015, and 39 CFR part 3020, subpart B. Comments are due no later than October 7, 2014. The public portions of these filings can be accessed via the Commission's Web site (*http://www.prc.gov*).

The Commission appoints Cassie D'Souza to serve as Public Representative in these dockets.

III. Ordering Paragraphs

It is ordered:

1. The Commission establishes Docket Nos. MC2014–49 and CP2014–85 to consider the matters raised in each docket.

2. Pursuant to 39 U.S.C. 505, Cassie D'Souza is appointed to serve as an officer of the Commission to represent the interests of the general public in these proceedings (Public Representative).

3. Comments are due no later than October 7, 2014.

4. The Secretary shall arrange for publication of this order in the **Federal Register**.

By the Commission.

Shoshana M. Grove,

Secretary.

[FR Doc. 2014–23668 Filed 10–3–14; 8:45 am]

BILLING CODE 7710–FW–P

POSTAL REGULATORY COMMISSION

[Docket No. CP2011–49; Order No. 2201]

Amendment to Postal Product

AGENCY: Postal Regulatory Commission.

ACTION: Notice.

SUMMARY: The Commission is noticing a recent Postal Service filing concerning an amendment to Priority Mail Contract 33 to the competitive product list. This notice informs the public of the filing, invites public comment, and takes other administrative steps.

DATES: *Comments are due:* October 7, 2014.

ADDRESSES: Submit comments electronically via the Commission's Filing Online system at *http://www.prc.gov.* Those who cannot submit comments electronically should contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section by telephone for advice on filing alternatives.

FOR FURTHER INFORMATION CONTACT: David A. Trissell, General Counsel, at 202–789–6820.

SUPPLEMENTARY INFORMATION:

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I. Introduction
II. Notice of Filing
III. Ordering Paragraphs

I. Introduction

On September 29, 2014, the Postal Service filed notice that it has agreed to an Amendment to the existing Priority Mail Contract 33 negotiated service agreement approved in this docket.[1] In support of its Notice, the Postal Service includes a redacted copy of the Amendment. It also provides a certification of compliance with 39 U.S.C. 3633(a), as required by 39 CFR 3015.5.

The Postal Service also filed the unredacted Amendment and supporting financial information under seal. The Postal Service seeks to incorporate by reference the Application for Non-Public Treatment originally filed in this docket for the protection of information that it has filed under seal. Notice at 1.

The Amendment changes contract prices.

The Postal Service intends for the Amendment to become effective one business day after the date that the Commission completes its review of the Notice. *Id.* The Postal Service asserts that the Amendment should not impair the ability of competitive products on the whole to cover an appropriate share of institutional costs. Supplemental Notice, Attachment B at 1.

II. Notice of Filing

The Commission invites comments on whether the changes presented in the Postal Service's Notice are consistent with the policies of 39 U.S.C. 3632, 3633, or 3642, 39 CFR 3015.5, and 39 CFR part 3020, subpart B. Comments are due no later than October 7, 2014. The public portions of these filings can be accessed via the Commission's Web site (*http://www.prc.gov*).

[1] Notice of United States Postal Service of Change in Prices Pursuant to Amendment to Priority Mail Contract 33, September 29, 2014 (Notice). See also Notice of United States Postal Service of Filing Certified Statement for Amendment to Priority Mail Contract 33, September 30, 2014 (Supplemental Notice).

The Commission appoints John P. Klingenberg to represent the interests of the general public (Public Representative) in this docket.

III. Ordering Paragraphs

It is ordered:

1. The Commission reopens Docket No. CP2011–49 for consideration of matters raised by the Postal Service's Notice.

2. Pursuant to 39 U.S.C. 505, the Commission appoints John P. Klingenberg to serve as an officer of the Commission (Public Representative) to represent the interests of the general public in this proceeding.

3. Comments are due no later than October 7, 2014.

4. The Secretary shall arrange for publication of this order in the **Federal Register**.

By the Commission.

Shoshana M. Grove,

Secretary.

[FR Doc. 2014–23678 Filed 10–3–14; 8:45 am]

BILLING CODE 7710–FW–P

POSTAL SERVICE

Product Change—Priority Mail Negotiated Service Agreement

AGENCY: Postal Service™.

ACTION: Notice.

SUMMARY: The Postal Service gives notice of filing a request with the Postal Regulatory Commission to add a domestic shipping services contract to the list of Negotiated Service Agreements in the Mail Classification Schedule's Competitive Products List.

DATES: *Effective Date:* October 6, 2014.

FOR FURTHER INFORMATION CONTACT: Elizabeth A. Reed, 202–268–3179.

SUPPLEMENTARY INFORMATION: The United States Postal Service® hereby gives notice that, pursuant to 39 U.S.C. 3642 and 3632(b)(3), on September 29, 2014, it filed with the Postal Regulatory Commission a *Request of the United States Postal Service to Add Priority Mail Contract 95 to Competitive Product List.* Documents are available at *www.prc.gov,* Docket Nos. MC2014–49, CP2014–85.

Stanley F. Mires,

Attorney, Federal Requirements.

[FR Doc. 2014–23685 Filed 10–3–14; 8:45 am]

BILLING CODE 7710–12–P

POSTAL SERVICE

Product Change—Priority Mail Negotiated Service Agreement

AGENCY: Postal Service™.

ACTION: Notice.

SUMMARY: The Postal Service gives notice of filing a request with the Postal Regulatory Commission to add a domestic shipping services contract to the list of Negotiated Service Agreements in the Mail Classification Schedule's Competitive Products List.

DATES: *Effective Date:* October 6, 2014.

FOR FURTHER INFORMATION CONTACT: Elizabeth A. Reed, 202–268–3179.

SUPPLEMENTARY INFORMATION: The United States Postal Service® hereby gives notice that, pursuant to 39 U.S.C. 3642 and 3632(b)(3), on September 29, 2014, it filed with the Postal Regulatory Commission a *Request of the United States Postal Service to Add Priority Mail Contract 94 to Competitive Product List.* Documents are available at *www.prc.gov,* Docket Nos. MC2014–48, CP2014–84.

Stanley F. Mires,

Attorney, Federal Requirements.

[FR Doc. 2014–23683 Filed 10–3–14; 8:45 am]

BILLING CODE 7710–12–P

SECURITIES AND EXCHANGE COMMISSION

Submission for OMB Review; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE., Washington, DC 20549–2736.

Extension: Form N–17f–1, OMB Control No. 3235–0359, SEC File No. 270–316.

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (the ''Commission'') has submitted to the Office of Management and Budget a request for extension of the previously approved collection of information discussed below.

Form N–17f–1 (17 CFR 274.219) is entitled ''Certificate of Accounting of Securities and Similar Investments of a Management Investment Company in the Custody of Members of National Securities Exchanges.'' The form serves as a cover sheet to the accountant's certificate that is required to be filed periodically with the Commission pursuant to rule 17f–1 (17 CFR 270.17f–1) under the Act, entitled ''Custody of Securities with Members of National Securities Exchanges,'' which sets forth the conditions under which a fund may place its assets in the custody of a member of a national securities exchange. Rule 17f–1 requires, among other things, that an independent public accountant verify the fund's assets at the end of every annual and semi-annual fiscal period, and at least one other time during the fiscal year as chosen by the independent accountant. Requiring an independent accountant to examine the fund's assets in the custody of a member of a national securities exchange assists Commission staff in its inspection program and helps to ensure that the fund assets are subject to proper auditing procedures. The accountant's certificate stating that it has made an examination, and describing the nature and the extent of the examination, must be attached to Form N–17f–1 and filed with the Commission promptly after each examination. The form facilitates the filing of the accountant's certificates, and increases the accessibility of the certificates to both Commission staff and interested investors.

Commission staff estimates that it takes: (i) 1 hour of clerical time to prepare and file Form N–17f–1; and (ii) 0.5 hour for the fund's chief compliance officer to review Form N–17f–1 prior to filing with the Commission, for a total of 1.5 hours. Each fund is required to make 3 filings annually, for a total annual burden per fund of approximately 4.5 hours.[1] Commission staff estimates that an average of 4 funds currently file Form N–17f–1 with the Commission 3 times each year, for a total of 12 responses annually.[2] The total annual hour burden for Form N–17f–1 is therefore estimated to be approximately 18 hours.[3]

The estimate of average burden hours is made solely for the purposes of the Paperwork Reduction Act, and is not derived from a comprehensive or even a representative survey or study of the costs of Commission rules. Compliance with the collections of information required by Form N–17f–1 is mandatory for funds that place their assets in the custody of a national securities exchange member. Responses will not be kept confidential. An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid control number.

The public may view the background documentation for this information collection at the following Web site, *www.reginfo.gov.* Comments should be directed to: (i) Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10102, New Executive Office Building, Washington, DC 20503, or by sending an email to: *Shagufta_Ahmed@omb.eop.gov;* and (ii) Thomas Bayer, Chief Information Officer, Securities and Exchange Commission, c/o Remi Pavlik-Simon, 100 F Street NE., Washington, DC 20549 or send an email to: *PRA_Mailbox@sec.gov.* Comments must be submitted to OMB within 30 days of this notice.

Dated: September 30, 2014.

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2014–23707 Filed 10–3–14; 8:45 am]

BILLING CODE 8011–01–P

[1] This estimate is based on the following calculation: (1.5 hours × 3 responses annually = 4.5 hours).

[2] This estimate is based on a review of Form N–17f–1 filings made with the Commission over the last three years.

[3] This estimate is based on the following calculations: (4.5 hours × 4 funds = 18 total hours).

SECURITIES AND EXCHANGE COMMISSION

Submission for OMB Review; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE., Washington, DC 20549–2736.

Extension:
Form N–17f–2, OMB Control No. 3235–0360, SEC File No. 270–317.

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 350l *et seq.*), the Securities and Exchange Commission (the ''Commission'') has submitted to the Office of Management and Budget a request for extension of the previously approved collection of information discussed below.

Form N–17f–2 (17 CFR 274.220) under the Investment Company Act is entitled ''Certificate of Accounting of Securities and Similar Investments in the Custody of Management Investment Companies.'' Form N–17f–2 is the cover sheet for the accountant examination certificates filed under rule 17f–2 (17 CFR 270.17f–2) by registered management investment companies (''funds'') maintaining custody of securities or other investments. Form N–17f–2 facilitates the filing of the accountant's examination certificates prepared under rule 17f–2. The use of the form allows the certificates to be filed electronically, and increases the accessibility of the examination

certificates to both the Commission's examination staff and interested investors by ensuring that the certificates are filed under the proper Commission file number and the correct name of a fund.

Commission staff estimates that it takes: (i) On average 1.25 hours of fund accounting personnel at a total cost of $247.5 to prepare each Form N–17f–2; [1] and (ii) .75 hours of administrative assistant time at a total cost of $55.50 to file the Form N–17f–2 with the Commission.[2] Approximately 188 funds currently file Form N–17f–2 with the Commission. Commission staff estimates that on average each fund files Form N–17f–2 four times annually for a total annual hourly burden per fund of approximately 8 hours at a total cost of $1,212.00. The total annual hour burden for Form N–17f–2 is therefore estimated to be approximately 1504 hours. Based on the total annual costs per fund listed above, the total cost of Form N–17f–2's collection of information requirements is estimated to be approximately $227,856.[3]

The estimate of average burden hours is made solely for the purposes of the Paperwork Reduction Act, and is not derived from a comprehensive or even a representative survey or study of the costs of Commission rules and forms. Complying with the collections of information required by Form N–17f–2 is mandatory for those funds that maintain custody of their own assets. Responses will not be kept confidential. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid control number.

The public may view the background documentation for this information collection at the following Web site, *www.reginfo.gov.* Comments should be directed to: (i) Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10102, New Executive Office Building, Washington, DC 20503, or by sending an email to: *Shagufta_Ahmed@omb.eop.gov*; and (ii) Thomas Bayer, Chief Information Officer, Securities and Exchange Commission, c/o Remi Pavlik-Simon, 100 F Street NE., Washington, DC 20549 or send an email to: *PRA_Mailbox@sec.gov.* Comments must be submitted to OMB within 30 days of this notice.

Dated: September 30, 2014.

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2014–23708 Filed 10–3–14; 8:45 am]

BILLING CODE 8011–01–P

[1] This estimate is based on the following calculation: 1.25 × $198 (fund senior accountant's hourly rate) = $247.5.

[2] This estimate is based on the following calculation: .75 × $74 (administrative assistant hourly rate) = $55.50.

[3] This estimate is based on the following calculation: 188 funds × $1,212.00 (total annual cost per fund) = $227,856.

SECURITIES AND EXCHANGE COMMISSION

Submission for OMB Review; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE., Washington, DC 20549–2736.

Extension:

Rule 17f–1, OMB Control No. 3235–0222, SEC File No. 270–236.

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (the ''Commission'') has submitted to the Office of Management and Budget a request for extension of the previously approved collection of information discussed below.

Rule 17f–1 (17 CFR 270.17f–1) under the Investment Company Act of 1940 (the ''Act'') (15 U.S.C. 80a) is entitled: ''Custody of Securities with Members of National Securities Exchanges.'' Rule 17f–1 provides that any registered management investment company (''fund'') that wishes to place its assets in the custody of a national securities exchange member may do so only under a written contract that must be ratified initially and approved annually by a majority of the fund's board of directors. The written contract also must contain certain specified provisions. In addition, the rule requires an independent public accountant to examine the fund's assets in the custody of the exchange member at least three times during the fund's fiscal year. The rule requires the written contract and the certificate of each examination to be transmitted to the Commission. The purpose of the rule is to ensure the safekeeping of fund assets.

Commission staff estimates that each fund makes 1 response and spends an average of 3.5 hours annually in complying with the rule's requirements. Commission staff estimates that on an annual basis it takes: (i) 0.5 hours for the board of directors [1] to review and ratify the custodial contracts; and (ii) 3 hours for the fund's controller to assist the fund's independent public auditors in verifying the fund's assets. Approximately 4 funds rely on the rule annually, with a total of 4 responses.[2] Thus, the total annual hour burden for rule 17f–1 is approximately 14 hours.[3]

Funds that rely on rule 17f–1 generally use outside counsel to prepare the custodial contract for the board's review and to transmit the contract to the Commission. Commission staff estimates the cost of outside counsel to perform these tasks for a fund each year is $800.[4] Funds also must have an independent public accountant verify the fund's assets three times each year and prepare the certificate of examination. Commission staff estimates the annual cost for an independent public accountant to perform this service is $8,500.[5] Therefore, the total annual cost burden for a fund that relies on rule 17f–1 would be approximately $9,300.[6] As noted above, the staff estimates that 4 funds rely on rule 17f–1 each year, for an estimated total annualized cost burden of $37,200.[7]

The estimate of average burden hours is made solely for the purposes of the Paperwork Reduction Act, and is not derived from a comprehensive or even a representative survey or study of the costs of Commission rules. Compliance with the collections of information required by rule 17f–1 is mandatory for funds that place their assets in the custody of a national securities exchange member. Responses will not be kept confidential. An agency may not conduct or sponsor, and a person is not

[1] Estimates of the number of hours are based on conversations with representatives of mutual funds that comply with the rule. The actual number of hours may vary significantly depending on individual fund assets. The hour burden for rule 17f–1 does not include preparing the custody contract because that would be part of customary and usual business practice.

[2] Based on a review of Form N–17f–1 filings over the last three years the Commission staff estimates that an average of 4 funds rely on rule 17f–1 each year.

[3] This estimate is based on the following calculation: (4 respondents × 3.5 hours = 14 hours). The annual burden for rule 17f–1 does not include time spent preparing Form N–17f–1. The burden for Form N–17f–1 is included in a separate collection of information.

[4] This estimate is based on the following calculation: (2 hours of outside counsel time × $400 = $800). The staff has estimated the average cost of outside counsel at $400 per hour, based on information received from funds, fund intermediaries, and their counsel.

[5] This estimate is based on information received from fund representatives estimating the aggregate annual cost of an independent public accountant's periodic verification of assets and preparation of the certificate of examination.

[6] This estimate is based on the following calculation: ($800 + $8,500 = $9,300).

[7] This estimate is based on the following calculation: (4 funds × $9,300 = $37,200).

required to respond to a collection of information unless it displays a currently valid control number.

The public may view the background documentation for this information collection at the following Web site, *www.reginfo.gov*. Comments should be directed to: (i) Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10102, New Executive Office Building, Washington, DC 20503, or by sending an email to: *Shagufta_Ahmed@omb.eop.gov;* and (ii) Thomas Bayer, Chief Information Officer, Securities and Exchange Commission, c/o Remi Pavlik-Simon, 100 F Street NE., Washington, DC 20549 or send an email to: *PRA_Mailbox@sec.gov.* Comments must be submitted to OMB within 30 days of this notice.

Dated: September 30, 2014.

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2014–23706 Filed 10–3–14; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–73239; File No. S7–24–89]

Joint Industry Plan; Notice of Filing of Amendment No. 32 to the Joint Self-Regulatory Organization Plan Governing the Collection, Consolidation and Dissemination of Quotation and Transaction Information for Nasdaq-Listed Securities Traded on Exchanges on an Unlisted Trading Privileges Basis Submitted by the BATS Exchange, Inc., BATS Y-Exchange, Inc., Chicago Board Options Exchange, Incorporated, Chicago Stock Exchange, Inc., EDGA Exchange, Inc., EDGX Exchange, Inc., Financial Industry Regulatory Authority, Inc., International Securities Exchange LLC, NASDAQ OMX BX, Inc., NASDAQ OMX PHLX, Inc., Nasdaq Stock Market LLC, National Stock Exchange, Inc., New York Stock Exchange LLC, NYSE Arca, Inc. and NYSE MKT, LLC

September 26, 2014.

Pursuant to Rule 608 of the Securities Exchange Act of 1934 (''Act'') [1] notice is hereby given that on September 12, 2014, the Chicago Board Options Exchange, Incorporated, on behalf of Participants [2] in the Joint Self-Regulatory Organization Plan Governing the Collection, Consolidation, and Dissemination of Quotation and Transaction Information for Nasdaq-Listed Securities Traded on Exchanges on an Unlisted Trading Privilege Basis (''Nasdaq/UTP Plan'' or ''Plan'') filed with the Securities and Exchange Commission (''Commission'') an amendment to the Plan.[3] This amendment represents Amendment No. 32 to the Plan and reflects changes unanimously adopted by the Plan's Participants. The amendment proposes to change certain of the voting requirements under the Plan. The Commission is publishing this notice to solicit comments from interested persons on the proposed Amendment.

A. Rule 608(a)

1. Purpose of the Amendment

The amendment proposes to change certain of the voting requirements under the Plan. The changes seek to harmonize voting requirements under the Plan with voting requirements under the CTA Plan and the CQ Plan. The Participants understand that the Participants under the CTA Plan and the CQ Plan intend to submit certain changes to the voting requirements under those plans to cause them to harmonize with voting under the Nasdaq/UTP Plan.

The voting requirements that this amendment seeks to revise include the following:

- To change the voting requirement needed to eliminate an existing fee, or to reduce an existing fee, from unanimity to the affirmative vote of two-thirds of all Participants entitled to vote;
- to change the voting requirement needed to request system changes other than those related to the processor function from a unanimous vote to the affirmative vote of a majority of all Participants entitled to vote;
- to change the voting requirement needed to approve procedures for selecting a successor processor from unanimity to the affirmative vote of two-thirds of all Participants entitled to vote;
- to establish that selecting a new processor requires the affirmative vote of two-thirds of all Participants entitled to vote;
- to change the voting requirement needed if the Plan does not specify another voting requirement from unanimity to the affirmative vote of a majority of all Participants entitled to vote.

(a) Fee Setting

In the Participants' view, a two-thirds vote of the Participants, rather than unanimity, is the appropriate voting requirement for the Participants to eliminate or reduce an existing fee. The Plan currently requires a unanimous vote to eliminate a fee. The change with respect to eliminating a fee would harmonize that voting requirement with the voting requirements under the CTA and CQ Plans.

The Plan currently requires a unanimous vote to reduce a fee. The CTA and CQ Plans also require unanimity to reduce a fee. However, the Participants understand that the Participants under the CTA and CQ Plans intend to amend those plans to require a two-thirds vote to reduce a fee. In addition, subjecting fee reductions to a two-thirds vote would harmonize the Plan with the counterpart requirement under the OPRA Plan.

The Participants note that, after the amendment to the Plan and the anticipated amendments to the CTA and CQ Plans, all three plans will require a two-thirds vote to add, delete or eliminate a fee or to establish a new fee. These changes would provide the Participants with greater flexibility in respect of the plan's fee schedule.

(b) System Changes

The Plan currently requires a majority vote to approve system changes related to the processor function, but requires a unanimous vote to approve other system changes. The Participants do not believe that this anomaly is warranted. Rather, in their view, the Plan should subject all system changes to the same voting requirement. They believe that that voting requirement should be a majority vote. A majority voting requirement rather than unanimity would afford the Participants greater flexibility and make it easier for the Participants to arrive at decisions regarding necessary system upgrades and changes. The Participants note that the CTA Plan, the CQ Plan and the OPRA Plan all require a majority

[1] 17 CFR 242.608.

[2] The Plan Participants (collectively, ''Participants'') are the: BATS Exchange, Inc. (''BATS''); BATS Y-Exchange, Inc.(''BATS Y''); Chicago Board Options Exchange, Incorporated (''CBOE''); Chicago Stock Exchange, Inc. (''CHX''); EDGA Exchange, Inc. (''EDGA''); EDGX Exchange, Inc. (''EDGX''); Financial Industry Regulatory Authority, Inc. (''FINRA''); International Securities Exchange LLC (''ISE''); NASDAQ OMX BX, Inc. (''BX''); NASDAQ OMX PHLX, Inc. (''PHLX''); Nasdaq Stock Market LLC (''Nasdaq''); National Stock Exchange, Inc. (''NSX''); New York Stock Exchange LLC (''NYSE''); NYSE Arca, Inc. (''NYSEArca''); and NYSE MKT LLC.

[3] The Plan governs the collection, processing, and dissemination on a consolidated basis of quotation information and transaction reports in Eligible Securities for each of its Participants. This consolidated information informs investors of the current quotation and recent trade prices of Nasdaq securities. It enables investors to ascertain from one data source the current prices in all the markets trading Nasdaq securities. The Plan serves as the required transaction reporting plan for its Participants, which is a prerequisite for their trading Eligible Securities. *See* Securities Exchange Act Release No. 55647 (April 19, 2007) 72 FR 20891 (April 26, 2007).

vote for decisions relating to system changes.

(c) Processor Selection Procedures

Section V (E) of the Plan sets forth a series of guidelines for the Participants to follow in establishing procedures for selecting a new processor. That section currently subjects the Participants' approval of those procedures to a two-thirds majority vote. In the Participants' view, a majority vote of the Participants, rather than a two-thirds vote, is the appropriate voting requirement for approval of the procedures for selecting a new processor. This vote is only to establish the selection procedures. Because the Participants may have divergent views on the form that those procedures should take, a majority vote makes it easier for the Participants to arrive at a decision. The Participants note that the CTA Plan, the CQ Plan and the OPRA Plan all require a majority vote for decisions relating to procedures for selecting a new processor.

(d) Processor Selection

The Plan does not currently specify the voting requirement for selecting a new processor. Since the Plan is silent, the applicable voting requirement would be the requirement that applies to matters for which the Plan does not specify a voting requirement. That default voting requirement is currently unanimity, but, as discussed above, the amendment seeks to change that to a majority vote. The Participants believe that a unanimous vote could make it too difficult for the Participants to arrive at a decision and that a matter as significant as selecting a Plan processor should require more than a simple majority vote. In their view, a two-thirds majority vote strikes the right balance of requiring a strong consensus without allowing a single Participant or a small number of Participants to block the selection of a new processor.

(e) Default Voting Requirement

The Plan currently requires a unanimous vote in respect of any matter for which the Plan does not specify a voting requirement. This requirement can make it unwieldy for the Participants to act, as all Participants do not always agree on every matter. The Participants believe that the affirmative vote of a majority of Participants provides greater flexibility and facilitates their ability to take action under the Plan. They note that the CTA Plan, the CQ Plan and the OPRA Plan all require majority votes to act on matters for which those plans do not specify a voting requirement.

2. Governing or Constituent Documents

Not applicable.

3. Implementation of Amendment

All of the Participants have manifested their approval of the proposed amendment by means of their execution of the amendment. The Plan amendment would become operational upon approval by the Commission.

4. Development and Implementation Phases

Not applicable.

5. Analysis of Impact on Competition

The proposed amendment does not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Exchange Act. The Participants do not believe that the proposed plan amendments introduce terms that are unreasonably discriminatory for the purposes of Section 11A(c)(1)(D) of the Exchange Act.

6. Written Understanding or Agreements Relating to Interpretation of, or Participation in, Plan

Not applicable.

7. Approval by Sponsors in Accordance With Plan

See Item A(3) above.

8. Description of Operation of Facility Contemplated by the Proposed Amendment

Not applicable.

9. Terms and Conditions of Access

See Item A(1) above.

10. Method of Determination and Imposition, and Amount of, Fees and Charges

See Item A(1) above.

11. Method and Frequency of Processor Evaluation

Not applicable.

12. Dispute Resolution

Not applicable.

B. Rule 601(a)

1. Reporting Requirements

Not applicable.

2. Manner of Collecting, Processing, Sequencing, Making Available and Disseminating Last Sale Information

Not applicable.

3. Manner of Consolidation

Not applicable.

4. Standards and Methods Ensuring Promptness, Accuracy and Completeness of Transaction Reports

Not applicable.

5. Rules and Procedures Addressed to Fraudulent or Manipulative Dissemination

Not applicable.

6. Terms of Access to Transaction Reports

Not applicable.

7. Identification of Marketplace of Execution

Not Applicable.

III. Solicitation of Comments

The Commission seeks general comments on Amendment No. 32. Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposal 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* S7–24–89 *on the subject line.*

Paper Comments

- Send paper comments in triplicate to Brent J. Fields, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number S7–24–89. 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 Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all written statements with respect to the proposed Plan amendment that are filed with the Commission, and all written communications relating to the proposed Plan amendment 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 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 Web site viewing and printing at the Office of the Secretary of the Committee, currently located at the CBOE, 400 S. LaSalle Street, Chicago, IL 60605. 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 S7–24–89 and should be submitted on or before October 27, 2014.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[4]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2014–23655 Filed 10–3–14; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–73268; File No. SR–CHX–2014–17]

Self-Regulatory Organizations; Chicago Stock Exchange, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Adopt and Amend Fees for the CHX Routing Services

September 30, 2014.

Pursuant to Section 19(b)(1)[1] of the Securities Exchange Act of 1934 (''Act''),[2] and Rule 19b–4 thereunder,[3] notice is hereby given that on September 19, 2014, the Chicago Stock Exchange, Inc. (''CHX'' 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

CHX proposes to amend its Schedule of Fees and Assessments (the ''Fee Schedule'') to adopt and amend fees for the CHX Routing Services. The text of this proposed rule change is available on the Exchange's Web site at (*www.chx.com*) and in 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 CHX included statements concerning the purpose of and basis for the proposed rule changes 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 CHX 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 Changes

1. Purpose

On September 8, 2014, the Exchange filed SR–CHX–2014–15 pursuant to Section 19(b)(3)(A) of the Act[4] and Rule 19b–4 thereunder,[5] to, *inter alia,* adopt the CHX Routing Services.[6] The filing was immediately effective upon filing, but the proposed rule change will be implemented upon two weeks' notice from the Exchange to its Participants.

The Exchange now proposes (1) to amend Section E.6 of the Fee Schedule to adopt fees for the CHX Routing Services and (2) to amend Section E.8(c) of the Fee Schedule to clarify that the Average Daily Volume (''ADV'') exemption from the Order Cancellation Fee is based on all executions resulting from single-sided orders submitted to the CHX Matching System (''Matching System''), which includes executions within the Matching System and at away markets pursuant to the CHX Routing Services.

Proposed CHX Routing Services Fees

In sum, the CHX Routing Services will permit Routable Orders[7] submitted to the Matching System to be routed away from the Matching System if a Routing Event[8] is triggered. Orders that are not Routable Orders and orders that have either been cancelled from or have not been submitted to the Matching System are not eligible for the CHX Routing Services.

Proposed Section E.6 of the Fee Schedule, entitled ''CHX Routing Services Fees,'' provides that executions that result from orders that have been routed away from the Matching System pursuant to the CHX Routing Services shall be subject to the following fees:

Order size as submitted to the matching system	Security price	Routing fee
Odd Lots	All Prices	$0.0040/share.
Round and Mixed Lots	<$1.00/share	$0.0030/share.
	≥$1.00/share	0.30% of trade value.

The proposed CHX Routing Fee for Odd Lots is identical to current Section E.4 of the Fee Schedule, which provides that $0.0040/share will be charged for all executions resulting from Odd Lot orders[9] submitted to the Matching System. Also, the proposed CHX Routing Fees for Round Lot[10] and Mixed Lot[11] orders are identical to current Section E.1 of the Fee Schedule, which provides that $0.0030/share will be charged for any executions resulting from Round Lot or Mixed Lot orders where the execution price was at or greater than $1.00/share and 0.30% of

[4] 17 CFR 200.30–3(a)(27).

[1] 15 U.S.C.78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

[4] 15 U.S.C. 78s(b)(3)(A).

[5] *Id.*

[6] *See* CHX Article 19.

[7] CHX Article 1, Rule 1(oo) defines ''Routable Order'' as ''any incoming Limit order, as defined under Article 1, Rule 2(a)(1), of any size, not marked by any order modifiers or related terms listed under Article 1, Rule 2 that prohibit the routing of the order to another Trading Center.''

[8] *See* CHX Article 19, Rule 3(a).

[9] *See* CHX Article 1, Rule 2(f)(2).

[10] *See* CHX Article 1, Rule 2(f)(3).

[11] *See* CHX Article 1, Rule 2(f)(1).

the trade value where the execution price was below $1.00/share.

Amended ADV Exemption to the Order Cancellation Fee

Under SR–CHX–2012–15,[12] the Exchange adopted the current formula-based Order Cancellation Fee detailed under Section E.8 of the Fee Schedule, amended under SR–CHX–2013–11,[13] SR–CHX–2013–12,[14] and SR–CHX–2014–01,[15] which assesses a daily cancellation fee per account symbol [16] and security, if the order cancellation ratio exceeds a designated threshold, which is billed monthly. However, current Section E.8(c) provides an ADV exemption from the Order Cancellation Fees per account symbol per month if the ADV attributable to an account symbol for a given month is at least 100,000 shares from single-sided orders executed at or greater than $1.00/share.

Given that the Exchange does not currently route orders away from the Matching System, the only executions that are currently included in the ADV calculation are single-sided order executions within the Matching System. However, in light of the CHX Routing Services, the Exchange now proposes to adopt language that clarifies that eligible executions (*i.e.,* executions that are included in the ADV calculation) shall only include executions resulting from single-sided orders *submitted* to the Matching System, which will include executions within the Matching System and executions at away markets resulting from orders routed away from the Matching System pursuant to the CHX Routing Services. Executions that result from single-sided orders that were never submitted to the Matching System or executions resulting from orders routed to away markets outside of the CHX Routing Services will continue to not be included in the ADV calculation since such executions are never attributed to a Trading Account. As such, the Exchange also proposes to adopt language that states that eligible executions shall not include away executions effected outside of the CHX Routing Services.

The Exchange notes that current Section E.8(c) already contemplates the inclusion of away executions pursuant to the CHX Routing Services because such away executions will only result from Routable Orders submitted to the Matching System, which will always be attributed to a Trading Account. As such, the proposed amendment merely clarifies the scope of the current ADV exemption. The Exchange does not propose to otherwise amend the operation of the Order Cancellation Fee or the ADV exemption.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act [17] in general, and furthers the objectives of Section 6(b)(4) of the Act [18] in particular, in that it provides for the equitable allocation of reasonable dues, fees and other charges among members and other persons using its facilities.

The Exchange believes that the proposed CHX Routing Services fees equitably allocate fees among Participants in a non-discriminatory manner as the fee is assessed according to a Participant's use of the CHX Routing Services. Moreover, the CHX Routing Services Fee is reasonable in light of the fact that the proposed fees are identical to the current liquidity removing fee for single-sided order executions within the Matching System detailed under Section E of the Fee Schedule and is similar to the routing fees of other exchanges, such as BATS Y-Exchange (''BYX'').[19]

The Exchange also believes that the proposed amended ADV exemption from the Order Cancellation Fee described herein will promote the equitable allocation of the Order Cancellation Fee as it will continue to fairly allocate costs among Participants according to their respective trading activity by clarifying that executions resulting from the CHX Routing Services will be included in the ADV calculation. Similar to executions within the Matching System, a Participant that submits Routable Orders that are executed at away market(s) pursuant to the CHX Routing Services will provide additional revenue to the Exchange in the form of the proposed CHX Routing Services fees, which may be used to recoup some of the costs of administering and processing cancelled orders. Thus, the Exchange believes that Participants that meet the ADV exemption through executions within the Matching System and/or at away markets pursuant to the CHX Routing Services should not be billed Order Cancellation Fees assessed to applicable Trading Accounts for that month.

In addition, these changes to the Fee Schedule would equitably allocate reasonable fees among Participants in a non-discriminatory manner by assessing cancellation fees on all Trading Accounts that exceed a fixed Cancellation Ratio and by waiving cancellation fees on all Trading Accounts that satisfy the requirements of the amended ADV exemption. Since all Participants are subject to the Order Cancellation Fee and given that the amended ADV exemption and the CHX Routing Services will be available to all Participants, the Exchange submits that the amended Order Cancellation Fee is non-discriminatory.

B. Self-Regulatory Organization's Statement of Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange does not believe that the proposed CHX Routing Services fee and the proposed amended ADV exemption from the Order Cancellation Fee will burden competition, but instead, enhance competition, as it is intended to increase the competitiveness of, and draw additional volume to, the Exchange. The Exchange operates in a highly competitive market in which market participants can readily direct order flow to competing venues if they deem fee levels set by the Exchange to be excessive. The proposed CHX Routing Services fee is similar to that of other exchanges, such as BYX.[20] Thus, the proposed rule change is a competitive proposal that is intended to add additional liquidity and order executions to the Exchange, which will,

[12] *See* Securities Exchange Act Release No. 68219 (November 13, 2012), 77 FR 69673 (November 20, 2012) (SR–CHX–2012–15) (''Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Its Order Cancellation Fee'').

[13] *See* Securities Exchange Act Release No. 69701 (June 5, 2013), 78 FR 35082 (June 11, 2013) (SR–CHX–2013–11) (''Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend the Order Cancellation Fee'').

[14] *See* Securities Exchange Act Release No. 69903 (July 1, 2013), 78 FR 40788 (July 8, 2013) (SR–CHX–2013–12) (''Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend the Single-Sided Order Fees and Credits and the Order Cancellation Fee'').

[15] *See* Securities Exchange Act Release No. 71404 (January 27, 2014), 79 FR 5476 (January 31, 2014) (SR–CHX–2014–01) (''Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend the Order Cancellation Fee'').

[16] An account symbol identifies a specific CHX Trading Account. CHX Article 1, Rule 1(ll) defines ''Trading Account,'' in pertinent part, as ''an account under a Trading Permit, identified by a unique CHX account symbol, from which orders are sent to the Exchange's Trading Facilities.''

[17] 15 U.S.C. 78f.

[18] 15 U.S.C. 78f(b)(4).

[19] *See* BYX Fee Schedule. The BYX Fee Schedule provides different fees depending on, *inter alia,* the type of routing destination and/or routing option selected. The proposed CHX Routing Fees are most analogous with the BYX routing fees of $0.0029/share or $0.0033/share, which are assessed for executions for routed orders at venues other than ''dark liquidity'' venues. As currently contemplated, the CHX Routing Services will not route orders to dark liquidity venues.

[20] *Id.*

in turn, benefit the Exchange and all Participants.

C. Self-Regulatory Organization's Statement on Comments Regarding the Proposed Rule Changes Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change is effective upon filing pursuant to Section 19(b)(3)(A)(ii) of the Act [21] and subparagraph(f)(2) of Rule 19b–4 thereunder [22] because it establishes or changes a due, fee or other charge imposed by the Exchange.

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–CHX–2014–17 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–CHX–2014–17. 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 CHX. 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–CHX–2014–17 and should be submitted on or before October 27, 2014.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[23]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2014–23705 Filed 10–3–14; 8:45 am]

BILLING CODE 8011–01–P

[21] 15 U.S.C. 78s(b)(3)(A)(ii).

[22] 17 CFR 240.19b–4(f)(2).

[23] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–73266; File No. SR–NASDAQ–2014–095]

Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Notice of Filing of Proposed Rule Change To Provide a New Optional Functionality to Minimum Quantity Orders

September 30, 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 September 18, 2014, The NASDAQ Stock Market LLC (''NASDAQ'' 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 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 proposes a rule change to provide a new optional functionality to Minimum Quantity Orders. The text of the proposed rule change is available from NASDAQ's Web site at *http://nasdaq.cchwallstreet.com/Filings/,* at NASDAQ's principal office, 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, NASDAQ 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. NASDAQ has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange is proposing to provide a new optional functionality to Minimum Quantity Orders.[3] A Minimum Quantity Order allows a market participant to specify a minimum share amount at which it will execute. For example, a market participant seeking to buy or sell a large position may desire to execute only if a large quantity of shares can be traded to reduce the price impact of the security being bought or sold. A Minimum Quantity Order will not execute unless the volume of contra-side liquidity available to execute against the order meets or exceeds the designated minimum. When a Minimum Quantity Order is received by the Exchange, it will execute immediately [4] if there is sufficient liquidity available on the Exchange within the limit price of the Minimum Quantity Order. Furthermore, the order will execute if the sum of the shares of one or more orders is equal to or greater than its minimum quantity. In the case of multiple orders being aggregated to meet the minimum

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Rule 4751(f)(5).

[4] A Minimum Quantity Order would satisfy the requirements of Regulation NMS and not trade through a protected quotation.

quantity, each contra-side order creates a separate execution and thus there can be multiple executions that, in aggregate, equal or exceed the minimum quantity. If a Minimum Quantity Order does not execute immediately due to lack of contra-side liquidity that is equal to or greater than the designated minimum, the order will post [5] to the NASDAQ order book as a Non-Displayed Order.[6] Once posted, a Minimum Quantity Order will execute only if an incoming order is marketable against the resting Minimum Quantity Order and is equal to or greater than the minimum quantity set on the resting Minimum Quantity Order. Once posted, multiple potential executions cannot be aggregated to meet the minimum quantity requirement of the Minimum Quantity Order. If a Minimum Quantity Order executes partially and the number of shares remaining is less than the minimum quantity of the order, the minimum quantity of the order is reduced to the remaining share size. If a Minimum Quantity Order is received that is marketable against a resting contra-side order with size that does not meet the minimum quantity requirement, the Minimum Quantity Order will be posted on the book as a Non-Displayed Order at the locking price.[7] For example, if a Minimum Quantity Order is received to buy 1,000 shares at $10 with a minimum quantity restriction of 500 shares and there is a resting sell order for 300 shares at $10, the Minimum Quantity Order will be posted as a Non-Displayed Order at $10. Furthermore, the Exchange notes that a subsequent order without a minimum quantity restriction that is marketable against the resting contra-side interest will result in an execution because the market participant entering the Minimum Quantity Order has expressed its intention not to execute against liquidity below a certain minimum size, and therefore cedes execution priority to any new orders that would otherwise have a lower priority.

NASDAQ is proposing to add a new optional functionality to further enhance the utility of Minimum Quantity Orders to market participants.[8] In particular, some market participants have noted that they avoid sending large Minimum Quantity Orders to NASDAQ out of concern that such orders may interact against small orders entered by professional traders. These participants are concerned that such interaction may negatively impact the execution of their larger orders. Often institutional orders are much larger in size than the average order in the marketplace. Furthermore, in order to facilitate the liquidation or acquisition of a large position, multiple orders are submitted into the market, which although larger than the average order in the market, only represent a small proportion of the overall institutional position to be executed. The various strategies used to execute large size are based on a desire to limit price movement of the stock the institution is pursuing. Executing in small sizes, even if in aggregate it meets a minimum quantity designation, may impact the market such that the additional orders that the institution has yet to submit to the market may be more costly to execute. If an institution is able to execute in larger sizes, the contra-party to the execution is less likely to be a participant that reacts to short term changes in the stock price and as such the price impact to the stock could be less acute when larger individual executions are obtained by the institution.[9] As a consequence of this concern, these orders are often executed away from the Exchange in dark pools, at least some of which have the functionality proposed herein,[10] or via broker-dealer internalization.

Accordingly, to attract larger Minimum Quantity Orders to the Exchange NASDAQ is proposing new optional functionality that will allow a market participant to designate a minimum individual execution size, and thus allow users to avoid interaction with such smaller orders resting on the book. As discussed above, under the current rule a Minimum Quantity Order will execute against any number of smaller contra-side orders that, in aggregate, meet the minimum quantity set by the market participant. For example, if a market participant entered a Minimum Quantity Order to buy with a price of $10, a size of 1,000 and a minimum quantity of 500, and the order was marketable against two resting sell orders for 300 and 400 shares, the System would aggregate both orders for purposes of meeting the minimum quantity, thus resulting in executions of 300 shares and 400 shares respectively with the remaining 300 shares of the Minimum Quantity Order posting to the book with a minimum quantity restriction of 300 shares. The proposed new optional functionality will not allow aggregation of smaller executions to satisfy the minimum quantity of a Minimum Quantity Order. Using the same scenario as above, but with the proposed new functionality and a minimum execution size requirement of 400 shares selected by the market participant, the Minimum Quantity Order would not execute against the two sell orders because the order at the top of the NASDAQ order book is less than 400 shares. The new functionality will reprice the Minimum Quantity Order to the next best price and post the order to the NASDAQ order book as a Non-Displayed Order when the top of the NASDAQ order book is of insufficient size to satisfy the minimum execution size requirement. Applied to the example above, the order would post to the NASDAQ order book as a Non-Displayed Order to buy 1,000 shares at $9.99. NASDAQ notes that the market participant entering the Minimum Quantity Order has expressed its intention not to execute against liquidity below a certain minimum size, and therefore cedes execution priority when it would lock resting orders

[5] Orders post to the NASDAQ book only if they are designated with a time in force that allows for posting. For example, an IOC order never posts to the book.

[6] A Non-Displayed Order is a limit order that is not displayed in the NASDAQ system, but nevertheless remains available for potential execution against all incoming orders until executed in full or cancelled. *See* Rule 4751(e)(3). Minimum Quantity Orders are always Non-Displayed when posted on the Exchange book.

[7] SEC Rule 610(d) under Regulation NMS restricts displayed quotations that lock or cross protected quotations in NMS stock, but does not apply to non-displayed trading interest, like a resting Minimum Quantity Order. *See* 17 CFR 242.610(d).

[8] The option is available at the port level. Accordingly, all orders entered through a particular port will receive the selected functionality. All trading ports default to the current functionality.

[9] The Commission has long recognized this concern: ''Another type of implicit transaction cost reflected in the price of a security is short-term price volatility caused by temporary imbalances in trading interest. For example, a significant implicit cost for large investors (*who often represent the consolidated investments of many individuals*) is the price impact that their large trades can have on the market. Indeed, disclosure of these large orders can reduce the likelihood of their being filled.'' *See* Securities Exchange Act Release No. 42450 (February 23, 2000), 65 FR 10577, 10581 (February 28, 2000) (SR–NYSE–99–48) (emphasis added).

[10] For example, IEX Services LLC (''IEX'') is an alternative trading venue, regulated by the SEC pursuant to Regulation ATS. 17 CFR 242.300–303. IEX describes itself as ''Dedicated to institutionalizing fairness in the markets. . . .'' (*See http://www.iextrading.com/about/*). IEX provides a Minimum Quantity order parameter (''MQTY''), which allows a subscriber to designate a minimum indicated share size that must be satisfied for the order to be executed. *See http://www.iextrading.com/services/*. There are two methods that IEX will apply to determine the satisfaction of MQTY condition of orders. Under ''Method #2,'' an MQTY order may have a Minimum Execution size, which provides execution of the order if the resting order with the highest priority which would trade with the active order would trade shares equal to or greater than the minimum quantity defined on the active order. This is precisely the functionality the Exchange is proposing. The Exchange notes that the BIDS Alternative Trading System also has functionality that allows its subscribers to select a minimum size requirement, which prevents a subscriber's interest from interacting with contra-side interest if its size is less than the specified minimum. *See http://www.bidstrading.com/solutions/faqs/*.

against which it would otherwise execute if it were not for the minimum execution size restriction.

NASDAQ believes that it is appropriate to adjust the price to the next best price prior to posting on the NASDAQ order book because, by using the minimum execution size option, the submitter of the order is choosing to reduce the number of situations in which the order could potentially execute. Thus an order without this further restriction provides greater contribution to the price discovery process of the market. All bona fide market participation that results in an execution on a data feed contributes to the price discovery process that is essential to a proper functioning market. However, there are different degrees to which activity within the market contributes to price discovery. A displayed order at the NBBO of an Exchange, and the subsequent execution thereof, contributes significantly to price discovery because both the displayed order prior to execution, and the execution itself, provide a reference price to the market. Further, a non-displayed order on an exchange contributes to price discovery as it is part of the continuous auction on a market with publicly displayed orders and quotes—albeit the contribution of a non-displayed order on an exchange is less than the contribution of a displayed order on the exchange. Furthermore, a non-displayed order on a dark pool contributes less to price discovery because it is resting in a less transparent trading venue that is not part of the continuous auction of a lit exchange. If one were to rank the contribution to price discovery that different market activity provides, it would include the following (listed from least price discovery contribution to most):

- Order resting in dark pool (no contribution)
- Non-Displayed order on exchange (no or very little contribution)
- Order execution in dark pool (some contribution, execution reported publicly via TRF)
- Non-Displayed order execution on Exchange (contribution as part of continuous auction, execution reported publicly, and priority is behind displayed—*i.e.,* priority is ceded to orders that contribute more to price discovery)
- Displayed order on exchange (significant contribution)
- Displayed order execution on exchange (significant contribution, publicly displayed order plus execution reported publicly)

In this sense the proposed change continues to contribute more meaningfully to price discovery than an order in a dark pool because it is part of the continuous auction market on NASDAQ [11] but, similar to a regular non-displayed order ceding priority to displayed orders on the Exchange, the enhanced MAQ order will cede price priority to orders that do not contain the minimum execution size restriction. Also unlike the current process, the proposed new functionality will cancel the remainder of a marketable Minimum Quantity Order that is partially filled upon entry if the partially executed Minimum Quantity Order would lock resting contra-side liquidity that does not meet the minimum execution size requirement. Under the current process, a Minimum Quantity Order that receives a partial execution has the remainder of the order posted to the NASDAQ order book as a Non-Displayed Order. The proposed new functionality will, instead, cancel any shares not executed after a partial execution of a Minimum Quantity Order if there are more shares that remain resting on the book at a price that would satisfy the limit price of the Minimum Quantity Order but that are not executable against the incoming Minimum Quantity Order due to the minimum execution size set on the order. For example, a Minimum Quantity Order to buy priced at $10 with a size of 1,000 and a minimum quantity of 500, that is marketable against two sell orders on the NASDAQ order book, one for 500 shares and one for 400 shares, would result in the execution of 500 shares and the cancellation of the remaining 500 shares. Under the current process, the order would receive two partial executions of 500 and 400 shares, and the remaining 100 shares would be posted to the NASDAQ order book as a Non-Displayed Order to buy priced at $10.

NASDAQ notes that when a non-IOC Minimum Quantity Order is partially executed and cancelled in this situation, the contra-side liquidity that is not executed may be Non-Displayed. If a Minimum Quantity Order is cancelled due to Non-Displayed contra-side liquidity, the submitter of the order will know that there may be a resting order or orders at the price of the Minimum Quantity Order and also that the resting order or orders are for fewer shares than the minimum execution size required by the order. NASDAQ believes this is acceptable because the Minimum Quantity Order has already partially executed for a size of at least one round lot and thus the order submitter has taken on risk due to the execution and therefore contributed to price discovery in the market place. Furthermore, this is not unlike the information that is obtained when a Post-Only Order [12] is repriced due to resting Non-Displayed contra-side liquidity. In fact, this Minimum Quantity Order scenario is more beneficial to the market as it results in an execution which provides a greater contribution to price discovery.

Under the proposed change, a resting MAQ order will operate the same way as it does currently. When an order with a minimum quantity is posted on the book, it will only execute against incoming orders if the individual incoming order is equal to or greater than the minimum designated on the order. The primary difference between the current functionality and the proposed new functionality is that upon receipt, an incoming order with a minimum quantity designation will only execute against individual resting orders if the order at the top of the book meets or exceeds the minimum on the order. The Exchange believes that this is no different than a recently-adopted change to the NYSE Arca MPL–IOC order type,[13] which allows ETP holders to designate a minimum execution size when checking the book for liquidity and does not allow an execution unless it is against an order that is equal to or greater than the minimum designated on the order.

2. Statutory Basis

NASDAQ believes that the proposed rule change is consistent with the provisions of Section 6 of the Act,[14] in general, and with Section 6(b)(5) of the Act,[15] in particular, in that the proposal 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

[11] It is worth noting that NASDAQ has the single biggest pool of liquidity among individual exchanges. For example, in July The NASDAQ Stock Market accounted for 16.3% of consolidated NMS security volume. The next biggest single pool of liquidity was NYSE with 11.2%. *See http://www.NASDAQTrader.com* historical volume for more information.

[12] Rule 4751(f)(10).

[13] *See* NYSE Arca Rule 7.31(h)(6); *see also* Securities Exchange Act Release No. 71366 (January 22, 2014), 79 FR 4515 (January 28, 2014) (SR–NYSEArca–2014–01).

[14] 15 U.S.C. 78f.

[15] 15 U.S.C. 78f(b)(5).

public interest. Specifically, the proposed change to the functioning of the Minimum Quantity Order will provide market participants, including institutional firms who *ultimately represent individual retail investors in many cases,* with better control over their orders, thereby providing them with greater potential to improve the quality of their order executions. Currently, the rule allows the market participant to designate a minimum acceptable quantity on an order that, upon entry, may aggregate multiple executions to meet the minimum quantity requirement. Once posted to the book, however, the minimum quantity requirement is equivalent to a minimum execution size requirement. The Exchange is now proposing to provide a market participant with control over the execution of their Minimum Quantity Order by allowing them an option to designate the minimum individual execution size *upon entry.* The control offered by the proposed change is consistent with the various types of control currently provided by exchange order types. For example, NASDAQ and other exchanges offer limit orders, which allow a market participant control over the price it will pay or receive for a stock.[16] Similarly, exchanges offer order types that allow market participants to structure their trading activity in a manner that is more likely to avoid certain transaction cost related economic outcomes.[17] Moreover and as discussed above, other trading venues provide the very functionality that the Exchange is proposing.

As discussed above, some market participants have requested the functionality proposed herein so they may avoid transacting with smaller orders that they believe ultimately increases the cost of the transaction. Market participants such as large institutions that transact a large number of orders on behalf of retail investors have noted that, because NASDAQ does not have this functionality, they avoid sending large orders to NASDAQ to avoid potentially more expensive transactions.[18] In this regard, NASDAQ notes that the proposed new optional functionality may improve the NASDAQ market by attracting more order flow, which is currently trading on less transparent venues that contribute less to price discovery and price competition than executions and quotes that occur on lit exchanges. Such new order flow will further enhance the depth and liquidity on the Exchange, which supports just and equitable principals of trade. Furthermore, the proposed modification to the Minimum Quantity Order is consistent with providing market participants with greater control over the nature of their executions so that they may achieve their trading goals and improve the quality of their executions.

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. Specifically, the proposed change allows market participants to condition the processing of their orders based on a minimum execution size. The changes to the Minimum Quantity Order will enhance the functionality offered by NASDAQ to its members, thereby promoting its competitiveness with other exchanges and non-exchange trading venues that plan to, or already, offer similar functionality. As a consequence, the proposed change will promote competition among exchanges and their peers, which, in turn, will decrease the burden on competition rather than place an unnecessary burden thereon.

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

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the Exchange consents, the Commission shall: (a) By order approve or disapprove such proposed rule change, or (b) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml);* or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–NASDAQ–2014–095 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–2014–095. 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–NASDAQ–2014–095 and should be submitted on or before October 27, 2014.

[16] *See, e.g.,* Rule 4751(f)(3).

[17] For example, NASDAQ's Post-Only Order. *See* Rule 4751(f)(10).

[18] As noted, the proposal is designed to attract liquidity to the Exchange by allowing market participants to designate a minimum size of contra-side order to interact with, thus providing them with functionality available to them on dark markets. The designation of a minimum size may reduce the interaction that such new order flow would have with smaller contra-side orders on the Exchange, some of which may be retail order flow. The Exchange notes that, since the order flow attracted by this functionality may also represent retail investors and is in addition to the existing order flow currently on the Exchange, market quality for retail investors should not be negatively impacted ultimately. Accordingly, the Exchange does not believe that retail orders will be disadvantaged by the proposed change.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[19]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2014–23703 Filed 10–3–14; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–73259; File No. SR–CME–2014–37]

Self-Regulatory Organizations; Chicago Mercantile Exchange, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Regarding Acceptance of a New Series of Credit Default Swap Index Product

September 30, 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 September 19, 2014, Chicago Mercantile Exchange Inc. (''CME'') 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 CME. CME filed the proposal pursuant to Section 19(b)(3)(A) of the Act,[3] and Rule 19b–4(f)(4)(ii)[4] thereunder, so that the proposal was effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

CME is filing proposed rules changes that are limited to its business as a derivatives clearing organization. More specifically, the proposed rule change involves CME's acceptance of a new credit default swap index product series.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, CME 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. CME 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

CME is registered as a DCO with the Commodity Futures Trading Commission and offers clearing services for many different futures and swaps products, including certain credit default swap index products. Currently, CME offers clearing of the Markit CDX North American Investment Grade Index Series 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21 and 22. CME also offers clearing of the Markit CDX North American High Yield Index Series 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21 and 22.

The proposed rule change would expand CME's Markit CDX North American Investment Grade (''CDX IG'') Index and Markit CDX North American High Yield (''CDX HY'') Index product offerings by incorporating the upcoming Series 23 for both sets of index products.

In addition to the changes to expand CME's CDX offering, CME also proposes to remove from the current list of accepted CDX indices certain products whose termination dates have passed. These products are set forth in the following table:

CDX Index	Series	Termination date (scheduled termination date)
CDX North American Investment Grade (CDX.NA.IG)	8	20 Jun 2014.
CDX North American Investment Grade (CDX.NA.IG)	12	20 Jun 2014.
CDX North American Investment Grade (CDX.NA.IG)	16	20 Jun 2014.
CDX North American High Yield (CDX.NA.HY)	12	20 Jun 2014.

Although these changes will be effective on filing, CME plans to operationalize the proposed changes as follows: CDX IG 23 will become available for clearing on September 22, 2014 and CDX HY 23 will become available for clearing on September 29, 2014; provided that CME expects market participants to begin clearing CDX IG 23 and CDX HY beginning October 6, 2014 consistent with the ISDA protocol adopting the 2014 Credit Derivatives Definitions. The product deletions would be effective immediately.

The changes that are described in this filing are limited to CME's business as a DCO clearing products under the exclusive jurisdiction of the CFTC and do not materially impact CME's security-based swap clearing business in any way. CME notes that it has also certified the proposed rule change that is the subject of this filing to its primary regulator, the Commodity Futures Trading Commission (''CFTC''), in a separate filing, CME Submission 14–405. The text of the CME proposed rule amendments is attached, with additions underlined and deletions in brackets.

CME believes the proposed rule change is consistent with the requirements of the Exchange Act, including Section 17A of the Exchange Act.[5] The proposed rule change would expand CME's CDX IG and CDX HY product offerings by incorporating the upcoming Series 23 for both sets of index products and would therefore provide investors with an expanded range of derivatives products for clearing (and would also remove certain products whose termination dates have passed). As such, the proposed changes are designed to promote the prompt and accurate clearance and settlement of securities transactions and, to the extent applicable, derivatives agreements, contracts, and transactions, to assure the safeguarding of securities and funds which are in the custody or control of the clearing agency or for which it is responsible, and, in general, to protect investors and the public interest consistent with Section 17A(b)(3)(F) of the Exchange Act.[6]

Furthermore, the proposed changes are limited in their effect to swaps products offered under CME's authority to act as a DCO. These products are under the exclusive jurisdiction of the

[19] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A).

[4] 17 CFR 240.19b–4(f)(4)(ii).

[5] 15 U.S.C. 78q–1.

[6] 15 U.S.C. 78q–1(b)(3)(F).

CFTC. As such, the proposed CME changes are limited to CME's activities as a DCO clearing swaps that are not security-based swaps; CME notes that the policies of the CFTC with respect to administering the Commodity Exchange Act are comparable to a number of the policies underlying the Exchange Act, such as promoting market transparency for over-the-counter derivatives markets, promoting the prompt and accurate clearance of transactions and protecting investors and the public interest.

Because the proposed changes are limited in their effect to swaps products offered under CME's authority to act as a DCO, the proposed changes are properly classified as effecting a change in an existing service of CME that:

(a) Primarily affects the clearing operations of CME with respect to products that are not securities, including futures that are not security futures, and swaps that are not security-based swaps or mixed swaps; and

(b) does not significantly affect any securities clearing operations of CME or any rights or obligations of CME with respect to securities clearing or persons using such securities-clearing service.

As such, the changes are therefore consistent with the requirements of Section 17A of the Exchange Act [7] and are properly filed under Section 19(b)(3)(A) [8] and Rule 19b–4(f)(4)(ii) [9] thereunder.

B. Self-Regulatory Organization's Statement on Burden on Competition

CME does not believe that the proposed rule change will have any impact, or impose any burden, on competition. The rule change simply facilitates the offering of two new series of credit default swap index products.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

CME has not solicited, and does not intend to solicit, comments regarding this proposed rule change. CME has not received any unsolicited written comments from interested parties.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective upon filing pursuant to Section 19(b)(3)(A)[10] of the Act and Rule 19b–4(f)(4)(ii) [11] thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is 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–CME–2014–37 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–CME–2014–37. 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 CME and on CME's Web site at *http://www.cmegroup.com/market-regulation/rule-filings.html.*

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–CME–2014–37 and should be submitted on or before October 27, 2014.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[12]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2014–23700 Filed 10–3–14; 8:45 am]

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[7] 15 U.S.C. 78q–1.

[8] 15 U.S.C. 78s(b)(3)(A).

[9] 17 CFR 240.19b–4(f)(4)(ii).

[10] 15 U.S.C. 78s(b)(3)(A).

[11] 17 CFR 240.19b–4(f)(4)(ii).

[12] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–73256; File No. SR–NYSEARCA–2014–111]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Amending Rule 6.62 (Certain Types of Orders Defined) by Deleting WAIT Orders From Its Rules

September 30, 2014.

Pursuant to Section 19(b)(1) [1] of the Securities Exchange Act of 1934 (the ''Act'') [2] and Rule 19b–4 thereunder,[3] notice is hereby given that, on September 24, 2014, NYSE Arca, Inc. (the ''Exchange'' or ''NYSE Arca'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I and II 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 Rule 6.62 (Certain Types of Orders Defined) by deleting WAIT Orders from its Rules. 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.

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

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

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 Exchange proposes to amend Rule 6.62 (Certain Types of Orders Defined) to delete WAIT Orders from its rules.

Per Rule 6.62(w), an order designated as a WAIT Order, ''is held for one second without processing for potential display and/or execution. After one second, the order is processed for potential display and/or execution in accordance with all order entry instructions as determined by the entering party.'' Due to a lack of demand for WAIT Orders, the Exchange proposes to discontinue functionality supporting the order type. Accordingly, the Exchange proposes to delete the definition of WAIT Order from Rule 6.62(w) and hold this provision as Reserved. The Exchange will announce the implementation date of this change through a Trader Update.

2. Statutory Basis

The proposed rule change is consistent with Section 6(b) of the Securities Exchange Act of 1934 (the ''Act''), in general, and furthers the objectives of Section 6(b)(5), in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, and to remove impediments to and perfect the mechanism of a free and open market and a national market system. Specifically, the Exchange believes that by eliminating a little-used order type the proposal will remove impediments to and perfect the mechanisms of a free and open market and add transparency and clarity to the Exchange's rules. The Exchange further believes that deleting an order type rarely used by investors also removes impediments to and perfects the mechanism of a free and open market by ensuring that members, regulators and the public can more easily navigate the Exchange's rulebook and better understand the orders types available for trading on the Exchange. Moreover, the Exchange believes that the elimination of WAIT Orders will simplify order processing and reduce the burden on system capacity, which the Exchange believes is consistent with promoting just and equitable principles of trade as well as 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 impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. Specifically, the Exchange believes that the proposed rule change will relieve a burden on competition in no longer offering a seldom used rule type. In doing so, the proposed rule change will also serve to promote regulatory clarity and consistency, thereby reducing burdens on the marketplace and facilitating investor protection.

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

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 [4] and Rule 19b–4(f)(6) thereunder.[5]

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.

[4] 15 U.S.C. 78s(b)(3)(A).

[5] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

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–NYSEARCA–2014–111 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–NYSEARCA–2014–111. 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 Section, 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 will also be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSEARCA–2014–111 and should be submitted on or before October 27, 2014.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[6]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2014–23697 Filed 10–3–14; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–73257; File No. SR–OCC–2014–806]

Self-Regulatory Organizations; The Options Clearing Corporation; Notice of Filing of Advance Notice of and No Objection to The Options Clearing Corporation's Proposal To Enter a New Credit Facility Agreement

September 30, 2014.

Notice is hereby given that, on September 11, 2014, The Options Clearing Corporation (''OCC'') filed an advance notice with the Securities and Exchange Commission (''Commission'') pursuant to Section 806(e) of Title VIII of the Dodd-Frank Wall Street Reform and Consumer Protection Act,[1] entitled the Payment, Clearing, and Settlement Supervision Act of 2010 (''Payment, Clearing, and Settlement Supervision Act''), and Rule 19b–4(n)(1)(i) of the Securities Exchange Act of 1934 (''Exchange Act'').[2] The advance notice is described in Items I and II below, which Items have been prepared by OCC. The Commission is publishing this notice to solicit comments from interested persons, and to provide notice that the Commission has no objection to the changes set forth in the advance notice and authorizes OCC to implement those changes earlier than 60 days after the filing of the advance notice.

I. Clearing Agency's Statement of the Terms of Substance of the Advance Notice

This advance notice is filed by OCC in connection with a proposed change to its operations to replace an existing credit facility OCC maintains for the purposes of meeting obligations arising out of the default or suspension of a clearing member, in anticipation of a potential default by a clearing member, or the failure of a bank or securities or commodities clearing organization to perform its obligations due to its bankruptcy, insolvency, receivership or suspension of operations.

II. Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Advance Notice

In its filing with the Commission, OCC 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. OCC has prepared summaries, set forth in sections A and B below, of the most significant aspects of these statements.

A. Clearing Agency's Statement on Comments on the Advance Notice Received From Members, Participants or Others

Written comments were not and are not intended to be solicited with respect to the advance notice and none have been received.

B. Advance Notices Filed Pursuant to Section 806(e) of the Payment, Clearing, and Settlement Supervision Act

(i) Description of Change

This advance notice is being filed in connection with a proposed change in the form of the replacement of a credit facility that OCC maintains for the purposes of meeting obligations arising out of the default or suspension of a clearing member, in anticipation of a potential default by a clearing member, or the failure of a bank or securities or commodities clearing organization to perform its obligations due to its bankruptcy, insolvency, receivership or suspension of operations. OCC's existing credit facility (the ''Existing Facility'') was implemented on October 10, 2013 through the execution of a Credit Agreement among OCC, JPMorgan Chase Bank, N.A. (''JPMorgan''), as administrative agent, and the lenders that are parties to the agreement from time to time, which provides short-term secured borrowings in an aggregate principal amount of $2 billion and may be increased to $3 billion.[3]

The Existing Facility is set to expire on October 9, 2014 and OCC is therefore currently negotiating the terms of a new credit facility (the ''New Facility'') on substantially similar terms as the Existing Facility, except that enhancements are being added for a back-up administrative agent in case the primary administrative agent is unable to perform its obligations and to allow OCC to request borrowings directly from individual lenders. A back-up administrative agent would provide OCC with additional safety and stability in the event the primary administrative agent is not able to perform its duties under the new Facility. On September 5, 2014, OCC received a Commitment Letter with regard to the New Facility from: JPMorgan, the administrative agent, collateral agent, and a lender for the New Facility; J.P. Morgan Securities LLC (''JPMorgan Securities''), the joint lead arranger for the New Facility; Merrill Lynch, Pierce, Fenner & Smith Incorporated (''MLPF&S''), the joint lead arranger for the New Facility; and Bank of America, N.A. (''BANA''), the syndication agent and a lender for the New Facility.

The terms and conditions applicable to the New Facility are set forth in the Summary of Terms and Conditions attached to this filing as Exhibit 3. The conditions to the availability of the new facility include the execution and delivery of (i) a credit agreement between OCC, JPMorgan, BANA and the various lenders under the New Facility, (ii) a pledge agreement between OCC and JPMorgan, and (iii) a custodian agreement between OCC and JPMorgan which OCC anticipates will occur on or before October 7, 2014.

Upon the successful syndication of the New Facility, a syndicate of banks, financial institutions and other entities will make loans to OCC on request. The aggregate amount of loans available under the facility, subject to the value of eligible collateral, is up to $2 billion. During the term of the New Facility, the amount of the New Facility may be increased to up to $3 billion if OCC so requests and if sufficient commitments from lenders are received and accepted.[4]

The Existing Facility included a tranche that could be drawn on in

[6] 17 CFR 200.30–3(a)(12).

[1] Dodd-Frank Wall Street Reform and Consumer Protection Act, Pub. L. 111–203, 124 Stat. 1376 (2010). OCC was designated as a systemically important financial market utility by the Financial Stability Oversight Council on July 18, 2012. *See* Financial Stability Oversight Council 2012 Annual Report, Appendix A, *http://www.treasury.gov/initiatives/fsoc/Documents/2012%20Annual%20Report.pdf.* Therefore, OCC is required to comply with Title VIII of the Dodd-Frank Wall Street Reform and Consumer Protection Act.

[2] 17 CFR 240.19b–4(n)(1)(i).

[3] On May 12, 2014, OCC executed an amendment to the Existing Facility regarding its ability to pledge Canadian Government securities to support borrowings. To hold Canadian Government securities and Canadian dollars pledged by OCC, JPMorgan established at its London branch a securities and a deposit account in the name of JPMorgan, as administrative agent for the Existing Facility. OCC and JPMorgan executed an English law governed charge agreement pursuant to which OCC pledged the securities and cash at any time deposited in such accounts. A new English law governed charge agreement is expected to be entered into in connection with the New Facility.

[4] OCC is in the process of finalizing an additional $1 billion of liquidity with a non-bank provider to promote observance of its minimum liquidity requirements.

dollars or euros and a dollar-only tranche. The dollar equivalent of the total loans denominated in euros under the euro/dollar tranche of the Existing Facility could not exceed $100 million. The New Facility does not contain a euro/dollar tranche, the ability to borrow in euros or a euro administrative agent because OCC no longer has any euro-denominated product lines. Additionally, the Existing Facility provided OCC with the ability to make test borrowings, which become due and payable on the day after such borrowings are made, in an amount not greater than $10,000,000 for the purpose of testing communication and draw procedures. Under the New Facility, the $10,000,000 cap on test borrowings will be removed so that test draws can more closely simulate the dollar amount of an actual draw and to be consistent with other credit facilities in the marketplace that do not have caps on test draws.

The New Facility is available on a revolving basis for a 364-day term. OCC may request a loan under the New Facility on any business day by providing a notice to JPMorgan, as administrative agent, which will then notify the lenders, who will be required to fund their *pro rata* share of any requested loan within a specified period of time after receiving notice from JPMorgan. The funding deadline is designed to permit OCC to obtain funds on the date of the request, subject to a cutoff time after which funding will occur on the next business day. Each loan issued pursuant to the New Facility matures and is payable 30 days after the borrowing date, except for test borrowings under the facility, which mature and are payable one business day after the borrowing date. Proceeds of loans under the New Facility must be used to meet the obligations of OCC arising out of the default or suspension of a clearing member, in anticipation of a potential default by a clearing member, or the failure of a bank or securities or commodities clearing organization to perform its obligations to OCC. In order to obtain a loan under the facility, OCC must pledge as collateral U.S. dollars or securities issued or guaranteed by the U.S. Government or the Government of Canada that are margin deposits of suspended members or that are held in OCC's clearing fund, and in either case the administrative agent must have a valid and enforceable first priority perfected lien and security interest in such collateral under the applicable laws of the United States or other applicable jurisdiction. Securities issued by the Government of Canada will only be eligible to be pledged as collateral if they have a minimum rating of AAA/Aaa as determined by S&P or Moody's. OCC has the authority to pledge these assets in connection with borrowings under Section 5(e) of Article VIII of its By-Laws and Rule 1104(b).

The amount available under the New Facility at any given point in time is equal to the lesser of (i) $2 billion, or the increased size of the facility, if applicable, and (ii) the sum of (A) 90% of the value of OCC's clearing fund that is not subject to liens or encumbrances granted by OCC other than in connection with the New Facility and (B) 90% of the value of unencumbered margin deposits of suspended clearing members that are not subject to liens or encumbrances granted by OCC other than in connection with the New Facility. If the aggregate principal amount of loans under the New Facility exceeds the amount available under this formula, OCC must prepay loans, obtain the release of liens and/or require additional margin and/or clearing fund deposits to cure the deficiency. A condition to the making of any loan under the New Facility is that, after giving effect to the loan, the dollar value of the aggregate loans under the New Facility may not exceed the ''borrowing base.'' The borrowing base is determined by adding the value of all collateral pledged in connection with all loans under the New Facility, after applying ''haircuts'' to U.S. and Canadian Government securities based on their remaining maturity. If the borrowing base is less than the sum of 100% of the outstanding loans under the New Facility, OCC must repay loans or pledge additional collateral to cure the deficiency. There are additional customary conditions to the making of any loan under the New Facility, including that OCC is not in default. Importantly, however, the absence of a material adverse change affecting OCC is not a condition to the making of a loan. Loans may be prepaid at any time without penalty.

Events of default by OCC under the New Facility include, but are not limited to, non-payment of principal, interest, fees or other amounts when due; non-compliance with a daily borrowing base when loans are outstanding; material inaccuracy of representations and warranties; bankruptcy events; fundamental changes; and failure to maintain a first priority perfected security interest in collateral. In the event of a default, the interest rate applicable to outstanding loans would increase by 2.00%. The New Facility also includes customary defaulting lender provisions, including provisions that restrict the defaulting lender's voting rights, permit set-offs of payments against the defaulting lender and suspend the defaulting lender's right to receive commitment fees.

The New Facility involves a variety of customary fees payable by OCC, including: (1) A one-time arrangement fee payable to JPMorgan Securities and MLPF&S; (2) a one-time administrative and collateral agent fee payable to JPMorgan if the New Facility closes; (3) upfront commitment fees payable to the lenders based on the amount of their commitments; and (4) an ongoing quarterly commitment fee based on the unused amount of the New Facility.

(ii) Anticipated Effect on and Management of Risk

Overall, the New Facility reduces the risks to OCC, its clearing members and the options market in general because it will allow OCC to obtain short-term funds to address liquidity demands arising out of the default or suspension of a clearing member, in anticipation of a potential default or suspension of clearing members or the insolvency of a bank or another securities or commodities clearing organization. The existence of the New Facility could enable OCC to minimize losses in the event of such a default, suspension or insolvency, by allowing it to obtain funds on extremely short notice to ensure that the clearance and settlement of transactions in options and other contracts occurs without interruption. By drawing on the facility OCC would be able to avoid liquidating margin or clearing fund assets in what would likely be volatile market conditions, which would preserve funds available to cover any losses resulting from the failure of a clearing member, bank or another clearing organization. OCC's entering into the New Facility will not increase the risks associated with its clearing function because it is entered into on substantially the same terms as the Existing Facility.

Two additional features carried through from the Existing Facility to the New Facility will enhance OCC liquidity and reduce risk. The inclusion of Canadian Government securities as eligible collateral will increase the amount of OCC collateral that can be pledged to support borrowings under the New Facility, resulting in increased availability of loans. The clarification that OCC may borrow under the New Facility in anticipation of a potential default by or suspension of a clearing member may be subject to a requirement that OCC provide JPMorgan with documentation supporting its authorization to do so.

While the New Facility will, in general, reduce the risks associated with OCC's clearing function, like any lending arrangement the New Facility involves risks. One of the primary risks to OCC and its clearing function associated with the New Facility is the risk that a lender fails to fund when OCC requests a loan, because of the lender's insolvency or otherwise. This risk is mitigated through the use of a syndicated facility, which does not depend on the creditworthiness of a small number of lenders. In addition, the New Facility has lender default provisions designed to discourage lenders from failing to fund loans. Moreover, OCC has the ability under the New Facility to replace a defaulting lender. Finally, in the event a particular lender fails to fund its portion of the requested loan, the New Facility includes provisions pursuant to which OCC may request ''covering'' loans from non-defaulting lenders to make up the shortfall. Alternatively, OCC may simply make a second borrowing request for the shortfall amount that lenders are committed to make, subject to OCC's satisfying the borrowing conditions for the second loan, although in either case the total amount available for borrowing under the New Facility would be reduced by the unfunded commitment of the defaulting lender. The failure by one or more lenders to fund the first loan does not relieve the lenders of their commitment to fund the second loan.

A second risk associated with the New Facility is the risk that OCC is unable to repay a loan within 30 days, which would allow the lenders to seize the pledged collateral and liquidate it, potentially at depressed prices that would result in losses to OCC. OCC believes that this risk is at a manageable level, because 30 days should be an adequate period of time to allow OCC to generate funds to repay the loans under the New Facility, such as by liquidating clearing fund assets other than those pledged to secure the loans. As provided in Section 5(e) of Article VIII of its By-Laws, if the loans have not been repaid within 30 days, the amount of clearing fund assets used to secure the loans will be considered to be an actual loss to the clearing fund, which will be allocated in accordance with Section 5 of Article VIII, and the proceeds of such allocation can be used to repay the loans.

(iii) Consistency With the Payment, Clearing, and Settlement Supervision Act

OCC believes that the proposed change is consistent with Section 805(b) of the Payment, Clearing and Settlement Supervision Act [5] because it will promote robust risk management.[6] The New Facility would provide OCC with an additional source of liquidity to meet its settlement obligations while at the same time being structured to address certain risks, as described above, that arise in connection with the New Facility. The New Facility could also enable OCC to minimize losses in the event of a default, suspension or insolvency, by allowing it to obtain funds on extremely short notice to ensure that the clearance and settlement of transactions in options and other contracts occurs without interruption. Moreover, the New Facility would permit OCC to avoid liquidating margin or clearing fund assets in what would likely be volatile market conditions and preserve sufficient financial resources to cover any losses resulting from the failure of a clearing member, bank or other clearing organization.

(iv) Accelerated Commission Action Requested

Pursuant to Section 806(e)(1)(I) of the Payment, Clearing and Settlement Supervision Act,[7] OCC requests that the Commission notify OCC that it has no objection to the change no later than September 30, 2014, which is one week prior to the October 7, 2014 effective date of the New Facility. OCC requests Commission action one week in advance of the effective date to ensure that there is no period of time that OCC operates without a credit facility, given the importance of the borrowing capacity in connection with OCC's risk management.

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. The clearing agency 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 the clearing agency 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 the clearing agency in writing that it does not object to the proposed change and authorizes the clearing agency to implement the proposed change on an earlier date, subject to any conditions imposed by the Commission.

The clearing agency shall post notice on its Web site of proposed changes that are implemented.

The proposal shall not take effect until all regulatory actions required with respect to the proposal are completed.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include File Number SR–OCC–2014–806 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–OCC–2014–806. 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 of submission. 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 change that are filed with the Commission, and all written communications relating to the proposed 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 Section, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal office of OCC and on OCC's Web site at *http://www.theocc.com/components/*

[5] 12 U.S.C. 5464(b).

[6] 12 U.S.C. 5464(b)(1).

[7] 12 U.S.C. 5465(e)(1)(I).

docs/legal/rules_and_bylaws/sr_occ_14_806.pdf.

All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–OCC–2014–806 and should be submitted on or before October 27, 2014.

V. Commission's Findings and Notice of No Objection

Section 806(e)(1)(G) of the Payment, Clearing, and Settlement Supervision Act [8] provides that a designated financial market utility may implement a change if it has not received an objection from the Commission within 60 days of the later of (i) the date that the Commission receives notice of the proposed change or (ii) the date the Commission receives any further information it requests for consideration of the notice. A designated financial market utility may implement a proposed change in less than 60 days from the date of receipt of the notice of the change by the Commission, or the date the Commission receives any further information it requested, if the Commission notifies the designated financial market utility in writing that it does not object to the proposed change and authorizes the designated financial market utility to implement the proposed change on an earlier date, subject to any conditions imposed by the Commission.

In its filing with the Commission, OCC requested that the Commission notify OCC that it has no objection to the change no later than September 30, 2014, which is one week before the October 7, 2014 effective date of the New Facility. OCC requested Commission action by this date to ensure that there is no period of time that OCC operates without a credit facility, given the importance of the borrowing capacity in connection with OCC's risk-management framework.

The Commission does not object to the proposed change. Ensuring that OCC has uninterrupted access to a credit facility will promote the safety and soundness of the broader financial system by providing OCC with an additional source of liquidity to meet its clearance and settlement obligations in the event of the failure of a clearing member, bank, or clearing organization doing business with OCC. Having access to a credit facility will help OCC minimize losses in the event of such a failure by allowing it to access funds on extremely short notice, and without having to liquidate assets at a time when market prices could be falling precipitously.

[8] 12 U.S.C. 5465(e)(1)(G).

VI. Conclusion

Pursuant to Section 806(e)(1)(I) of the Payment, Clearing, and Settlement Supervision Act,[9] the Commission does not object to the proposed change, and authorizes OCC to implement the change (SR–OCC–2014–806) as of the date of this Order.

By the Commission.

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2014–23698 Filed 10–3–14; 8:45 am]

BILLING CODE 8011–01–P

[9] 12 U.S.C. 5465(e)(1)(I).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–73255; File No. SR–NYSEMKT–2014–82]

Self-Regulatory Organizations; NYSE MKT LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Amending Exchange Rule 900.3NY (Orders Defined) To Delete WAIT Orders From Its Rules

September 30, 2014.

Pursuant to Section 19(b)(1) [1] of the Securities Exchange Act of 1934 (the ''Act'') [2] and Rule 19b–4 thereunder,[3] notice is hereby given that on September 24, 2014, NYSE MKT LLC (the ''Exchange'' or ''NYSE MKT'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I and II 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 Rule 900.3NY (Orders Defined) by deleting WAIT orders from its rules. 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] 15 U.S.C. 78a.

[3] 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 Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend Rule 900.3NY (Orders Defined) to delete WAIT Orders from its rules.

Per Rule 900.3NY(t), an order designated as a WAIT Order, ''is held for one second without processing for potential display and/or execution. After one second, the order is processed for potential display and/or execution in accordance with all order entry instructions as determined by the entering party.'' Due to a lack of demand for WAIT Orders, the Exchange proposes to discontinue functionality supporting the order type. Accordingly, the Exchange proposes to delete the definition of WAIT Order from Rule 900.3NY(t) and hold this provision as Reserved. The Exchange will announce the implementation date of this change through a Trader Update.

2. Statutory Basis

The proposed rule change is consistent with Section 6(b) of the Securities Exchange Act of 1934 (the ''Act''), in general, and furthers the objectives of Section 6(b)(5), in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, and to remove impediments to and perfect the mechanism of a free and open market and a national market system. Specifically, the Exchange believes that by eliminating a little-used order type the proposal will remove impediments to and perfect the mechanisms of a free and open market and add transparency and clarity to the Exchange's rules. The Exchange further believes that deleting an order type rarely used by investors

also removes impediments to and perfects the mechanism of a free and open market by ensuring that members, regulators and the public can more easily navigate the Exchange's rulebook and better understand the orders types available for trading on the Exchange. Moreover, the Exchange believes that the elimination of WAIT Orders will simplify order processing and reduce the burden on system capacity, which the Exchange believes is consistent with promoting just and equitable principles of trade as well as 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 impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. Specifically, the Exchange believes that the proposed rule change will relieve a burden on competition in no longer offering a seldom used rule type. In doing so, the proposed rule change will also serve to promote regulatory clarity and consistency, thereby reducing burdens on the marketplace and facilitating investor protection.

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

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 [4] and Rule 19b–4(f)(6) thereunder.[5]

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–NYSEMKT–2014–82 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–NYSEMKT–2014–82. 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 Section, 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 will also be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSEMKT–2014–82 and should be submitted on or before October 27, 2014.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[6]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2014–23696 Filed 10–3–14; 8:45 am]

BILLING CODE 8011–01–P

[4] 15 U.S.C. 78s(b)(3)(A).

[5] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[6] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–73265; File No. SR–NYSE–2014–52]

Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Amending Section 102.01C of the NYSE Listed Company Manual To Adopt a New Global Market Capitalization Test Initial Listing Standard for Operating Companies and To Eliminate All of the Current Initial Listing Standards for Operating Companies Except the Earnings Test

September 30, 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 September 19, 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 and II 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 Section 102.01C of the NYSE Listed Company Manual (the ''Manual'') to adopt a new initial listing standard for operating companies and to eliminate all of the current initial listing standards for operating companies with one exception. 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 NYSE proposes to amend Section 102.01C of the Manual to adopt a new initial listing standard for operating companies and eliminate all of the current initial listing standards for operating companies with one exception.

The Exchange proposes to amend Section 102.01C of the Manual to adopt a new initial listing standard for operating companies (the ''Global Market Capitalization Test'') consisting solely of a requirement that the listing applicant must have a minimum total global market capitalization of $200 million at the time of initial listing.[3] Companies listing under the Global Market Capitalization Test will also be required to meet the existing distribution requirements of Section 102.01A of the Manual and the stock price and market value of publicly-held shares requirements of Section 102.01B of the Manual.[4] In connection with the adoption of the Global Market Capitalization Test, the Exchange proposes to eliminate the Valuation/Revenue with Cash Flow Test, the Pure Valuation/Revenue Test, the Affiliated Company Test and the Assets and Equity Test. The Earnings Test will remain in effect.[5]

The Exchange currently has five initial listing standards for operating companies: The Earnings Test; the Valuation/Revenue with Cash Flow Test; the Pure Valuation/Revenue Test; the Affiliated Company Test; and the Assets and Equity Test. All of these initial listing standards other than the Earnings Test include a global market capitalization requirement component ($500 million for the Valuation/Revenue with Cash Flow Test; $750 million for the Pure Valuation/Revenue Test; $500 million for the Affiliated Company Test; and $150 million for the Assets and Equity Test). Because the Global Market Capitalization Test that the Exchange proposes to adopt will require only a minimum total global market capitalization of $200 million at the time of initial listing, the Exchange proposes to eliminate the Valuation/Revenue with Cash Flow Test, the Pure Valuation/Revenue Test, the Affiliated Company Test and the Assets and Equity Test as they require an issuer to demonstrate a global market capitalization of more than $200 million and would therefore no longer be relevant.

In recent times, a number of companies have successfully completed sizable initial public offerings but have not qualified for listing on the NYSE. Typically, these companies are involved solely or primarily in research and development (''r&d'') activities at the time of their IPO and are raising funds in the IPO to continue their research. As these companies are not at a stage in their development where they are generating revenue, they do not qualify to list under the current initial listing standards that include requirements that are more suitable to companies that generate revenue (i.e., the Earnings Test, the Valuation/Revenue with Cash Flow Test, and the Pure Valuation/Revenue Test). Many of these companies also do not have any appreciable amount of stockholders' equity at the time of their IPOs and they therefore are unable to meet the $50 million stockholders' equity requirement of the Assets and Equity Test. Consequently, a company of this type may be able to raise a significant amount of capital in an IPO and not meet any of the current NYSE initial listing standards. However, these companies are not precluded from listing on Nasdaq as the Nasdaq Global Market has a listing standard that permits the qualification of a company solely on the basis of a total market capitalization of $75 million[6] (in addition to the stock price, distribution, and market value of publicly-held shares requirements discussed in Footnote 5 above).[7] The NYSE wishes to adopt the proposed new Global Market Capitalization Test to address this competitive disadvantage it faces in competing with Nasdaq for the listing of these r&d-focused companies.

The Exchange believes that by setting its market capitalization requirement under the proposed new standard at $200 million (more than twice the $75 million required by the comparable Nasdaq Global Market standard) it will ensure that companies listed under the new standard will be of a size that

[3] If a company is currently publicly traded at the time it applies to list on the Exchange and is being qualified for listing under the Global Market Capitalization Test, it will be required to meet the $200 million global market capitalization requirement for at least the 90 consecutive trading days immediately preceding the date on which it receives clearance to submit an application to list on the Exchange. The Commission notes a company which is currently publicly traded at the time it applies to list on the Exchange and is being qualified for listing under the Global Market Capitalization Test will also need to maintain a closing price of at least $4 per share for a period of at least 90 consecutive trading days prior to receipt of clearance to make application to list on the Exchange. *See* proposed NYSE Manual Section 102.01C(II)**.

[4] All operating companies listing on the NYSE are required by Section 102.01B of the Manual to have a stock price of at least $4 per share at the time of listing, which the Exchange notes is identical to the comparable requirement for listing on the Nasdaq Global Market. Companies listing in connection with an IPO or upon emergence from bankruptcy are required by Section 102.01A of the Manual to have 400 holders of round lots of their common stock and 1.1 million publicly-held shares at the time of initial listing. Companies listing in connection with a transfer or quotation are required by Section 102.01A of the Manual to have 1.1 million publicly-held shares and either: (i) 400 holders of round lots; (ii) 2,200 total stockholders together with average monthly trading volume of 100,000 shares (for the most recent six months); or (iii) 500 total stockholders together with average monthly trading volume of one million shares (for the most recent 12 months). The Exchange notes that these requirements are at least as stringent as the parallel requirement for listing on the Nasdaq Global Market that an applicant must have 400 round lot holders plus 1.1 million publicly-held shares. Section 102.01B of the Manual provides that any company listing in connection with an IPO or a spin-off must have $40 million in market value of publicly-held shares at the time of initial listing and requires all other applicants to have $100 million in market value of publicly-held shares. The Exchange notes that these requirements are significantly higher than the comparable requirements for listing under any of the Nasdaq Global Market initial listing standards. For example, under the various initial listing standards set forth in Nasdaq Marketplace Rule 5405(b), the highest market value of publicly-held shares that an issuer is required to demonstrate is $20 million.

[5] Pursuant to Section 102.01C of the Manual, a company can qualify for initial listing under the Earnings Test if it can demonstrate that it has pre-tax earnings from continuing operations, as adjusted, of (i) at least $10,000,000 in the aggregate for the last three fiscal years together with a minimum of $2,000,000 in each of the two most recent fiscal years, and positive amounts in all three years or (ii) at least $12,000,000 in the aggregate for the last three fiscal years together with a minimum of $5,000,000 in the most recent fiscal year and $2,000,000 in the next most recent fiscal year. A company that qualifies as an emerging growth company as defined in Section 2(a)(19) of the Securities Act of 1933 and Section 3(a)(80) of the Act can qualify for initial listing under the Earnings Test if it can demonstrate that it has pre-tax earnings from continuing operations, as adjusted, of at least $10,000,000 in the aggregate for the last two fiscal years with a minimum of $2,000,000 in both years.

[6] *See* Nasdaq Marketplace Rule 5405(b)(3).

[7] *See, supra,* Footnote 4 for a discussion of the stock price, distribution, and market value of publicly-held shares requirements of the Nasdaq Global Market.

makes them suitable for trading on the Exchange. The Exchange believes that the substantial size of companies seeking to list under the proposed Global Market Capitalization Test in combination with the Exchange's aforementioned stock price, distribution, and market-value of publicly-held shares requirements will ensure that the Exchange provides listed status only to bona fide companies that have or, in the case of an IPO, will have sufficient public float, investor base, and trading interest to provide the depth and liquidity necessary to promote fair and orderly markets. The Exchange notes that it has reviewed the IPOs that listed on Nasdaq over the last few years and that only a small number of those that were not qualified for listing on the NYSE would have been eligible for an NYSE listing under the proposed new standard. As such, the Exchange does not anticipate a significant increase in the number of qualified IPOs as a result of the proposed new standard and does not anticipate any meaningful reduction in the size and quality of companies listing on the Exchange as a consequence of the adoption of the proposed new standard.

As with all other listing applicants, the Exchange reserves the right to deny listing to any company seeking to list under the Global Market Capitalization Test if the Exchange determines that the listing of any such company is inadvisable or unwarranted in the opinion of the Exchange. Similarly, as with all companies applying to list on the Exchange, in determining the suitability for listing of any company seeking to list under the Global Market Capitalization Test, the staff of NYSE Regulation will carefully review the company's financial statements and its disclosures in its public filings, as well as conducting a background review of the company's officers, directors and significant shareholders. In particular, staff will review whether any company listing under the Global Market Capitalization Test has access to sufficient funds to carry out its business strategy as disclosed. As a consequence of its ability to consider these and other factors in addition to the market capitalization and other numerical requirements, the Exchange believes that it will be able to exercise informed discretion in listing companies under the proposed standard and that the adoption of the proposed standard is therefore consistent with the protection of investors. In reaching this conclusion, the Exchange also relied on the fact that the Nasdaq Global Market has been applying initial listing standards that are less stringent than the proposed Global Market Capitalization Test for a significant period of time and there is consequently a great deal of experience that demonstrates that companies listing under these lower standards are suitable for listing on a national securities exchange.

The Exchange's listing standards after adoption of the proposed Global Market Capitalization Test will exceed those established by Exchange Act Rule 3a51–1(a)(2) (the ''Penny Stock Rule'').[8] Specifically, the Exchange notes that the $200 million total market capitalization required by the proposed standard far exceeds the $50 million total market capitalization option of the Penny Stock Rule. While, in the case of newly-public companies, this requirement in the proposed standard would be measured at a point in time rather than over a 90 consecutive day period prior to listing as provided in the Penny Stock Rule, the Exchange believes that the far greater amount required by the proposed standard makes it a far more stringent standard than that of the Penny Stock Rule notwithstanding the different approach to measurement.[9] Further, Nasdaq currently has an initial listing standard that requires that a company only demonstrate a total market capitalization of $75 million.[10] In addition, the Exchange requires all initial listings, regardless of which standard they are listed under, to meet the stock price, distribution and market value of publicly-held shares requirements described in Footnote 5 above, all of which meet or exceed all of the Penny Stock Rule's remaining requirements. Companies listing under the Global Market Capitalization Test will also have to comply with all other applicable Exchange listing rules, including the Exchange's corporate governance requirements. The Exchange's continued listing standard set forth in Section 802.01B of the Manual that requires a listed company to maintain an average global market capitalization over a consecutive 30 trading-day period of at least $50,000,000 or stockholders' equity of at least $50,000,000 in order to remain in compliance with Exchange rules will be applicable to companies that list under the Global Market Capitalization Test.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b)[11] of the Act, in general, and furthers the objectives of Section 6(b)(5) of the Act,[12] in particular in that it is designed to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. The Exchange believes that the proposed amendment to the initial listing standards is consistent with the investor protection objectives of Section 6(b)(5). The Exchange has reached this conclusion because: (i) As described in the ''Purpose'' section above, the Exchange will continue to consider factors other than an applicant's satisfaction of numerical criteria in exercising its discretion to list a company; and (ii) the Nasdaq Global Market has been applying initial listing standards that are less stringent than the proposed Global Market Capitalization Test for a significant period of time and there is consequently a great deal of experience that demonstrates that companies listing under these lower standards are suitable for listing on a national securities exchange. Further, the Exchange believes that the substantial size of companies seeking to list under the proposed Global Market Capitalization Test in combination with the Exchange's stock price, distribution, and market-value of publicly-held shares requirements will ensure that the Exchange provides listed status only to bona fide companies that have or, in the case of an IPO, will have sufficient public float, investor base, and trading

[8] 17 CFR 240.[sic]a51–1(a)(ii).

[9] The Exchange notes, however, that current publicly-traded companies seeking to list on the Exchange under the proposed Global Market Capitalization Test will be required to (i) demonstrate the proposed market capitalization for a period of at least 90 consecutive trading days prior to receipt of clearance to make application to list on the Exchange and (ii) maintain a closing price of at least $4 per share for a period of at least 90 consecutive trading days prior to receipt of clearance to make application to list on the Exchange.

[10] Further, the Exchange has reviewed the initial listing standards of the American Stock Exchange (the ''Amex'') as in effect at the time of the adoption of the National Securities Market Improvement Act of 1996 (''NSMIA'') and notes that the Amex had an initial listing standard at that time permitting the listing of a company that had $15 million in market capitalization, $4 million in stockholders' equity and three years of operating history. While the proposed Global Market Capitalization Standard does not include any stockholders' equity or operating history requirements, its $200 million market capitalization requirement is far greater than the $15 million required by the Amex standard in effect at the time of adoption of NSMIA. As such, the Exchange believes that the proposed Global Market Capitalization Test does not set a new low for a named market under NSMIA.

[11] 15 U.S.C. 78f(b).

[12] 15 U.S.C. 78f(b)(5).

interest to provide the depth and liquidity necessary to promote fair and orderly markets.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule changes will impose any burden on competition that is not necessary or appropriate in furtherance of the purpose of the Act. The proposed rule changes will expand the competition for the listing of equity securities of operating companies as they will enable the NYSE to compete for the listing of companies that are currently not qualified for listing on the NYSE but are qualified to list on other national securities exchanges.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act [13] and Rule 19b–4(f)(6) thereunder.[14] Because the proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative prior to 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act and Rule 19b–4(f)(6)(iii) thereunder.[15]

A proposed rule change filed under Rule 19b–4(f)(6) [16] normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b–4(f)(6)(iii),[17] the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest.

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) [18] 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–2014–52 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–NSYE–2014–52. 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–2014–52 and should be submitted on or before October 27, 2014.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[19]

Kevin M. O'Neill,

Deputy Secretary.

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BILLING CODE 8011–01–P

[13] 15 U.S.C. 78s(b)(3)(A)(iii).

[14] 17 CFR 240.19b–4(f)(6).

[15] In addition, Rule 19b–4(f)(6)(iii) requires the Exchange to give the Commission written notice of the Exchange's intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[16] 17 CFR 240.19b–4(f)(6).

[17] 17 CFR 240.19b–4(f)(6)(iii).

[18] 15 U.S.C. 78s(b)(2)(B).

[19] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–73258; File No. SR–CME–2014–38]

Self-Regulatory Organizations; Chicago Mercantile Exchange Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Settlement Procedures Regarding a CME Cleared OTC FX Spot, Forward and Swap Contract

September 30, 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 September 22, 2014, Chicago Mercantile Exchange Inc. (''CME'') 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 CME. CME filed the proposal pursuant to Section 19(b)(3)(A) of the Act,[3] and Rule 19b–4(f)(4)(ii) [4] thereunder, so that the proposal was effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

CME is filing proposed rule changes that are limited to its business as a derivatives clearing organization. More specifically, the proposed rule change

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A).

[4] 17 CFR 240.19b–4(f)(4)(ii).

contains amendments to certain aspects of CME's settlement procedures for one of CME's Cleared Over-the-Counter Foreign Exchange Spot, Forward and Swap Contracts.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, CME 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. CME 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

CME is registered as a DCO with the Commodity Futures Trading Commission and offers clearing services for many different futures and swaps products. The proposed rule change that is the subject of this filing is limited to CME's business as a DCO offering clearing services for CFTC-regulated swaps products. CME currently offers clearing services for cleared-only OTC FX contracts on a number of different currency pairs. These CME Cleared OTC FX Spot, Forward and Swap Contracts are non-deliverable foreign currency forward contracts and, as such, are considered to be ''swaps'' under applicable regulatory definitions.[5] CME proposes to make amendments to one of these contracts.

The proposed amendments would affect CME Rule 279H.02.A (''Day of Cash Settlement'') of Chapter 279H—Cleared OTC U.S. Dollar/Indian Rupee (USD/INR) Spot, Forwards and Swaps (Commodity Code: USDINR). More specifically, CME is proposing to update Rule 279H.02.A with this filing to reflect the amended time that the Reserve Bank of India will publish the spot exchange rate. There is currently no open interest in this contract.

The changes that are described in this filing are limited to CME's business as a DCO clearing products under the exclusive jurisdiction of the CFTC and do not materially impact CME's security-based swap clearing business in any way. The changes will be effective on filing. CME notes that it has also certified the proposed rule change that is the subject of this filing to its primary regulator, the Commodity Futures Trading Commission (''CFTC''), in a separate filing, CME Submission No. 14–388. The text of the CME proposed rule amendments is attached, with additions underlined and deletions in brackets.

CME believes the proposed rule change is consistent with the requirements of the Exchange Act including Section 17A of the Exchange Act.[6] CME is updating its rules to reflect new practices by the Reserve Bank of India, that is, changes to when the relevant spot exchange rate is published. Conforming to these changes will benefit market participants clearing OTC FX swaps contracts with CME and, as such, should be seen to be designed to promote the prompt and accurate clearance and settlement of securities transactions and, to the extent applicable, derivatives agreements, contracts, and transactions, to assure the safeguarding of securities and funds which are in the custody or control of the clearing agency or for which it is responsible, and, in general, to protect investors and the public interest consistent with Section 17A(b)(3)(F) of the Exchange Act.[7]

Furthermore, the proposed changes are limited in their effect to products offered under CME's authority to act as a DCO. The products that are the subject of this filing are under the exclusive jurisdiction of the CFTC. As such, the proposed CME changes are limited to CME's activities as a DCO clearing swaps that are not security-based swaps, futures that are not security futures and forwards that are not security forwards. CME notes that the policies of the CFTC with respect to administering the Commodity Exchange Act are comparable to a number of the policies underlying the Exchange Act, such as promoting market transparency for over-the-counter derivatives markets, promoting the prompt and accurate clearance of transactions and protecting investors and the public interest.

Because the proposed changes are limited in their effect to OTC FX products offered under CME's authority to act as a DCO, the proposed changes are properly classified as effecting a change in an existing service of CME that:

(a) Primarily affects the clearing operations of CME with respect to products that are not securities, including futures that are not security futures, swaps that are not security-based swaps or mixed swaps, and forwards that are not security forwards; and

(b) does not significantly affect any securities clearing operations of CME or any rights or obligations of CME with respect to securities clearing or persons using such securities-clearing service.

As such, the changes are therefore consistent with the requirements of Section 17A of the Exchange Act[8] and are properly filed under Section 19(b)(3)(A)[9] and Rule 19b–4(f)(4)(ii)[10] thereunder.

B. Self-Regulatory Organization's Statement on Burden on Competition

CME does not believe that the proposed rule change will have any impact, or impose any burden, on competition. The amendments would update CME rules to reflect the amended time when the Reserve Bank of India publishes the relevant spot exchange rate. Therefore, the changes merely conform CME's contracts and practices to relevant international standards. Further, the changes are limited to CME's derivatives clearing business and, as such, do not affect the security-based swap clearing activities of CME in any way and therefore would not impose any burden on competition that is inappropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

CME has not solicited, and does not intend to solicit, comments regarding this proposed rule change. CME has not received any unsolicited written comments from interested parties.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective upon filing pursuant to Section 19(b)(3)(A)[11] of the Act and Rule 19b–4(f)(4)(ii)[12] thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors,

[5] See Commodity Futures Trading Commission and Securities and Exchange Commission Joint Final Rule Defining ''Swap,'' ''Security-Based Swap,'' and ''Security-Based Swap Agreement;'' Mixed Swaps; Security-Based Swap Agreement Recordkeeping; Final Rule, 77 FR 48207, 48255 (Aug. 13, 2012).

[6] 15 U.S.C. 78q–1.

[7] 15 U.S.C. 78q–1(b)(3)(F).

[8] 15 U.S.C. 78q–1.

[9] 15 U.S.C. 78s(b)(3)(A).

[10] 17 CFR 240.19b–4(f)(4)(ii).

[11] 15 U.S.C. 78s(b)(3)(A).

[12] 17 CFR 240.19b–4(f)(4)(ii).

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–CME–2014–38 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–CME–2014–38. 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 CME and on CME's Web site at *http://www.cmegroup.com/market-regulation/rule-filings.html.*

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–CME–2014–38 and should be submitted on or before October 27, 2014.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[13]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2014–23699 Filed 10–3–14; 8:45 am]

BILLING CODE 8011–01–P

[13] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–73267; File No. SR–NYSEArca–2014–108]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Amending Exchange Rule 6.1A To Codify the Terms Complex BBO and Complex NBBO and To Amend Rule 6.62(y) To Revise the Definition of a PNP Plus Order

September 30, 2014.

Pursuant to Section 19(b)(1)[1] of the Securities Exchange Act of 1934 (the ''Act'')[2] and Rule 19b–4 thereunder,[3] notice is hereby given that, on September 17, 2014, NYSE Arca, Inc. (the ''Exchange'' or ''NYSE Arca'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I and II 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 Exchange Rule 6.1A to codify the terms Complex BBO and Complex NBBO and to amend Rule 6.62(y) to revise the definition of a PNP Plus order. 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.

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 Rule 6.1A to adopt definitions for the terms Complex BBO and Complex NBBO. Additionally, the Exchange proposes to amend Rule 6.62(y) by revising the definition of PNP Plus orders, to specify that the order type is available solely for Electronic Complex Orders,[4] and to describe the processing of an Electronic Complex Order designated as PNP Plus.

Complex BBO and Complex NBBO

The term BBO is defined in Exchange Rule 6.1A(a)(2) as the best bid or offer on OX,[5] and the term NBBO is defined in Exchange Rule 6.1A(a)(11) as the national best bid or offer. In both cases the best bid and offer represents the best price available in an individual option series as disseminated by either the Exchange (in the case of the BBO) or the Options Price Reporting Authority (''OPRA'') (in the case of the NBBO). Unlike bids and offers for each individual option series, derived bids and offers for Complex Orders are not disseminated by either the Exchange or OPRA.

Even though there is not a published bid or offer for every complex order strategy, there are situations where it is necessary to derive a (theoretical) bid or offer for a particular strategy.[6] In order to derive the best bid or best offer for a given complex order strategy the Exchange takes the best bid and best offer in the individual leg markets comprising the complex order strategy, that when aggregated create either a derived Complex BBO or derived Complex NBBO for that same strategy. The Exchange uses the best quotes available on the Exchange in each component series (as shown in OX) to create the Complex BBO and the best quotes available nationally in each component series (as disseminated by

[1] 15 U.S.C.78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

[4] *See* Rule 6.91.

[5] OX is the Exchange's electronic order delivery, execution and reporting system for options through which orders and quotes are consolidated for execution and/or display. *See* Rule 6.1A(a)(13).

[6] For example, the Complex Matching Engine utilizes a Complex NBBO when establishing the acceptable price range applicable to the opening auction process for Electronic Complex Orders. *See* Rule 6.91(a)(2)(i)(B).

OPRA) to establish the Complex NBBO. When deriving the Complex BBO or Complex NBBO the Exchange only factors in the best prices available in the individual leg markets and does not take into consideration prices of individual Complex Orders that may be resting on the Exchange or in another exchange's complex order book (spread book, contingency book).

The Exchange proposes to add definitions of the terms Complex BBO and Complex NBBO in Rule 6.1A. The term ''Complex BBO'' would be defined in Rule 6.1A(a)(2)(ii) as the BBO for a given complex order strategy as derived from the best bid on OX and best offer on OX for each individual component series of a Complex Order. The term ''Complex NBBO'' would be defined in Rule 6.1A(a)(11)(ii) as the NBBO for a given complex order strategy as derived from the national best bid and national best offer for each individual component series of a Complex Order.

An example of how the Complex BBO and Complex NBBO is derived for a given strategy is shown below;

Jan 20 calls BBO 2.00 × 2.20 NBBO 2.05 − 2.20

Jan 25 calls BBO 1.00 × 1.20 NBBO 1.05 − 1.20

To derive the bid side of the Complex BBO for the Jan 20/25 call spread using the markets available on the Exchange, the Exchange takes the best bid in the Jan 20 calls coupled with the best offer in the Jan 25 calls. The result is an .80 bid (2.00 − 1.20 = .80). To derive the offer side of the Complex BBO for the same call spread the Exchange take the best offer in the Jan 20 calls coupled with the best bid in the Jan 25 calls. The result is an offer of 1.20 (2.20–1.00 = 1.20). In this example, the resulting Complex BBO is .80 − 1.20.

To derive the bid side of the Complex NBBO for the Jan 20/25 call spread using the markets as disseminated by OPRA, the Exchange takes the national best bid in the Jan 20 calls coupled with the national best offer in the Jan 25 calls. This results in an .85 bid (2.05 − 1.20 = .85). To derive the offer side of the Complex NBBO for the same call spread the Exchange take the national best offer in the Jan 20 calls coupled with the national best bid in the Jan 25 calls. This results in an offer of 1.15 (2.20 − 1.05=1.15). In this example, the resulting Complex NBBO is .85 − 1.15.

PNP Plus

As defined in Rule 6.62(y), an order designated as PNP Plus is a limit order that is automatically re-priced by the Exchange to a price that is one minimum price variation (''MPV'') higher (lower) than the NBBO bid (offer) if it were to lock or cross the NBBO. The re-priced order is then posted in the Consolidated Book. PNP Plus orders continue to be re-priced and re-posted in the Consolidated Book with each change in the NBBO until such time as the NBBO has moved to a price where the original limit price of the PNP Plus order no longer locks or crosses the NBBO, at which time the PNP Plus order will revert to the original limit price of such order. Orders designated as PNP Plus are ranked in the Consolidated Book pursuant to Rule 6.76 and assigned a new price time priority as of the time of each reposting. Because an order designated as PNP Plus would be posted at a price that is higher (lower) that [sic] the best contra-side market, by designating an order as PNP Plus, a market participant could guarantee that if its order were to be executed, it would be executed at a price that is better than the disseminated contra-side market. Accordingly, PNP Plus provides OTP Holders with additional processing capability to control the circumstances under which their orders are executed. The Exchange notes that the PNP Plus order type is currently not operable for single-leg orders, nor does the Exchange intend to introduce such functionality in the near future. OTP Holders are able to and do use the PNP Plus designation when submitting Electronic Complex Orders. Accordingly, the Exchange is proposing to amend the definition of the PNP Plus order type to make it applicable solely to Electronic Complex Orders.

In addition, the revised rule would explain that the net debit/credit price [7] of an Electronic Complex Order designated as PNP Plus is re-priced based on the Complex BBO for the same complex order strategy. An Electronic Complex Order designated as PNP Plus would follow existing PNP Plus processing in that the order will be automatically re-priced by the Exchange to a price that is one MPV lower (higher) than the displayed contra-side market for buy orders (sell orders) if it were to lock or cross that market. However, because the leg prices of an Electronic Complex Order are bound by the best bid or offer on the Exchange and not the national best bid or offer [8] as is the case with single-leg orders, when re-pricing an Electronic Complex Order designated as PNP Plus, the order would be re-priced one MPV lower (higher) than the Complex BBO if it were to lock or cross the Complex BBO.

Accordingly, as amended, Rule 6.62(y) would state that an Electronic Complex Order designated as PNP Plus is automatically re-priced by the Exchange to an MPV higher (for sell orders) than the Complex BBO bid for that same Complex Order strategy or at an MPV lower (for buy orders) than the Complex BBO offer for that same Complex Order strategy for any unexecuted portion of the Electronic Complex Order designated as PNP Plus that would otherwise lock or cross the Complex BBO. The Exchange notes that because bids and offers for Electronic Complex Orders are priced on a net debit/credit basis and may be expressed in any decimal price, and the legs(s) of an Electronic Complex Order may be executed in one cent increments regardless of the MPV otherwise applicable to the individual legs of the order,[9] the MPV applicable to an Electronic Complex Order designated as PNP Plus will always be $0.01 cent. The re-priced order would then be posted in the Consolidated Book pursuant to Rule 6.91(a)(1).

Finally, the Exchange proposes to change the existing cross reference in Rule 6.62(y) from Rule 6.76 to 6.91(a)(1). This is a non-substantive change as both rules call for orders to be ranked according to price/time priority. The Exchange believes Rule 6.91(a)(1) is the more appropriate rule to reference because it is specific to Electronic Complex Orders. For the purposes of ranking in the Consolidated Book, Electronic Complex Orders designated as PNP Plus shall initially be ranked based on their original time of entry and assigned a new price/time priority as of the time of each re-posting. From there, with the exception of the use of the Complex BBO rather than the NBBO, all other PNP Plus functionality remains unchanged.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b)(5) of the Securities Exchange Act of 1934 (the ''Act''),[10] which requires the rules of an exchange 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 Exchange believes that the proposed rule change would

[7] Bids and offers for Electronic Complex Orders are entered based on the net debit/credit of prices of the individual component series comprising the complex order strategy.

[8] *See* Rule 6.91(a)(2).

[9] *See* Rule 6.91 Commentary .01.

[10] 15 U.S.C. 78f(b).

remove impediments to and perfect the mechanism of a free and open market and a national market system because it would provide transparency in Exchange rules that the PNP Plus is a designation applicable to Electronic Complex Orders. The Exchange further believes that revising the PNP Plus definition to describe how an Electronic Complex Order designated as PNP Plus is re-price [sic] based off the Complex BBO and not the NBBO would align the rule with existing functionality and rules governing Electronic Complex Orders.

The Exchange also believes that [sic] proposed rule change would perfect the mechanism of a free and open market because by revising the PNP Plus order type to make the designation available solely for Electronic Complex Orders, and not for single leg orders, the rule would clearly describe the applicability of the PNP Plus order type and eliminate any suggestion of an order type for which there is no demonstrated demand and is not supported by Exchange systems.

The Exchange also believes that defining the terms Complex BBO and Complex NBBO will help to remove impediments to and perfect the mechanism of a free and open market and a national market system, in general because it would provide all market participants with additional clarity in how the Exchange calculates the Complex BBO and Complex NBBO in connection with the processing of Complex Orders.

In addition, the Exchange believes that the proposal would remove impediments to and perfect the mechanism of a free and open market by ensuring that members, regulators and the public can more easily navigate the Exchange's rulebook and better understand the orders types available for trading on the Exchange.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change would impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The proposed change is not designed to address any competitive issue but rather revise an existing a [sic] rule, that can be seen as inaccurate or incomplete, by accurately describing functionality applicable to the PNP Plus order type and describing the processing of an Electronic Complex Order designated as PNP Plus, thereby reducing confusion and making the Exchange's rules easier to understand and navigate. Also, adopting Complex BBO and Complex NBBO as defined terms is intended to add clarity into Exchange rules regarding the methodology of how a Complex BBO and a Complex NBBO is derived and therefore does not raise any competitive concerns.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act [11] and Rule 19b–4(f)(6) thereunder.[12] Because the proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative prior to 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act and Rule 19b–4(f)(6) thereunder.[13]

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) [14] 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–NYSEArca–2014–108 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–NYSEArca–2014–108. 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 NYSE's principal office and on its Internet Web site at *www.nyse.com.* 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–NYSEArca–2014–108 and should be submitted on or before October 27, 2014.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[15]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2014–23704 Filed 10–3–14; 8:45 am]

BILLING CODE 8011–01–P

[11] 15 U.S.C. 78s(b)(3)(A)(iii).

[12] 17 CFR 240.19b–4(f)(6).

[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.

[14] 15 U.S.C. 78s(b)(2)(B).

[15] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–73261; File No. SR–ISE–2014–43]

Self-Regulatory Organizations; International Securities Exchange, LLC; Notice of Filing of Proposed Rule Change Amending Its Information Barrier Rules

September 30, 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 September 15, 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 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 International Securities Exchange, LLC (the ''Exchange'' or the ''ISE'') is proposing to amend its Rules 810 (Limitations on Dealings) and 717 (Limitations on Orders). The text of the proposed rule change is available on the Exchange's Web site (*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 self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections A, B and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange is proposing to amend its Rules 810 (Limitations on Dealings) and 717 (Limitations on Orders) governing information barriers. Specifically, the Exchange is proposing to amend the portion of the rules that address the limitation on the flow of information between a member's Electronic Access Member (''EAM'') unit, which handles the customer/agency side of the business, and its affiliated Primary Market Maker (''PMM'') and/or Competitive Market Maker (''CMM'') (jointly, ''market makers'') unit, which handles the proprietary side of the business.

ISE adopted its Rule 810 (Limitations on Dealings) on February 24, 2000[3] and over the years, the Exchange has frequently been asked by its members to provide guidance as to what information can be shared between an EAM and its affiliated market maker business under Rule 810.[4] The Exchange's position on this issue has always been that the information barrier between the EAM unit and its affiliated market maker unit must restrict the flow of information in both directions. As so interpreted, (i) the EAM unit cannot know where and at what price its affiliated market makers are quoting and, therefore, cannot use that information to influence their routing decisions, *and* (ii) the market makers cannot know what customer orders its affiliated EAMs are handling as agent and, therefore, cannot use that information to influence their quotations.

The Exchange is now proposing to amend its Rule 810 to allow EAMs to know where and at what price its affiliated market makers are either quoting or have orders on the order book[5] and to use that information to influence their routing decisions. As such, an EAM may route an order that it is handling on an agency basis to the ISE where its affiliated market maker is either quoting or has an order on the order book so that the two orders immediately interact. The Exchange posits that these such members, in the context of risk management[6] and consistent with the protections against the misuse of material nonpublic information,[7] should be able to consider the outstanding quotes of their affiliated marker maker units for the purposes of calculating net positions and making routing decisions to increase the member's interaction rate between its EAM unit and affiliated market making unit(s). Further, the Exchange asserts that a member should be able to integrate its market makers' positions and quoting information with its EAM unit(s) because this proposal, in tandem with existing ISE conduct rules,[8] ISE's review and approval of the information barrier procedures submitted by market makers that will be conducting Other Business Activities,[9] ISE's ongoing surveillances for manipulative conduct, and FINRA's exam program that reviews such members compliance with such policies and procedures, should provide a regulatory framework that guards customer interests and protects against the misuse of material nonpublic information, while increasing the operational flexibility of ISE members.

ISE Rule 717(d) and (e) requires members to expose certain orders entered on the limit order book for at least one second before executing them as principal or against orders that were solicited from other broker-dealers. This requirement applies when the EAM is handling both sides of a trade and not when an EAM is handling a marketable order as agent and is routing that order to execute against a quote/order resting on the order book. Accordingly, when customer order(s) that an EAM is handling as agent executes against an affiliated market maker's quote or order, it appears as though the EAM was in fact handling both sides of the trade, and did not comply with the order exposure requirements of ISE Rule 717(d) and (e). However, because the Exchange does not publicly identify the member that entered an order on the limit order book, orders from the same

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b-4.

[3] *See* Securities Exchange Act Release No. 34–4255 [sic]; File No. 10–127 (February 24, 2000).

[4] Rule 810 currently permits market makers to provide its affiliated EAM, upon request, the same general quotation information that it would provide to an unaffiliated entity. The intent of that provision was an attempt in 2000 to replicate a floor-based market, in which a broker could ask a floor-based specialist general information on the market.

[5] According to Rule 805(b)(1)(i) and (ii) market makers may only have orders on the order book in option classes to which they are not appointed.

[6] *See, e.g.,* 17 CFR Part 240.15c3–5 (Risk Management Controls for Brokers or Dealers with Market Access).

[7] *See, e.g.,* 15 U.S.C. 78o(g). Section 15(g) of the Securities and Exchange Act of 1934 (the ''Act'') requires every broker or dealer to ''establish, maintain, and enforce written policies and procedures reasonably designed, taking into consideration the nature of such broker's or dealer's business, to prevent the misuse . . . of material, nonpublic information by such broker or dealer or any person associated with such broker or dealer.''

[8] *See, e.g.,* ISE Rules 400 (Just and Equitable Principles of Trade), 401 (Adherence to Law), 405 (Manipulation), 408 (Prevention of the Misuse of Material, Nonpublic Information) and 713 (Priority of Quotes and Orders).

[9] ISE Rule 810 defines ''Other Business Activities'' as meaning, (1) conducting an investment or banking or public securities business; (2) making markets in the stocks underlying the options in which it makes markets; (3) handling listed options orders as agent on behalf of Public Customers or broker-dealers; or (4) conducting non-market making proprietary listed options trading activities.

firm may inadvertently execute against each other as a result of being entered by disparate persons and/or systems at the same member firm. Therefore, when enforcing Rule 717(d) and (e), the Exchange has never considered the inadvertent interaction of orders from the same firm within one second to be a violation of the exposure requirement.

On September 20, 2011 the Exchange codified this longstanding policy in Supplementary Material .06 to Rule 717,[10] which currently specifies that members can demonstrate that orders were entered without knowledge of a pre-existing order on the book represented by the same firm by providing evidence that effective information barriers between the persons, business units and/or systems entering the orders onto the Exchange were in existence at the time the orders were entered.[11] This rule requires that such information barriers be fully documented and provided to the Exchange upon request.[12]

Given the proposed change to ISE Rule 810, the Exchange is also proposing to make a corresponding change to Supplementary Material .06 to Rule 717 to specify that orders from the same member's EAM unit and its affiliated PMM and/or CMM unit may interact within one second without being a violation of the order exposure requirement of paragraph (d) and (e) of Rule 717 when the firm can demonstrate that the customer order that it routed was marketable, the EAM was not handling the affiliated market maker quote/order and the affiliated market maker quote/order was in existence at the time the customer order(s) were entered into the ISE's system.

The Exchange believes that adopting these rule changes will allow for the Exchange to provide its membership with increased operational flexibility while keeping intact the original purpose of the rule, which was intended to prevent market makers from using customer order flow information to influence their quotations. The Exchange believes that allowing information to flow from the market maker to the EAM would not comprise the integrity of our market, nor would it introduce customer harm, as discussed in more detail above. Additionally, the Exchange believes that market quality will not be eroded due to these changes because the information barrier preventing the flow of information from the EAM to its' affiliated market maker remains unchanged, meaning, market makers will continue to be unable to adjust their quotes either to intercept or avoid orders since that side of the barrier remains in force.

2. Statutory Basis

The basis under the Act for this proposed rule change is the requirement under Section 6(b),[13] in general, and Section 6(b)(5) [14] in particular, that an exchange have rules that are designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism for 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 amending its rules to allow information to flow from the market maker to the EAM would not comprise the integrity of the market as the information barrier preventing the flow of information from the EAM to its affiliated market maker remains unchanged. Meaning, a market maker cannot be privy to nonpublic information about incoming customer orders and adjust their quotations in response. The Exchange also believes that this rule change will not introduce customer harm as this change does not impact the order protection rules applicable to an EAM handling an order as agent,[15] but rather allows the EAM to route to a specific destination to interact with its affiliated market makers' quotations or orders in the same manner that the EAM would route orders to access quotes and orders of market makers that it is not affiliated with. In addition, members will continue to be subject to federal and Exchange requirements for protecting material nonpublic order information.[16]

Additionally, the Exchange notes that the rule will still require that member organizations maintain and enforce policies and procedures reasonably designed to ensure compliance with applicable federal securities laws and regulations and with Exchange rules. Such written policies and procedures will continue to be subject to oversight by the Exchange and therefore allowing information to flow from the market makers to their affiliated EAMs should not reduce the effectiveness of the Exchange rules to protect against the misuse of material nonpublic information. Rather the Exchange believes that a member should be able to integrate its market makers' positions and quoting information with its EAM unit(s) because this proposal, in tandem with existing ISE conduct rules,[17] ISE's review and approval of the information barrier procedures submitted by market makers that will be conducting Other Business Activities, ISE's ongoing surveillances for manipulative conduct, and FINRA's exam program that reviews such members compliance with such policies and procedures, should provide a regulatory framework that guards customer interests and protects against the misuse of material nonpublic information. The proposed changes do not alter a member's best execution duty to get the best price for its customer and, therefore, the Exchange does not believe that the proposed changes provided any advantage or disadvantage to customers or the markets in general.

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. However, the Exchange believes that Rule 810 currently imposes a burden on competition for the Exchange because it requires market makers that engage in Other Business Activities to operate in a manner that the Exchange believes is more restrictive than necessary for the protection of investors to the public interest. The Exchange believes that the proposed rule change is pro-competitive because it is consistent with how other national securities exchanges are currently interpreting their rules and should provide greater flexibility to allow member firms to make routing decisions based on the same information across multiple markets.

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

[10] *See* Securities Exchange Act Release No. 65361 (September 20, 2011), 76 FR 59472 (September 26, 2011) (SR–ISE–2011–42).

[11] The Exchange conducts routine surveillance to identify instances when an order on the limit order book is executed against an order entered by the same firm within one second.

[12] The Exchange reviews information barrier documentation to evaluate whether a member has implemented processes that are reasonably designed to prevent the flow of pre-trade order information given the particular structure of the member firm. Additionally, information barriers are reviewed as part of the Exchange's examination program, which is administered by the Financial Industry Regulatory Authority (''FINRA'') pursuant to a regulatory services agreement.

[13] 15 U.S.C. 78f(b).

[14] 15 U.S.C. 78f(b)(5).

[15] *See* note 7.

[16] *See* 15 U.S.C. 78o(g) and ISE Rule 408.

[17] *See* note 7.

unsolicited written comments from members or other interested parties.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 45 days of the publication date 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 such proposed rule change, or

(b) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. The Commission requests comments, in particular, on the following:

1. If the proposed rule change is approved, an EAM will be able to know where and at what price its affiliated market makers are either quoting or have orders on the order book and to use that information to influence its routing decisions. Do commenters agree with the Exchange's assertion that the proposed rule change will not introduce customer harm, as this change does not impact the order protection rules applicable to an EAM handling an order as agent? Do commenters have a view on whether permitting EAMs to make routing decisions, based on knowledge of an affiliated market maker's quotes, would impact the execution quality and handling of customer orders? Please explain.

2. Given that EAMs must maintain policies and procedures that are reasonably designed to ensure against the misuse of material, nonpublic information pursuant to ISE Rule 408, do commenters have any views regarding a proposed rule that would permit an EAM to have non-public information about where and at what price its affiliated market maker is either quoting or has orders on the order book?

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–ISE–2014–43 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–2014–43. 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 Commissions 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 ISE. 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–2014–43 and should be submitted by October 27, 2014.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[18]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2014–23701 Filed 10–3–14; 8:45 am]

BILLING CODE 8011–01–P

[18] 17 CFR 200.30–3(a)(12).

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #14136 and #14137]

Washington Disaster #WA–00047

AGENCY: Small Business Administration.

ACTION: Notice.

SUMMARY: This is a notice of an Administrative declaration of a disaster for the State of Washington dated 09/29/2014.

Incident: Central Washington Firestorm.

Incident Period: 07/09/2014 through 08/05/2014.

EFFECTIVE DATE: 09/29/2014.

Physical Loan Application Deadline Date: 11/28/2014.

Economic Injury (EIDL) Loan Application Deadline Date: 06/29/2015.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street SW., Suite 6050, Washington, DC 20416.

SUPPLEMENTARY INFORMATION: Notice is hereby given that as a result of the Administrator's disaster declaration, applications for disaster loans may be filed at the address listed above or other locally announced locations.

The following areas have been determined to be adversely affected by the disaster:

Primary Counties: Okanogan.

Contiguous Counties:

Washington: Chelan, Douglas, Ferry, Grant, Lincoln, Skagit, Whatcom.

The Interest Rates are:

	Percent
For Physical Damage:	
Homeowners With Credit Available Elsewhere	4.375
Homeowners Without Credit Available Elsewhere	2.188
Businesses With Credit Available Elsewhere	6.000
Businesses Without Credit Available Elsewhere	4.000
Non-Profit Organizations With Credit Available Elsewhere	2.625
Non-Profit Organizations Without Credit Available Elsewhere	2.625
For Economic Injury:	
Businesses & Small Agricultural Cooperatives Without Credit Available Elsewhere	4.000
Non-Profit Organizations Without Credit Available Elsewhere	2.625

The number assigned to this disaster for physical damage is 14136 5 and for economic injury is 14137 0.

The State which received an EIDL Declaration # is Washington.

(Catalog of Federal Domestic Assistance Numbers 59002 and 59008)

Dated: September 29, 2104.

Maria Contreras-Sweet,

Administrator.

[FR Doc. 2014–23808 Filed 10–3–14; 8:45 am]

BILLING CODE 8025–01–P

DEPARTMENT OF STATE

[Public Notice 8899]

U.S. Department of State Advisory Committee on Private International Law (ACPIL): Public Meeting on Electronic Commerce

The Office of the Assistant Legal Adviser for Private International Law, Department of State, gives notice of a public meeting to discuss a Working Paper prepared by the Secretariat of the United Nations Commission on International Trade Law (UNCITRAL). The public meeting will take place on Monday, October 27, 2014 from 9:30 a.m. until 12 p.m. EDT. This is not a meeting of the full Advisory Committee.

The UNCITRAL Secretariat has revised draft provisions on electronic transferable records, which are presented in the form of a model law to facilitate discussion during the next meeting of UNCITRAL's Working Group IV, which will meet November 10–14, 2014. The Working Paper, which is numbered WP.130 and includes WP.130/Add.1, is available at *http://www.uncitral.org/uncitral/en/commission/working_groups/4Electronic_Commerce.html.*

The purpose of the public meeting is to obtain the views of concerned stakeholders on the topics addressed in the Working Paper in advance of the meeting of Working Group IV. Those who cannot attend but wish to comment are welcome to do so by email to Michael Coffee at *coffeems@state.gov.*

Time and Place: The meeting will take place from 9:30 a.m. until 12 p.m. EDT in Room 356, South Building, State Department Annex 4, Washington, DC 20037. Participants should plan to arrive at the Navy Hill gate on the west side of 23rd Street NW., at the intersection of 23rd Street NW. and D Street NW. by 9:00 a.m. for visitor screening. If you are unable to attend the public meeting and would like to participate from a remote location, teleconferencing will be available.

Public Participation: This meeting is open to the public, subject to the capacity of the meeting room. Access to the building is strictly controlled. For pre-clearance purposes, those planning to attend should email *pil@state.gov* providing full name, address, date of birth, citizenship, driver's license or passport number, and email address. This information will greatly facilitate entry into the building. A member of the public needing reasonable accommodation should email *pil@state.gov* not later than October 20, 2014. Requests made after that date will be considered, but might not be able to be fulfilled. If you would like to participate by telephone, please email *pil@state.gov* to obtain the call-in number and other information.

Data from the public is requested pursuant to Pub.L. 99–399 (Omnibus Diplomatic Security and Antiterrorism Act of 1986), as amended; Pub.L. 107–56 (USA PATRIOT Act); and Executive Order 13356. The purpose of the collection is to validate the identity of individuals who enter Department facilities.

The data will be entered into the Visitor Access Control System (VACS–D) database. Please see the Security Records System of Records Notice (State-36) at *http://www.state.gov/documents/organization/103419.pdf* for additional information.

Dated: September 23, 2014.

Michael S. Coffee,

Attorney-Adviser, Office of Private International Law, Office of the Legal Adviser, U.S. Department of State.

[FR Doc. 2014–23790 Filed 10–3–14; 8:45 am]

BILLING CODE 4710–08–P

DEPARTMENT OF STATE

[Public Notice 8900]

U.S. Department of State Advisory Committee on Private International Law: Notice of Annual Meeting

The Department of State's Advisory Committee on Private International Law (ACPIL) will hold its annual meeting on Monday, November 3, 2014 in Washington, DC The meeting will be held at the Michael K. Young Faculty Conference Center, George Washington University Law School, 2000 H Street NW., Washington DC 20052. The program is scheduled to run from 9:00 a.m. to 5:00 p.m.

We expect that the discussion will focus on certain ongoing projects as well as the future of private international law. We encourage active participation by all those attending.

Please advise as early as possible if you plan to attend. The meeting is open to the public up to the capacity of the conference facility, and space will be reserved on a first come, first served basis. Persons who wish to have their views considered are encouraged, but not required, to submit written comments in advance. Those who are unable to attend are also encouraged to submit written views. Comments should be sent electronically to *pil@state.gov.* Those planning to attend should provide name, affiliation and contact information to *pil@state.gov.* You may also use those contacts to obtain additional information. A member of the public needing reasonable accommodation should notify us at *pil@state.gov* not later than October 20th. Requests made after that date will be considered, but might not be able to be fulfilled.

Dated: September 19, 2014.

John J. Kim,

Assistant Legal Adviser, Office of Private International Law, Office of the Legal Adviser, Department of State.

[FR Doc. 2014–23789 Filed 10–3–14; 8:45 am]

BILLING CODE 4710–08–P

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

[Docket No. USTR–2014–0019]

2014 Special 301 Out-of-Cycle Review of Kuwait

AGENCY: Office of the United States Trade Representative.

ACTION: Request for written comments.

SUMMARY: In the 2014 Special 301 Report, the Office of the United States Trade Representative (USTR) announced that, in order to monitor progress on specific intellectual property rights (IPR) issues, an Out-of-Cycle Review (OCR) would be conducted for Kuwait. USTR requests written comments from the public concerning any act, policy, or practice that is relevant to the decision regarding whether Kuwait should be identified under Section 182 of the Trade Act of 1974 (Trade Act) (19 U.S.C. 2242). The 2014 Special 301 Report is available at *www.ustr.gov.*

Deadlines: The deadline for the public, except foreign governments, to submit written comments is Wednesday, October 15, 2014. The deadline for foreign governments to submit written comments is Monday, October 20, 2014.

ADDRESSES: All written comments should be filed electronically via *www.regulations.gov,* Docket Number USTR–2014–0019, and be consistent with the requirements set forth below. Please specify ''2014 Special 301 Out-of-Cycle Review of Kuwait'' in the ''Type Comment'' field.

FOR FURTHER INFORMATION CONTACT: Susan Wilson, Director for Intellectual Property and Innovation, Office of the United States Trade Representative, at *Special301@ustr.eop.gov.* Please do not file comments at this address. Information on the Special 301 Review is available at *www.ustr.gov.*

SUPPLEMENTARY INFORMATION:

1. Background

Section 182 of the Trade Act requires USTR to identify countries that deny adequate and effective protection of IPR or deny fair and equitable market access to U.S. persons who rely on intellectual property protection. The provisions of Section 182 are commonly referred to as the ''Special 301'' provisions of the Trade Act.

Those countries that have the most onerous or egregious acts, policies, or practices and whose acts, policies, or practices have the greatest adverse impact (actual or potential) on relevant U.S. products are to be identified as Priority Foreign Countries. In addition, USTR has created a ''Priority Watch List'' and a ''Watch List'' under Special 301 provisions. Placement of a trading partner on the Priority Watch List or Watch List indicates that particular problems exist in that country with respect to IPR protection, enforcement, or market access for persons relying on intellectual property.

An OCR is a tool that USTR uses to encourage progress on IPR issues of concern. It provides an opportunity for heightened engagement with a trading partner to address and remedy such issues. Successful resolution of specific IPR issues of concern or lack of action on that concern can lead to a change in a trading partner's Special 301 status outside of the time frame for the annual Special 301 Review.

In the 2014 Special 301 Report, USTR noted that it would conduct an OCR of Kuwait focusing in particular on the Government of Kuwait's efforts to address deficiencies in both its copyright legislation and its intellectual property enforcement practices. The 2014 Special 301 Report included specific steps that Kuwait would need to take by the conclusion of the OCR to avoid being moved to the Priority Watch List: (1) Introduce amendments to the current copyright legislation that meet international standards; and (2) resume enforcement against both copyright piracy and trademark infringement.

2. Written Comments

a. Requirements for Written Comments

To facilitate the review, written comments should be as detailed as possible and provide all necessary information for identifying and assessing the effect of the acts, policies, and practices of Kuwait relevant to the issues being reviewed in the OCR. Comments should include: Information relating to the status of any amendments that have been introduced to the current copyright legislation of Kuwait; the substance of the amendments, particularly their consistency with international standards; and the change, if any, of the frequency of enforcement actions against copyright and trademark infringement. USTR requests that interested parties provide specific references to laws, regulations, policy statements, executive, presidential or other orders, administrative, court or other determinations that should be factored in the review.

b. Instructions for Submitting Comments

Comments must be in English. To ensure the timely receipt and consideration of comments, USTR strongly encourages commenters to submit comments electronically, using the *www.regulations.gov* Web site. To submit comments via *www.regulations.gov,* enter Docket Number USTR–2014–0019 on the home page and click ''Search.'' The site will provide a search-results page listing all documents associated with this docket. Find the reference to this notice and click on the link entitled ''Comment Now!'' For further information on using the *www.regulations.gov* Web site, please consult the resources provided on the site by clicking on ''How to use Regulations.gov'' at the bottom of the home page under ''Help.''

The *www.regulations.gov* Web site allows users to provide comments by filling in a ''Type Comment'' field, or by attaching a document using an ''Upload File'' field. USTR prefers that comments be provided in an attached document. If a document is attached, please type ''2014 Out-of-Cycle Review of Kuwait'' in the ''Type Comment'' field. USTR prefers submissions in Microsoft Word (.doc) or Adobe Acrobat (.pdf) format. If the submission is in another file format, please indicate the name of the software application in the ''Type Comment'' field. File names should reflect the name of the person or entity submitting the comments. Please do not attach separate cover letters to electronic submissions; rather, include any information that might appear in a cover letter in the comments themselves. Similarly, to the extent possible, please include any exhibits, annexes, or other attachments in the same file as the comment itself, rather than submitting them as separate files.

A person requesting that information contained in a comment submitted by that person be treated as confidential business information must certify that such information is business confidential and would not customarily be released to the public by the submitter. In the document, confidential business information must clearly be designated as such; the submission must be marked ''BUSINESS CONFIDENTIAL'' on the cover page and each succeeding page, and the submission should clearly indicate, via brackets, highlighting, or other means, the specific information that is business confidential. Additionally, the submitter should type ''Business Confidential 2014 Out-of-Cycle Review of Kuwait'' in the ''Type Comment'' field. Anyone submitting a comment containing business confidential information must also submit, as a separate submission, a non-business confidential version of the submission, indicating where the business confidential information has been redacted. The filenames of both documents should reflect their status—''BC'' for the business confidential version and ''P'' for the public version. The non-business confidential version will be placed in the docket at *www.regulations.gov* and be available for public inspection.

As noted, USTR strongly urges commenters to submit comments through *www.regulations.gov.* Any alternative arrangements must be made in advance of transmitting a comment and in advance of the relevant deadline by contacting USTR at *Special301@ustr.eop.gov.*

3. Inspection of Comments

Comments received will be placed in the docket and open to public inspection pursuant to 15 CFR 2006.13, except business confidential information exempt from public inspection in accordance with 15 CFR 2006.15. Comments may be viewed free of charge by visiting *www.regulations.gov* and entering Docket Number USTR–2014–0019 in the ''Search'' field on the home page.

Susan F. Wilson,

Director for Intellectual Property and Innovation.

[FR Doc. 2014–23763 Filed 10–3–14; 8:45 am]

BILLING CODE 3290–F4–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Agency Information Collection Activities: Requests for Comments; Clearance of Renewed Approval of Information Collection: Notice of Landing Area Proposal

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, FAA

invites public comments about our intention to request the Office of Management and Budget (OMB) approval for to renew an information collection. The **Federal Register** Notice with a 60-day comment period soliciting comments on the following collection of information was published on July 31, 2014, vol. 79, no. 147, page 44485. FAA Form 7480–1 (Notice of Landing Area Proposal) is used to collect information about any construction, alteration, or change to the status or use of an airport.

DATES: Written comments should be submitted by November 5, 2014.

FOR FURTHER INFORMATION CONTACT: Kathy DePaepe at (405) 954–9362, or by email at: *Kathy.DePaepe@faa.gov.*

SUPPLEMENTARY INFORMATION:

OMB Control Number: 2120–0036

Title: Notice of Landing Area Proposal

Form Numbers: FAA Form 7480–1.

Type of Review: Renewal of an information collection.

Background: FAR Part 157 requires that each person who intends to construct, deactivate, or change the status of an airport, runway, or taxiway must notify the FAA of such activity. The information collected provides the basis for determining the effect the proposed action would have on existing airports and on the safe and efficient use of airspace by aircraft, the effects on existing or contemplated traffic patterns of neighboring airports, the effects on the existing airspace structure and projected programs of the FAA, and the effects that existing or proposed manmade objects (on file with the FAA) and natural objects within the affected area would have on the airport proposal.

Respondents: Approximately 1500 applicants.

Frequency: Information is collected on occasion.

Estimated Average Burden per Response: 45 minutes.

Estimated Total Annual Burden: 1,125 hours.

ADDRESSES: Interested persons are invited to submit written comments on the proposed information collection to the Office of Information and Regulatory Affairs, Office of Management and Budget. Comments should be addressed to the attention of the Desk Officer, Department of Transportation/FAA, and sent via electronic mail to *oira_submission@omb.eop.gov,* or faxed to (202) 395–6974, or mailed to the Office of Information and Regulatory Affairs, Office of Management and Budget, Docket Library, Room 10102, 725 17th Street NW., Washington, DC 20503.

Public Comments Invited: You are asked to comment on any aspect of this information collection, including (a) Whether the proposed collection of information is necessary for FAA's performance; (b) the accuracy of the estimated burden; (c) ways for FAA to enhance the quality, utility and clarity of the information collection; and (d) ways that the burden could be minimized without reducing the quality of the collected information. The agency will summarize and/or include your comments in the request for OMB's clearance of this information collection.

Issued in Washington, DC on October 1, 2014.

Albert R. Spence,

FAA Assistant Information Collection Clearance Officer, IT Enterprises Business Services Division, ASP–110.

[FR Doc. 2014–23813 Filed 10–3–14; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Agency Information Collection Activities: Requests for Comments; Clearance of Renewed Approval of Information Collection: Use of Certain Personal Oxygen Concentrator (POC) Devices on Board Aircraft

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, FAA invites public comments about our intention to request the Office of Management and Budget (OMB) approval to renew an information collection. The **Federal Register** Notice with a 60-day comment period soliciting comments on the following collection of information was published on July 31, 2014, vol. 79, no. 147, page 44486. A Special Federal Aviation Regulation requires passengers who intend to use an approved POC to present a physician statement before boarding. The flight crew must then inform the pilot-in-command that a POC is on board.

DATES: Written comments should be submitted by November 5, 2014.

FOR FURTHER INFORMATION CONTACT: Kathy DePaepe at (405) 954–9362, or by email at: *Kathy.DePaepe@faa.gov.*

SUPPLEMENTARY INFORMATION: *OMB Control Number:* 2120–0702.

Title: Use of Certain Personal Oxygen Concentrator (POC) Devices on Board Aircraft.

Form Numbers: There are no FAA forms associated with this collection.

Type of Review: Renewal of an information collection.

Background: A pilot in command is required to be apprised when a passenger brings a POC on board the aircraft, and passengers who have a medical need to use a POC during flight are required to possess a signed physician statement describing the oxygen therapy needed, to determine whether an inflight diversion to an airport may be needed in the event the passenger's POC fails to operate or the aircraft experiences cabin pressurization difficulties, and to verify the need for the device, the oxygen therapy needed to be provided by use of the POC, and the oxygen needs of the passenger in case of emergency.

Respondents: Approximately 1,690,555 passengers.

Frequency: Information is collected as needed.

Estimated Average Burden per Response: 6 minutes.

Estimated Total Annual Burden: 169,046 hours.

ADDRESSES: Interested persons are invited to submit written comments on the proposed information collection to the Office of Information and Regulatory Affairs, Office of Management and Budget. Comments should be addressed to the attention of the Desk Officer, Department of Transportation/FAA, and sent via electronic mail to *oira_submission@omb.eop.gov,* or faxed to (202) 395–6974, or mailed to the Office of Information and Regulatory Affairs, Office of Management and Budget, Docket Library, Room 10102, 725 17th Street NW., Washington, DC 20503.

Public Comments Invited: You are asked to comment on any aspect of this information collection, including (a) Whether the proposed collection of information is necessary for FAA's performance; (b) the accuracy of the estimated burden; (c) ways for FAA to enhance the quality, utility and clarity of the information collection; and (d) ways that the burden could be minimized without reducing the quality of the collected information. The agency will summarize and/or include your comments in the request for OMB's clearance of this information collection.

Issued in Washington, DC, on October 1, 2014.

Albert R. Spence,

FAA Assistant Information Collection Clearance Officer, IT Enterprises Business Services Division, ASP–110.

[FR Doc. 2014–23815 Filed 10–3–14; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Environmental Impact Statement; Lone Star Regional Rail Project, Williamson, Travis, Bastrop, Hays, Caldwell, Comal, Guadalupe, and Bexar Counties, TX

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of intent.

SUMMARY: Pursuant to 40 CFR 1508.22 and 43 TAC § 2.5(e)(2), the Federal Highway Administration (FHWA), Texas Department of Transportation (TxDOT), and the Lone Star Rail District (LSRD) are issuing this notice to advise the public that an Environmental Impact Statement (EIS) will be prepared for a proposed transportation project to construct and operate a regional passenger rail service system along the IH–35 corridor connecting the greater Austin and San Antonio metropolitan areas. A required letter of initiation pursuant to 23 U.S.C. 139 was completed as well. As the project proponent, the LSRD intends to apply for Transportation Infrastructure Finance and Innovation Act (TIFIA) program funding and seek to retain federal funding eligibility for this proposed project. The proposed project would provide for implementation of passenger rail service within the existing Union Pacific Railroad (UPRR) corridor that extends from Williamson County to Bexar County, Texas. FHWA as the lead federal agency will coordinate closely with the Federal Railroad Administration (FRA) and the Federal Transit Administration (FTA), to perform the analyses required to evaluate reasonable alternatives for the proposed action. The EIS may include a potential alternative that would include development and operation of a new freight bypass to carry some of the existing freight rail traffic between Taylor and San Antonio to allow the addition of passenger service along the existing UPRR line.

FOR FURTHER INFORMATION CONTACT: Mr. Salvador Deocampo, District Engineer, Federal Highway Administration, Texas Division, 300 East 8th Street, Room 826, Austin, Texas 78701, Telephone 512–536–5950.

SUPPLEMENTARY INFORMATION: The LSRD (formed in 2003 with authorization of the State of Texas) is an independent and accountable public agency focused on providing regional passenger rail service. As the project proponent, the LSRD has conducted numerous planning, environmental, and alternatives analyses over the past 10 years to evaluate feasible options for development of passenger rail service along the IH–35 corridor between the metropolitan areas of Austin and San Antonio. Through these efforts, the LSRD has worked closely with the UPRR, as a major stakeholder, to evaluate operational scenarios for joint freight and passenger operations within UPRR's existing system. A potential alternative to be evaluated in the EIS includes development and operation of passenger rail service within the abandoned MoKan railroad right-of-way between Georgetown and Round Rock, and along the existing UPRR corridor between Round Rock and San Antonio. A branch route providing passenger rail service between Round Rock and Taylor along the existing UPRR corridor could also be evaluated.

A potential alternative could include development of a freight bypass to accommodate some existing freight rail traffic that could be displaced by the proposed passenger rail operations. The proposed freight rail bypass could extend from the UPRR Austin Subdivision near Taylor and follow a greenfield alignment (new location) to Seguin. From Seguin, the proposed freight rail bypass could follow existing UPRR right-of-way through the San Antonio area and terminate at Tower 105 near downtown San Antonio.

The need for the proposed project stems from the rapid growth occurring in Central and South Texas. Congestion within the IH–35 corridor has resulted in decreased mobility and travel time reliability for both travelers and freight transporters. The deficiencies of the existing transportation network, including lack of modal transportation options and limited roadway capacity, contribute to decreased regional air quality, increased crash rates, and diminished quality of life for residents living in close proximity to IH–35.

The Lone Star Regional Rail Project would provide regional passenger rail service connecting communities along the IH–35 corridor between the metropolitan areas of Austin and San Antonio. As currently envisioned, the project would span approximately 120 miles across Williamson, Travis, Bastrop, Hays, Caldwell, Comal, Guadalupe, and Bexar counties. Based upon previous studies, the purpose of the proposed project is to improve mobility, accessibility, transportation reliability, modal choice, safety, and facilitate economic development along the IH–35 corridor in Central and South Texas.

The EIS will be prepared in accordance with the National Environmental Policy Act of 1969 (NEPA), the Council on Environmental Quality (CEQ) regulations implementing NEPA, and FHWA regulations. The EIS will evaluate the reasonable alternatives and the No Action (the no-build alternative), Transportation System Management (TSM)/Transportation Demand Management (TDM), and other transit, rail, and roadway alternatives incorporated by reference from other applicable studies. Federal Surface Transportation Program-Metropolitan Mobility (STP–MM) funds were used to conduct the previous studies and are funding the current EIS.

The EIS will analyze potential direct, indirect, and cumulative impacts from the proposed construction and operation of the reasonable alternatives considered including, but not limited to the following: regional transportation system impacts (including all modes and effects on congestion); air quality impacts; noise and vibration impacts (in accordance with FRA/FTA guidelines); impacts to water quality and water resources including surface and groundwater, wetlands, rivers, and streams, and floodplains; impacts to historic, archaeological, and cultural resources; impacts to threatened and endangered species and protected habitats; impacts on farm and range lands; socioeconomic impacts including environmental justice communities; impacts on land use and potential displacements; hazardous materials; and impacts to aesthetic and visual resources.

Public involvement is a critical component of the NEPA process and will occur throughout this study. Scoping letters describing the proposed action and a request for comments will be sent to federal, state, and local agencies as well as stakeholders, community groups, and citizens who previously expressed an interest in the proposed project. Agency and public scoping meetings are planned for the fall of 2014. The purpose of agency and public scoping is to identify relevant and potentially significant issues related to the Lone Star Regional Rail Project as part of the NEPA process. Scoping meetings, conducted pursuant to 23 U.S.C. 139, will provide opportunities for cooperating agencies, participating agencies, and the public to be involved in review and comment on the Draft Project Coordination Plan, defining the need and purpose for the proposed action, determining the range of reasonable alternatives to be considered in the EIS and the appropriate methodologies to be used, and the level of detail required in the analysis of alternatives. Federal agencies with

jurisdiction by law or special expertise with respect to potential environmental issues (such as FRA and FTA) will be requested to act as Cooperating Agencies in accordance with 40 CFR 1501.16. Agencies and the public will be notified of the dates, times, and locations of the scoping meetings at a later date. Additional public meetings will also be held on dates to be determined at a later time. In addition to public meetings, public hearings will also be held. Public notice will be given of the times and places for the public meetings and public hearings. Because of the geographic scope of the project, public meetings and public hearings may be conducted at multiple locations. Opportunities for public participation will also be announced through mailings, notices, advertisements, and on the EIS Web page *http://www.LoneStarRail.com.*

To ensure that the full range of issues related to this proposed action is addressed and all significant issues are identified, comments and suggestions are invited from all interested parties. Such comments or questions concerning this proposed action should be directed to the FHWA at the address provided above.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway, Planning, and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.)

Issued on: September 29, 2014.

Salvador Deocampo,

District Engineer.

[FR Doc. 2014–23711 Filed 10–3–14; 8:45 am]

BILLING CODE 4910–22–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–2014–0090]

Notice of Buy America Waiver

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

ACTION: Correction to Notice of Buy America Waiver

SUMMARY: On September 16, 2014, NHTSA published a Notice of Buy America Waiver that provided findings to requests from the Michigan Office of Highway Safety Planning (OHSP) to waive the requirements of Buy America. The Notice stated an effective date of October 16, 2014. However, that date did not correctly reflect NHTSA's intentions for the effective date. Also, the Notice did not accurately cite the appropriate section of the United States Code for motorcyclist safety grant funds, 23 U.S.C. 405(f). This document corrects those errors.

DATES: The effective date of this correction is the date of publication October 6, 2014.

FOR FURTHER INFORMATION CONTACT: For program issues, contact Barbara Sauers, Office of Regional Operations and Program Delivery, NHTSA (phone: 202–366–0144). For legal issues, contact Andrew DiMarsico, Office of Chief Counsel, NHTSA (phone: 202–366–5263). You may send mail to these officials at National Highway Traffic Safety Administration, 1200 New Jersey Avenue SE., Washington, DC 20590.

SUPPLEMENTARY INFORMATION: On September 16, 2014, NHTSA published a Notice of Buy America Waiver that provided findings in regards to five requests from the Michigan Office of Highway Safety Planning (OHSP) to waive the requirements of Buy America. In summary, NHTSA found the following:

- A waiver of the Buy America requirements, 23 U.S.C. 313, was appropriate for OHSP to purchase a portable data projector, wireless remote control presenter, DVDs, high-visibility motorcycle vests and twenty training motorcycles.
- A non-availability waiver of the Buy America requirements was inappropriate for OHSP to lease a copy/printer/fax machine.

Need for Correction

The Notice of Buy America Waiver stated the waiver was effective on October 16, 2014. This date did not correctly state NHTSA's intentions. On September 16, 2014, at 79 FR 55529, NHTSA intended the waiver to be effective on an earlier date in order to allow the grantee an opportunity to purchase the items requested. Also, the Notice did not accurately cite the appropriate section of the United States Code for motorcyclist safety grant funds. The Notice cited to 23 U.S.C. 405(g), but NHTSA intended to cite 23 U.S.C. 405(f) for motorcyclist safety grant funds.

In FR Doc. 2014–0090 appearing on page 55529 of the **Federal Register** of Tuesday, September 16, 2014, the following corrections are made:

In the **DATES** section in the left column, revise the paragraph to read as follows:

''The effective date of this waiver is the date of publication.''

In the **SUPPLEMENTARY INFORMATION** section in the middle column, revise the first and second paragraph to cite the following provision: ''23 U.S.C. 405(f).''

Issued in Washington, DC, on September 30, 2014, under authority delegated in 49 CFR part 1.95.

O. Kevin Vincent,

Chief Counsel.

[FR Doc. 2014–23822 Filed 10–3–14; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[Docket No. AB 55 (Sub-No. 736X; Docket No. AB 290 (Sub-No. 368X]

CSX Transportation, Inc.—Abandonment Exemption—in Knoxville, Knox County, Tenn.; Norfolk Southern Railway Company—Discontinuance of Service Exemption—in Knoxville, Knox County, Tenn.

CSX Transportation, Inc. (CSXT) and Norfolk Southern Railway Company (NSR) (collectively, applicants) have jointly filed a verified notice of exemption under 49 CFR part 1152 subpart F–*Exempt Abandonments and Discontinuances of Service* for CSXT to abandon, and for NSR to discontinue service over, approximately 1.18 miles of rail line on CSXT's Second Creek Spur on CSXT's Central Region, Huntington Division, KD Subdivision between milepost 0KS 275.09 (Valuation Station 15304+87) at the end of the track and milepost 0KS 276.27 (Valuation Station 15368+89 near West Baxter Avenue in Knoxville, Knox County, Tenn. (the Line). The Line traverses United States Postal Service Zip Code 37921 and includes no stations.

Applicants have certified that: (1) No local traffic has moved over the Line for at least two years; (2) any overhead traffic on the Line can be rerouted over other lines; (3) no formal complaint has been filed by a user of rail service on the Line (or by a state or local government entity acting on behalf of such user) regarding cessation of service over the Line, and no such complaint is either pending with the Surface Transportation Board (Board) or with any U.S. District Court or has been decided in favor of a complainant within the two-year period; and (4) the requirements at 49 CFR 1105.7(c) (environmental report), 49 CFR 1105.11 (transmittal letter), 49 CFR 1105.12 (newspaper publication), and 49 CFR 1152.50(d)(1) (notice to governmental agencies) have been met.

As a condition to these exemptions, any employee adversely affected by the

abandonment or discontinuance shall be protected under *Oregon Short Line Railroad—Abandonment Portion Goshen Branch Between Firth & Ammon, in Bingham & Bonneville Counties, Idaho,* 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10502(d) must be filed.

Provided no formal expression of intent to file an offer of financial assistance (OFA) has been received, these exemptions will be effective on November 5, 2014, unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues,[1] formal expressions of intent to file an OFA under 49 CFR 1152.27(c)(2),[2] and trail use/rail banking requests under 49 CFR 1152.29 must be filed by October 16, 2014. Petitions to reopen or requests for public use conditions under 49 CFR 1152.28 must be filed by October 27, 2014, with the Surface Transportation Board, 395 E Street SW., Washington, DC 20423–0001.

A copy of any petition filed with the Board should be sent to applicants' representatives: For CSXT, Louis E. Gitomer, Law Offices of Louis E. Gitomer, LLC, 600 Baltimore Avenue, Suite 301, Towson, MD 21204, and for NSR, William A. Mullins, 2401 Pennsylvania Avenue, NW., Suite 300, Washington, DC 20037.

If the verified notice contains false or misleading information, the exemptions are void *ab initio.*

Applicants have filed environmental and historic reports that address the effects, if any, of the abandonment and discontinuance on the environment and historic resources. OEA will issue an environmental assessment (EA) by October 10, 2014. Interested persons may obtain a copy of the EA by writing to OEA (Room 1100, Surface Transportation Board, Washington, DC 20423–0001) or by calling OEA at (202) 245–0305. Assistance for the hearing impaired is available through the Federal Information Relay Service (FIRS) at (800) 877–8339. Comments on environmental and historic preservation matters must be filed within 15 days after the EA becomes available to the public.

Environmental, historic preservation, public use, or trail use/rail banking conditions will be imposed, where appropriate, in a subsequent decision.

Pursuant to the provisions of 49 CFR 1152.29(e)(2), CSXT shall file a notice of consummation with the Board to signify that it has exercised the authority granted and fully abandoned the Line. If consummation has not been effected by CSXT's filing of a notice of consummation by October 6, 2015, and there are no legal or regulatory barriers to consummation, the authority to abandon will automatically expire.

Board decisions and notices are available on our Web site at ''*WWW.STB.DOT.GOV.*''

Decided: September 26, 2014.

By the Board, Joseph H. Dettmar, Acting Director, Office of Proceedings.

Raina S. White,

Clearance Clerk.

[FR Doc. 2014–23791 Filed 10–3–14; 8:45 am]

BILLING CODE 4915–01–P

[1] The Board will grant a stay if an informed decision on environmental issues (whether raised by a party or by the Board's Office of Environmental Analysis (OEA) in its independent investigation) cannot be made before the exemption's effective date. *See Exemption of Out-of-Serv. Rail Lines,* 5 I.C.C. 2d 377 (1989). Any request for a stay should be filed as soon as possible so that the Board may take appropriate action before the exemption's effective date.

[2] Each OFA must be accompanied by the filing fee, which is currently set at $1,600. *See* 49 CFR 1002.2(f)(25).

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900-(VA Form 20–0968)]

Claim for Reimburse of Travel Expenses Activity: Comment Request

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: The Veterans Benefits Administration (VBA), Department of Veterans Affairs (VA), is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each new collection and allow 60 days for public comment in response to the notice. This notice solicits comments on the information needed to provide beneficiary travel benefits under 38 CFR 21.370 through 21.376.

DATES: Written comments and recommendations on the proposed collection of information should be received on or before December 5, 2014.

ADDRESSES: Submit written comments on the collection of information through the Federal Docket Management System (FDMS) at *www.Regulations.gov;* or to Nancy J. Kessinger, Veterans Benefits Administration (20M35), Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420 or email to *nancy.kessinger@va.gov.* Please refer to ''OMB Control No. 2900-(VA Form 20–0968)'' in any correspondence. During the comment period, comments may be viewed online through FDMS.

FOR FURTHER INFORMATION CONTACT: Nancy J. Kessinger at (202) 632–8924 or FAX (202) 632–8925.

SUPPLEMENTARY INFORMATION: Under the PRA of 1995 (Pub. L. 104–13; 44 U.S.C. 3501–3521), Federal agencies must obtain approval from OMB for each collection of information they conduct or sponsor. This request for comment is being made pursuant to Section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, VBA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of VBA's functions, including whether the information will have practical utility; (2) the accuracy of VBA's estimate of the burden of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or the use of other forms of information technology.

Title: Quarterly Report of State Approving Agency Activities.

OMB Control Number: 2900-(VA Form 20–0968).

Type of Review: New collection.

Abstract: The purpose of the information collection is for claimants to apply for the mileage reimbursement benefit in an efficient, convenient and accurate manner. VBA must determine the identity of the claimant; the dates and length of the trip being claimed, based on the claimant's residence and the place of evaluation and counseling, or other place in connection with vocational rehabilitation; and whether expenses other than mileage are being claimed.

Affected Public: Federal government.

Estimated Annual Burden: 10,750 hours.

Estimated Average Burden per Respondent: 5 minutes.

Frequency of Response: Once.

Estimated Number of Responses: 129,000.

Dated: October 1, 2014.

By direction of the Secretary.

Crystal Rennie,

Department Clearance Officer, Department of Veterans Affairs.

[FR Doc. 2014–23738 Filed 10–3–14; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

Solicitation of Nominations for Appointment to the Research Advisory Committee on Gulf War Veterans' Illnesses

AGENCY: Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: The Department of Veterans Affairs (VA), Veterans Health Administration (VHA), is seeking nominations of qualified candidates to be considered for appointment as a member of the Research Advisory Committee on Gulf War Veterans' Illnesses (hereinafter referred to as ''the Committee''). The Committee was established pursuant to Public Law 105–368, Section 104, to advise the Secretary of VA with respect to proposed research studies, plans, and strategies related to understanding and treating the health consequences of military service in the Southwest Asia theatre of operations during the 1990–1991 Gulf War. Nominations of qualified candidates are being sought to fill upcoming vacancies on the Committee.

DATES: Nominations for membership on the Committee must be received no later than 5:00 p.m. EDT on October 24, 2014.

ADDRESSES: All nominations should be mailed to Veterans Health Administration, Department of Veterans Affairs, 810 Vermont Ave. NW., (10P), Washington, DC 20420, emailed to *victor.kalasinsky@va.gov,* or faxed to (202) 495–6155.

FOR FURTHER INFORMATION CONTACT: Dr. Victor Kalasinsky, Veterans Health Administration, Department of Veterans Affairs, 810 Vermont Ave. NW (10P), Washington, DC 20420, telephone (202) 443–5600. (This is not a toll free number.) A copy of the Committee charter and list of the current membership can be obtained by contacting Dr. Kalasinsky or by accessing the Web site: *http://www.va.gov/rac-gwvi/.*

SUPPLEMENTARY INFORMATION: The Research Advisory Committee on Gulf War Veterans' Illnesses was established pursuant to Public Law 105–368, Section 104, to advise the Secretary of VA (hereinafter referred to as ''the Secretary'') with respect to proposed research studies, plans, and strategies related to understanding and treating the health consequences of military service in the Southwest Asia theatre of operations during the 1990–1991 Gulf War.

VHA is requesting nominations for upcoming vacancies on the Committee. The Committee is currently composed of 12 members. The members of the Committee are appointed by the Secretary from the general public, including but not limited to:

(1) Gulf War Veterans;

(2) Representatives of such Veterans;

(3) Members of the medical and scientific communities representing disciplines such as, but not limited to, epidemiology, immunology, environmental health, neurology, and toxicology.

To the extent possible, the Secretary seeks members who have diverse professional and personal qualifications. We ask that nominations include information of this type so that VA can ensure a balanced Committee membership.

Individuals appointed to the Committee by the Secretary shall be invited to serve a two- or three-year term. The Secretary may reappoint a member for an additional term of service. Committee members will receive travel expenses and a per diem allowance for any travel made in connection with duties as members of the Committee and within federal travel guidelines.

Requirements for Nomination Submission: Nominations should be typed (one nomination per nominator). Nomination package should include: (1) A letter of nomination that clearly states the name and affiliation of the nominee, the basis for the nomination (i.e., specific attributes which qualify the nominee for service in this capacity), and a statement from the nominee indicating the willingness to serve as a member of the Committee; (2) the nominee's contact information, including name, mailing address, telephone numbers, and email address; (3) the nominee's curriculum vitae; (4) a summary of the nominee's experience and qualifications relative to the membership considerations described above; and (5) a statement confirming that he/she is not a federally-registered lobbyist.

VA makes every effort to ensure that the membership of VA Federal advisory committees is fairly balanced in terms of points of view represented and the committee's function. Appointments to this Committee shall be made without discrimination based on a person's race, color, religion, sex, sexual orientation, gender identity, national origin, age, disability, or genetic information. Nominations must state that the nominee appears to have no conflict of interest that would preclude membership. An ethics review is conducted for each selected nominee.

Dated: September 30, 2014.

Rebecca Schiller,

Advisory Committee Management Officer.

[FR Doc. 2014–23661 Filed 10–3–14; 8:45 am]

BILLING CODE 8320–01–P

FEDERAL REGISTER

Vol. 79 Monday,

No. 193 October 6, 2014

Part II

Environmental Protection Agency

40 CFR Part 63

National Emission Standards for Hazardous Air Pollutants: Ferroalloys Production; Proposed Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[EPA–HQ–OAR–2010–0895; FRL–9909–26–OAR]

RIN 2060–AQ11

National Emission Standards for Hazardous Air Pollutants: Ferroalloys Production

AGENCY: Environmental Protection Agency (EPA).

ACTION: Supplemental notice of proposed rulemaking.

SUMMARY: This action supplements our proposed amendments to the national emission standards for hazardous air pollutants (NESHAP) for the Ferroalloys Production source category published in the **Federal Register** on November 23, 2011. In that action, the Environmental Protection Agency (EPA) proposed amendments based on the initial technology and residual risk reviews for this source category. Today's action presents a revised technology review and a revised residual risk review for the Ferroalloys Production source category and proposes revisions to the standards based on those reviews. This action also proposes new compliance requirements to meet the revised standards. This action would result in significant environmental improvements through the reduction of fugitive manganese emissions and through more stringent emission limits for several processes.

DATES: *Comments.* Comments must be received on or before November 20, 2014. A copy of comments on the information collection provisions should be submitted to the Office of Management and Budget (OMB) on or before November 5, 2014.

Public Hearing. If anyone contacts the EPA requesting a public hearing by October 14, 2014 the EPA will hold a public hearing on October 21, 2014 from 1:00 p.m. [Eastern Standard Time] to 8:00 p.m. [Eastern Standard Time] in Marietta, Ohio. If the EPA holds a public hearing, the EPA will keep the record of the hearing open for 30 days after completion of the hearing to provide an opportunity for submission of rebuttal and supplementary information.

ADDRESSES: *Comments.* Submit your comments, identified by Docket ID No. EPA–HQ–OAR–2010–0895, by one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the online instructions for submitting comments.
- *Email: A-and-R-Docket@epa.gov.* Include ''Attention Docket ID No. EPA–HQ–OAR–2010–0895'' in the subject line of the message.
- *Fax:* (202) 566–9744. Attention Docket ID Number EPA–HQ–OAR–2010–0895.
- *Mail:* Environmental Protection Agency, EPA Docket Center (EPA/DC), Mail Code 28221T, Attention Docket ID No. EPA–HQ–OAR–2010–0895, 1200 Pennsylvania Avenue NW., Washington, DC 20460. Please include a total of two copies. In addition, please mail a copy of your comments on the information collection provisions to the Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Attn: Desk Officer for EPA, 725 17th Street NW., Washington, DC 20503.
- *Hand/Courier Delivery:* EPA Docket Center, Room 3334, EPA WJC West Building, 1301 Constitution Avenue NW., Washington, DC 20004, Attention Docket ID No. EPA–HQ–OAR–2010–0895. 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 No. EPA–HQ–OAR–2010–0895. 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 *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/dockets.*

Docket. The EPA has established a docket for this rulemaking under Docket ID Number EPA–HQ–OAR–2010–0895. 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, EPA WJC West Building, Room 3334, 1301 Constitution Ave., NW., Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the EPA Docket Center is (202) 566–1742.

Public Hearing. If requested, we will hold a public hearing on October 21, 2014, from 1:00 p.m. [Eastern Standard Time] to 8:00 p.m. [Eastern Standard Time] in Marietta, Ohio. There will be a dinner break from 5:00 p.m. [Eastern Standard Time] until 6:00 p.m. [Eastern Standard Time]. Please contact Ms. Virginia Hunt of the Sector Policies and Programs Division (E143–01), Office of Air Quality Planning and Standards, Environmental Protection Agency, Research Triangle Park, NC 27711; telephone number: 919–541–0832; email address: *hunt.virginia@epa.gov;* to register to speak at the hearing or to inquire as to whether or not a hearing will be held. The last day to pre-register in advance to speak at the hearing will be October 20, 2014. Additionally, requests to speak will be taken the day of the hearing at the hearing registration desk, although preferences on speaking times may not be able to be fulfilled. If you require the service of a translator or special accommodations such as audio description, please let us know at the time of registration. If you require an accommodation we ask that you pre-register for the hearing, as we may not be able to arrange such accommodations without advance notice. The hearing will provide interested parties the opportunity to present data, views or arguments concerning the proposed

action. The EPA will make every effort to accommodate all speakers who arrive and register.

FOR FURTHER INFORMATION CONTACT: For questions about this proposed action, contact Mr. Phil Mulrine, Sector Policies and Programs Division (D243–02), Office of Air Quality Planning and Standards, Environmental Protection Agency, Research Triangle Park, NC 27711; telephone (919) 541–5289; fax number: (919) 541–3207; and email address: *mulrine.phil@epa.gov.* For specific information regarding the risk modeling methodology, contact Ms. Darcie Smith, Health and Environmental Impacts Division (C539–02), Office of Air Quality Planning and Standards, U.S. Environmental Protection Agency, Research Triangle Park, NC 27711; telephone number: (919) 541–2076; fax number: (919) 541–2076; and email address: *smith.darcie@epa.gov.* For information about the applicability of the National Emissions Standards for Hazardous Air Pollutants (NESHAP) to a particular entity, contact Cary Secrest, Office of Enforcement and Compliance Assurance (OECA), telephone number: (202) 564–8661 and email address: *seacrest.cary@epa.gov.*

SUPPLEMENTARY INFORMATION:

Preamble Acronyms and Abbreviations

We use multiple acronyms and terms in this preamble. While this list may not be exhaustive, to ease the reading of this preamble and for reference purposes, the EPA defines the following terms and acronyms here:

AEGL—acute exposure guideline levels
AERMOD—air dispersion model used by the HEM–3 model
ATSDR—Agency for Toxic Substances and Disease Registry
BLDS—bag leak detection system
BTF—Beyond the Floor
CAA—Clean Air Act
CalEPA—California EPA
CBI—Confidential Business Information
CFR—Code of Federal Regulations
EJ—environmental justice
EPA—Environmental Protection Agency
ERPG—Emergency Response Planning Guidelines
ERT—Electronic Reporting Tool
FR—Federal Register
HAP—hazardous air pollutants
HCl—hydrochloric acid
HEM–3—Human Exposure Model, Version 1.1.0
HI—Hazard Index
HQ—Hazard Quotient
ICR—Information Collection Request
IRIS—Integrated Risk Information System
km—kilometer
LOAEL—lowest-observed-adverse-effect level
MACT—maximum achievable control technology
MACT Code—Code within the National Emissions Inventory used to identify processes included in a source category
mg/dscm—milligrams per dry standard cubic meter
mg/kg-day—milligrams per kilogram-day
mg/m^3—milligrams per cubic meter
MIR—maximum individual risk
MRL—Minimal Risk Level
NAAQS—National Ambient Air Quality Standards
NAICS—North American Industry Classification System
NAS—National Academy of Sciences
NATA—National Air Toxics Assessment
NESHAP—National Emissions Standards for Hazardous Air Pollutants
NOAEL—no-observed-adverse-effect level
NRC—National Research Council
NTTAA—National Technology Transfer and Advancement Act
OAQPS—Office of Air Quality Planning and Standards
OECA—Office of Enforcement and Compliance Assurance
OMB—Office of Management and Budget
PAH—polycyclic aromatic hydrocarbons
PB–HAP—hazardous air pollutants known to be persistent and bio-accumulative in the environment
PEL—probable effect level
PM—particulate matter
POM—polycyclic organic matter
ppm—parts per million
RDL—representative method detection level
REL—reference exposure level
RFA—Regulatory Flexibility Act
RfC—reference concentration
RfD—reference dose
RTR—residual risk and technology review
SAB—Science Advisory Board
SBA—Small Business Administration
SSM—startup, shutdown and malfunction
TOSHI—target organ-specific hazard index
TPY—tons per year
TRIM.FaTE—Total Risk Integrated Methodology.Fate, Transport, and Ecological Exposure model
TTN—Technology Transfer Network
UF—uncertainty factor
μg/dscm—micrograms per dry standard cubic meter
μg/m^3—micrograms per cubic meter
UMRA—Unfunded Mandates Reform Act
UPL—Upper Prediction Limit
URE—unit risk estimate
VCS—voluntary consensus standards

Organization of this Document. The information in this preamble is organized as follows:

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I. General Information

A. Does this action apply to me?

Table 1 of this preamble lists the industrial source category that is the subject of this supplemental proposal. Table 1 is not intended to be exhaustive but rather to provide a guide for readers regarding the entities that this proposed action is likely to affect. The proposed standards, once finalized, will be

directly applicable to the affected sources. Federal, state, local and tribal government agencies are not affected by this proposed action. As defined in the ''Initial List of Categories of Sources Under Section 112(c)(1) of the Clean Air Act Amendments of 1990'' (see 57 FR 31576, July 16, 1992), the ''Ferroalloys Production'' source category is any facility engaged in producing ferroalloys such as ferrosilicon, ferromanganese and ferrochrome.[1] The EPA redefined the Ferroalloys Production source category when it promulgated the 1999 Ferroalloys Production standard so that it now includes only major sources that produce products containing manganese (Mn). (64 FR 27450, May 20, 1999.) The 1999 standard applies specifically to two ferroalloy product types: Ferromanganese and silicomanganese.

TABLE 1—NESHAP AND INDUSTRIAL SOURCE CATEGORIES AFFECTED BY THIS PROPOSED ACTION

Source category	NESHAP	NAICS code [a]
Ferroalloys Production	Ferroalloys Production	331110

[a] 2012 North American Industry Classification System

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 at: *http://www.epa.gov/ttn/atw/ferropg.html.* Following publication in the **Federal Register**, the EPA will post the **Federal Register** version of the proposal and key technical documents at this same Web site. Information on the overall residual risk and technology review program is available at the following Web site: *http://www.epa.gov/ttn/atw/rrisk/rtrpg.html.*

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

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 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–2010–0895.

II. Background Information

A. What is the statutory authority for this action?

Section 112 of the Clean Air Act (CAA) establishes a two-stage regulatory process to address emissions of hazardous air pollutants (HAP) from stationary sources. In the first stage, after the EPA has identified categories of sources emitting one or more of the HAP listed in CAA section 112(b), CAA section 112(d) requires us to promulgate technology-based NESHAP for those sources. ''Major sources'' are those that emit or have the potential to emit 10 tons per year (tpy) or more of a single HAP or 25 tpy or more of any combination of HAP. For major sources, the technology-based NESHAP must reflect the maximum degree of emission reductions of HAPs achievable (after considering cost, energy requirements and non-air quality health and environmental impacts) and are commonly referred to as maximum achievable control technology (MACT) standards.

MACT standards must reflect the maximum degree of emissions reduction achievable through the application of measures, processes, methods, systems or techniques, including, but not limited to, measures that (1) reduce the volume of or eliminate pollutants through process changes, substitution of materials or other modifications; (2) enclose systems or processes to eliminate emissions; (3) capture or treat pollutants when released from a process, stack, storage or fugitive emissions point; (4) are design, equipment, work practice or operational standards (including requirements for operator training or certification); or (5) are a combination of the above. CAA section 112(d)(2)(A)–(E). The MACT standards may take the form of design, equipment, work practice or operational standards where the EPA first determines either that (1) a pollutant cannot be emitted through a conveyance designed and constructed to emit or capture the pollutant, or that any requirement for, or use of, such a conveyance would be inconsistent with law; or (2) the application of measurement methodology to a particular class of sources is not practicable due to technological and economic limitations. CAA section 112(h)(1)–(2).

The MACT ''floor'' is the minimum control level allowed for MACT standards promulgated under CAA section 112(d)(3) and may not be based on cost considerations. For new sources, the MACT floor cannot be less stringent than the emissions control that is achieved in practice by the best-controlled similar source. The MACT floor for existing sources can be less stringent than floors for new sources, but not less stringent than the average emissions limitation achieved by the best-performing 12 percent of existing sources in the category or subcategory (or the best-performing five sources for categories or subcategories with fewer than 30 sources). In developing MACT standards, the EPA must also consider control options that are more stringent than the floor. We may establish standards more stringent than the floor based on considerations of the cost of achieving the emission reductions, any

[1] U.S. EPA. Documentation for Developing the Initial Source Category List—Final Report, EPA/OAQPS, EPA–450/3–91–030, July, 1992.

non-air quality health and environmental impacts and energy requirements.

The EPA is then required to review these technology-based standards and revise them ''as necessary (taking into account developments in practices, processes, and control technologies)'' no less frequently than every eight years. CAA section 112(d)(6). In conducting this review, the EPA is not required to recalculate the MACT floor. *Natural Resources Defense Council (NRDC)* v. *EPA,* 529 F.3d 1077, 1084 (D.C. Cir. 2008). *Association of Battery Recyclers, Inc.* v. *EPA,* 716 F.3d 667 (D.C. Cir. 2013).

The second stage in standard-setting focuses on reducing any remaining (*i.e.,* ''residual'') risk according to CAA section 112(f). Section 112(f)(1) required that the EPA prepare a report to Congress discussing (among other things) methods of calculating the risks posed (or potentially posed) by sources after implementation of the MACT standards, the public health significance of those risks and the EPA's recommendations as to legislation regarding such remaining risk. The EPA prepared and submitted the *Residual Risk Report to Congress,* EPA–453/R–99–001 (*Risk Report*) in March 1999. CAA section 112(f)(2) then provides that if Congress does not act on any recommendation in the *Risk Report,* the EPA must analyze and address residual risk for each category or subcategory of sources 8 years after promulgation of such standards pursuant to CAA section 112(d).

Section 112(f)(2) of the CAA requires the EPA to determine for source categories subject to MACT standards whether the emission standards provide an ample margin of safety to protect public health. Section 112(f)(2)(B) of the CAA expressly preserves the EPA's use of the two-step process for developing standards to address any residual risk and the agency's interpretation of ''ample margin of safety'' developed in the *National Emissions Standards for Hazardous Air Pollutants: Benzene Emissions From Maleic Anhydride Plants, Ethylbenzene/Styrene Plants, Benzene Storage Vessels, Benzene Equipment Leaks, and Coke By-Product Recovery Plants* (Benzene NESHAP) (54 FR 38044, September 14, 1989). The EPA notified Congress in the *Risk Report* that the agency intended to use the Benzene NESHAP approach in making CAA section 112(f) residual risk determinations (EPA–453/R–99–001, p. ES–11). The EPA subsequently adopted this approach in its residual risk determinations and in a challenge to the risk review for the Synthetic Organic Chemical Manufacturing source category, the United States Court of Appeals for the District of Columbia Circuit upheld as reasonable the EPA's interpretation that subsection 112(f)(2) incorporates the approach established in the Benzene NESHAP. See *NRDC* v. *EPA,* 529 F.3d 1077, 1083 (D.C. Cir. 2008) (''[S]ubsection 112(f)(2)(B) expressly incorporates the EPA's interpretation of the Clean Air Act from the Benzene standard, complete with a citation to the **Federal Register**.''); see also *A Legislative History of the Clean Air Act Amendments of 1990,* vol. 1, p. 877 (Senate debate on Conference Report).

The first step in the process of evaluating residual risk is the determination of acceptable risk. If risks are unacceptable, the EPA cannot consider cost in identifying the emissions standards necessary to bring risks to an acceptable level. The second step is the determination of whether standards must be further revised in order to provide an ample margin of safety to protect public health. The ample margin of safety is the level at which the standards must be set, unless an even more stringent standard is necessary to prevent, taking into consideration costs, energy, safety and other relevant factors, an adverse environmental effect.

1. Step 1—Determination of Acceptability

The agency in the Benzene NESHAP concluded that ''the acceptability of risk under section 112 is best judged on the basis of a broad set of health risk measures and information'' and that the ''judgment on acceptability cannot be reduced to any single factor.'' Benzene NESHAP at 38046. The determination of what represents an ''acceptable'' risk is based on a judgment of ''what risks are acceptable in the world in which we live'' (*Risk Report* at 178, quoting *NRDC* v. *EPA,* 824 F. 2d 1146, 1165 (D.C. Cir. 1987) (en banc) (''Vinyl Chloride''), recognizing that our world is not risk-free.

In the Benzene NESHAP, we stated that ''EPA will generally presume that if the risk to [the maximum exposed] individual is no higher than approximately one in 10 thousand, that risk level is considered acceptable.'' 54 FR at 38045, September 14, 1989. We discussed the maximum individual lifetime cancer risk (or maximum individual risk (MIR)) as being ''the estimated risk that a person living near a plant would have if he or she were exposed to the maximum pollutant concentrations for 70 years.'' *Id.* We explained that this measure of risk ''is an estimate of the upper bound of risk based on conservative assumptions, such as continuous exposure for 24 hours per day for 70 years.'' *Id.* We acknowledged that maximum individual lifetime cancer risk ''does not necessarily reflect the true risk, but displays a conservative risk level which is an upper-bound that is unlikely to be exceeded.'' *Id.*

Understanding that there are both benefits and limitations to using the MIR as a metric for determining acceptability, we acknowledged in the Benzene NESHAP that ''consideration of maximum individual risk * * * must take into account the strengths and weaknesses of this measure of risk.'' *Id.* Consequently, the presumptive risk level of 100-in-1 million (1-in-10 thousand) provides a benchmark for judging the acceptability of maximum individual lifetime cancer risk, but does not constitute a rigid line for making that determination. Further, in the Benzene NESHAP, we noted that:

> [p]articular attention will also be accorded to the weight of evidence presented in the risk assessment of potential carcinogenicity or other health effects of a pollutant. While the same numerical risk may be estimated for an exposure to a pollutant judged to be a known human carcinogen, and to a pollutant considered a possible human carcinogen based on limited animal test data, the same weight cannot be accorded to both estimates. In considering the potential public health effects of the two pollutants, the Agency's judgment on acceptability, including the MIR, will be influenced by the greater weight of evidence for the known human carcinogen.

Id. at 38046. The agency also explained in the Benzene NESHAP that:

> [i]n establishing a presumption for MIR, rather than a rigid line for acceptability, the Agency intends to weigh it with a series of other health measures and factors. These include the overall incidence of cancer or other serious health effects within the exposed population, the numbers of persons exposed within each individual lifetime risk range and associated incidence within, typically, a 50 km exposure radius around facilities, the science policy assumptions and estimation uncertainties associated with the risk measures, weight of the scientific evidence for human health effects, other quantified or unquantified health effects, effects due to co-location of facilities, and co-emission of pollutants.

Id. at 38045. In some cases, these health measures and factors taken together may provide a more realistic description of the magnitude of risk in the exposed population than that provided by maximum individual lifetime cancer risk alone.

As noted earlier, in *NRDC* v. *EPA,* the court held that section 112(f)(2)

''incorporates the EPA's interpretation of the Clean Air Act from the Benzene Standard.'' The court further held that Congress' incorporation of the Benzene standard applies equally to carcinogens and non-carcinogens. 529 F.3d at 1081–82. Accordingly, we also consider non-cancer risk metrics in our determination of risk acceptability and ample margin of safety.

2. Step 2—Determination of Ample Margin of Safety

CAA section 112(f)(2) requires the EPA to determine, for source categories subject to MACT standards, whether those standards provide an ample margin of safety to protect public health. As explained in the Benzene NESHAP, ''the second step of the inquiry, determining an 'ample margin of safety,' again includes consideration of all of the health factors, and whether to reduce the risks even further. . . . Beyond that information, additional factors relating to the appropriate level of control will also be considered, including costs and economic impacts of controls, technological feasibility, uncertainties and any other relevant factors. Considering all of these factors, the agency will establish the standard at a level that provides an ample margin of safety to protect the public health, as required by section 112.'' 54 FR at 38046, September 14, 1989.

According to CAA section 112(f)(2)(A), if the MACT standards for HAP ''classified as a known, probable, or possible human carcinogen do not reduce lifetime excess cancer risks to the individual most exposed to emissions from a source in the category or subcategory to less than one in one million,'' the EPA must promulgate residual risk standards for the source category (or subcategory), as necessary to provide an ample margin of safety to protect public health. In doing so, the EPA may adopt standards equal to existing MACT standards if the EPA determines that the existing standards (*i.e.,* the MACT standards) are sufficiently protective. *NRDC* v. *EPA,* 529 F.3d 1077, 1083 (D.C. Cir. 2008) (''If EPA determines that the existing technology-based standards provide an 'ample margin of safety,' then the Agency is free to readopt those standards during the residual risk rulemaking.'') The EPA must also adopt more stringent standards, if necessary, to prevent an adverse environmental effect,[2] but must consider cost, energy, safety and other relevant factors in doing so.

The CAA does not specifically define the terms ''individual most exposed,'' ''acceptable level'' and ''ample margin of safety.'' In the Benzene NESHAP, 54 FR at 38044–38045, September 14, 1989, we stated as an overall objective:

> In protecting public health with an ample margin of safety under section 112, EPA strives to provide maximum feasible protection against risks to health from hazardous air pollutants by (1) protecting the greatest number of persons possible to an individual lifetime risk level no higher than approximately 1-in-1 million and (2) limiting to no higher than approximately 1-in-10 thousand [i.e., 100-in-1 million] the estimated risk that a person living near a plant would have if he or she were exposed to the maximum pollutant concentrations for 70 years.

The agency further stated that ''[t]he EPA also considers incidence (the number of persons estimated to suffer cancer or other serious health effects as a result of exposure to a pollutant) to be an important measure of the health risk to the exposed population. Incidence measures the extent of health risks to the exposed population as a whole, by providing an estimate of the occurrence of cancer or other serious health effects in the exposed population.'' *Id.* at 38045.

In the ample margin of safety decision process, the agency again considers all of the health risks and other health information considered in the first step, including the incremental risk reduction associated with standards more stringent than the MACT standard or a more stringent standard that EPA has determined is necessary to ensure risk is acceptable. In the ample margin of safety analysis, the agency considers additional factors, including costs and economic impacts of controls, technological feasibility, uncertainties and any other relevant factors. Considering all of these factors, the agency will establish the standard at a level that provides an ample margin of safety to protect the public health, as required by CAA section 112(f). 54 FR 38046, September 14, 1989.

B. What is this source category and how does the current NESHAP regulate its HAP emissions?

Ferroalloys are alloys of iron in which one or more chemical elements (such as chromium, manganese and silicon) are added into molten metal. Ferroalloys are consumed primarily in iron and steel making and are used to produce steel and cast iron products with enhanced or special properties. The ferroalloys products that are the focus of the NESHAP are ferromanganese (FeMn) and silicomanganese (SiMn), which are produced by two facilities in the United States. One facility (Eramet) is located in Marietta, Ohio and produces both FeMn and SiMn. The other plant (Felman) is located in Letart, West Virginia and produces only SiMn.

Ferroalloys within the scope of this source category are produced using submerged electric arc furnaces, which are furnaces in which the electrodes are submerged into the charge. The submerged arc process is a reduction smelting operation. The reactants consist of metallic ores (ferrous oxides, silicon oxides, manganese oxides, etc.) and a carbon-source reducing agent, usually in the form of coke, charcoal, high- and low-volatility coal, or wood chips. Raw materials are crushed and sized and then conveyed to a mix house for weighing and blending. Conveyors, buckets, skip hoists or cars transport the processed material to hoppers above the furnace. The mix is gravity-fed through a feed chute either continuously or intermittently, as needed. At high temperatures in the reaction zone, the carbon source reacts with metal oxides to form carbon monoxide and to reduce the ores to base metal.[3] The molten material (product and slag) is tapped from the furnace, sometimes subject to post-furnace refining and poured into casting beds on the furnace room floor. Once the material hardens, it is transported to product crushing and sizing systems and packaged for transport to the customer.

The NESHAP for Ferroalloys Production: Ferromanganese and Silicomanganese were promulgated on May 20, 1999 (64 FR 27450) and codified at 40 CFR part 63, subpart XXX.[4] The 1999 NESHAP applies to all new and existing ferroalloys production facilities that manufacture ferromanganese or silicomanganese and are major sources or are co-located at major sources of HAP emissions.

The existing Ferroalloys Production NESHAP rule applies to process emissions from the submerged arc furnaces, the metal oxygen refining process and the product crushing equipment; process fugitive emissions from the furnace; and outdoor fugitive dust emissions sources such as

[2] ''Adverse environmental effect'' is defined as any significant and widespread adverse effect, which may be reasonably anticipated to wildlife, aquatic life or natural resources, including adverse impacts on populations of endangered or threatened species or significant degradation of environmental qualities over broad areas. CAA section 112(a)(7).

[3] EPA. AP–42, 12.4. Ferroalloy Production. 10/86.

[4] The emission limits were revised on March 22, 2001 (66 FR 16024) in response to a petition for reconsideration submitted to the EPA following promulgation of the final rule and a petition for review filed in the U.S. Court of Appeals for the District of Columbia Circuit.

roadways, yard areas and outdoor material storage and transfer operations. For the electric (submerged) arc furnace process, the NESHAP specifies numerical emissions limits for particulate matter (as a surrogate for non-mercury (or particulate) metal HAP). The NESHAP also includes emissions limits for particulate matter (again as a surrogate for particulate metal HAP) for process emissions from the metal oxygen refining process and product crushing and screening equipment. Table 2 is a summary of the applicable limits in the existing Subpart XXX.

TABLE 2—EMISSION LIMITS IN SUBPART XXX

New or reconstructed or existing source	Affected source	Applicable PM emission standards	Subpart XXX reference
New or reconstructed	Submerged arc furnace	0.23 kilograms per hour per megawatt (kg/hr/MW) (0.51 pounds per hour per megawatt (lb/hr/MW) or 35 milligrams per dry standard cubic meter (mg/dscm) (0.015 grains per dry standard cubic foot (gr/dscf).	40 CFR 63.1652(a)(1) and (a)(2)
Existing	Open submerged arc furnace producing ferromanganese and operating at a furnace power input of 22 megawatts (MW) or less.	9.8 kg/hr (21.7 lb/hr)	40 CFR 63.1652(b)(1)
Existing	Open submerged arc furnace producing ferromanganese and operating at a furnace power input greater than 22 MW.	13.5 kg/hr (29.8 lb/hr)	40 CFR 63.1652(b)(2)
Existing	Open submerged arc furnace producing silicomanganese and operating at a furnace power input greater than 25 MW.	16.3 kg/hr (35.9 lb/hr)	40 CFR 63.1652(b)(3)
Existing	Open submerged arc furnace producing silicomanganese and operating at a furnace power input of 25 MW or less.	12.3 kg/hr (27.2 lb/hr)	40 CFR 63.1652(b)(4)
Existing	Semi-sealed submerged arc furnace (primary, tapping and vent stacks) producing ferromanganese.	11.2 kg/hr (24.7 lb/hr)	40 CFR 63.1652(c)
New, reconstructed, or existing	Metal oxygen refining process	69 mg/dscm (0.03 gr/dscf)	40 CFR 63.1652(d)
New or reconstructed	Individual equipment associated with the product crushing and screening operation.	50 mg/dscm (0.022 gr/dscf)	40 CFR 63.1652(e)(1)
Existing	Individual equipment associated with the product crushing and screening operation.	69 mg/dscm (0.03 gr/dscf)	40 CFR 63.1652(e)(2)

The 1999 NESHAP established a building opacity limit of 20 percent that is measured during the required furnace control device performance test. The rule provides an excursion limit of 60 percent opacity for one 6-minute period during the performance test. The opacity observation is focused only on emissions exiting the shop due solely to operations of any affected submerged arc furnace. In addition, blowing taps, poling and oxygen lancing of the tap hole, burndowns associated with electrode measurements and maintenance activities associated with submerged arc furnaces and casting operations are exempt from the opacity standards specified in § 63.1653.

For outdoor fugitive dust sources, as defined in § 63.1652, the 1999 NESHAP requires that plants prepare and operate according to an outdoor fugitive dust control plan that describes in detail the measures that will be put in place to control outdoor fugitive dust emissions from the individual outdoor fugitive dust sources at the facility. The owner or operator must submit a copy of the outdoor fugitive dust control plan to the designated permitting authority on or before the applicable compliance date.

C. What is the history of the Ferroalloys Production Risk and Technology Review?

Pursuant to section 112(f)(2) of the CAA, we first evaluated the residual risk associated with the Ferroalloys Production NESHAP in 2011. We also conducted a technology review, as required by section 112(d)(6) of the CAA. Finally, we also reviewed the 1999 MACT rule to determine if other amendments were appropriate. Based on the results of that previous residual risk and technology review (RTR) and the MACT rule review, we proposed amendments to subpart XXX on November 23, 2011 (76 FR 72508) (referred to from here on as the 2011 proposal in the remainder of this FR notice). The proposed amendments in the 2011 proposal which we are revisiting in today's supplemental proposal include the following:

- Revisions to particulate matter (PM) standards for electric arc furnaces and local ventilation control devices;
- emission limits for mercury, polycyclic aromatic hydrocarbons (PAHs), and hydrochloric acid (HCl);
- proposed requirements to control process fugitive emissions based on full-building enclosure with negative pressure, or fenceline monitoring as an alternative;
- a provision for emissions averaging;
- amendments to the monitoring, notification, recordkeeping and testing requirements; and
- proposed provisions establishing an affirmative defense to civil penalties for violations caused by malfunctions.

The comment period for the 2011 proposal opened on November 23, 2011, and ended on January 31, 2012. We received significant comments from industry representatives, environmental organizations local community groups. We also met with stakeholders (from industry, community groups and environmental organizations) after proposal to further discuss their comments, concerns and related issues. After reviewing the comments and after consideration of additional data and information received since the 2011 proposal, we determined it is

appropriate to revise some of our analyses and publish a supplemental proposal. Therefore, in today's Notice of Supplemental Proposed Rulemaking we present revised analyses, and based on those analyses we are proposing revised amendments for the items listed above to allow the public an opportunity to review and comment on these revised analyses and revised proposed amendments. In addition, we have reevaluated the proposed affirmative defense provisions in light of a recent court decision vacating an affirmative defense in one of the EPA's Section 112(d) regulations. *NRDC* v. *EPA,* 749 F.3d 1055 (D.C. Cir., 2014) (vacating affirmative defense provisions in Section 112(d) rule establishing emission standards for Portland cement kilns). In this supplemental proposal, we are withdrawing our 2011 proposal to include an affirmative defense provision in this regulation.

However, we also proposed other requirements in the 2011 proposal (listed below) for which we have made no revisions to the analyses, we are not proposing any changes and are not reopening for public comment. The other requirements that we proposed in the 2011 proposal, for which we are not re-opening for comment, are the following:

- PM standards for metal oxygen refining processes and crushing and screening operations;
- emissions limits for formaldehyde;
- elimination of SSM exemptions; and
- electronic reporting.

We will address the comments we received on these other proposed requirements during the public comment period for the 2011 proposal at the time we take final action.

In the 2011 proposal, we also included information about several ATSDR health consultations and a study (Kim *et al.*) that had been conducted in the Marietta area. We note that the Kim *et al.* study was included in the 2012 ATSDR review of manganese. Since the 2011 proposal, additional studies on the potential toxicity of manganese have been published. These studies add to the literature regarding potential health effects from exposure to manganese and will be included, along with the complete body of scientific evidence, in future reviews of manganese toxicity.

D. What data collection activities were conducted to support this action?

Commenters on the 2011 proposal expressed concern that the data set used in the risk assessment did not adequately reflect current operations at the plants. In response to these comments, we worked with the facilities to address these concerns and we obtained a significant amount of new data in order to establish a more robust dataset than the dataset we had for the 2011 proposal. Specifically, the plants provided data collected during their 2011 and 2012 compliance tests and, in response to an Information Collection Request (ICR) from the EPA in December 2012, they conducted more tests in the spring of 2013. This combined testing effort provided the following data:

- Additional stack test data for arsenic, cadmium, chromium, lead, manganese, mercury, nickel, HCl, formaldehyde, PAH, polychlorinated biphenyls (PCB) and dioxins/furans;
- Test data collected using updated, state-of-the-art test methods and procedures;
- Hazardous air pollutant (HAP) test data for all operational furnaces;
- Test data obtained during different seasonal conditions (*i.e.,* spring and fall);
- Test data for both products (ferromanganese and silicomanganese) for both furnaces at Eramet (Felman only produces silicomanganese).

With the new data, we no longer have to extrapolate HAP emissions from a ratio of PM to HAP emissions from just one or two tested furnaces. We are also using test data collected using state-of-the-art test methods that provide better QA/QC of the test results. For mercury, test data were collected for the supplemental proposal using EPA Method 30B, which requires paired samples collected for each test run, in addition to a spiked sample during the 3-run test. Test data for PAH were collected using CARB 429, which provides greater sensitivity, precision and identification of individual PAH compounds as compared to Method 0010 which was used for previous tests. We also received PCB and dioxin/furan test data that were collected using CARB 428, which uses high resolution instruments and provides a specific procedure for measuring PCBs in addition to dioxin/furans.

The data described above, which we received prior to summer 2014, were incorporated into our risk assessment, technology review and other MACT analyses presented in this Notice. However, we recently received additional test reports and data for PAH, mercury and PM emissions from one of the furnaces at Eramet (Furnace #12). We also received additional data on PM emissions for Furnaces #1 and #12 at Eramet and for the tapping baghouse at Eramet. We have not yet completed our technical review of these new data and we were not able to incorporate these new data (on PAHs, PM, or Hg) into our RTR or MACT analyses in time for the publication of today's Notice.[5] [6] These test reports (which we received on August 19, 2014) are available in the docket for today's action. We have not yet determined the technical viability of these data or how these data would affect the RTR and MACT analyses. Nevertheless, we seek comment on these new data and how these data would impact our analyses and results presented in today's Notice. Based on comments and information that we receive in response to this supplemental proposal, and after we complete our review of these data, we will consider these data as appropriate as we develop the final rule.

Commenters also expressed concern that the estimated cost and operational impacts of the 2011 proposed process fugitive standards based on use of a total building enclosure requirement were significantly underestimated. In their comments both companies submitted substantial additional information and estimates regarding the elements, costs and impacts involved with constructing and operating a full building enclosure for their facilities. We also received comments saying that full-enclosure with negative pressure can lead to worker safety and health issues related to indoor air quality if the systems are not designed and operated appropriately to provide sufficient air exchanges and air conditioning in the work space. Furthermore, in their comments and in subsequent meetings and other communications, the companies also provided design and cost information for an alternative approach to substantially reduce fugitive emissions based on enhanced local capture and control of these emissions at each plant. In the summer of 2012 and fall of 2013, both plants submitted updated enhanced capture plans and cost estimates to implement those plans. We also consulted with outside ventilation experts and control equipment vendors to re-evaluate the costs of process fugitive capture as well as costs of other control measures such as activated carbon injection. We also gathered a

[5] Emission Measurement Summary Report. Furnace No. 12 Scrubber. PAHs and Mercury. Eramet Marietta, Inc. Marietta, OH. Prepared for: Eramet Marietta, Inc. Marietta, Ohio. Prepared by Environmental Quality Management, Inc. 1800 Carillon Boulevard, Cincinnati, Ohio 45240. January 2013.

[6] Emission Measurement Summary Report. Filterable Particulate Matter Furnaces 1 and 12. Eramet Marietta, Inc. Marietta, OH. *Prepared for:* Eramet Marietta, Inc. Marietta, Ohio 45750–0299 *Prepared by:* Environmental Quality Management, Inc., Cincinnati, Ohio 45240. April 2014.

substantial amount of opacity data from both facilities and collected additional information regarding the processes, control technologies and modeling input parameters (such as stack release heights and fugitive emissions release characteristics). We reviewed and evaluated these data and information provided by the facilities, the ventilation experts and vendors, and revised our analyses accordingly.

III. Analytical Procedures

A. For purposes of this supplemental proposal, how did we estimate the post-MACT risks posed by the Ferroalloys Production Source Category?

The EPA conducted a risk assessment that provides estimates of the MIR posed by the HAP emissions from each source in the source category, the hazard index (HI) for chronic exposures to HAP with the potential to cause noncancer health effects and the hazard quotient (HQ) for acute exposures to HAP with the potential to cause noncancer health effects. The assessment also provides estimates of the distribution of cancer risks within the exposed populations, cancer incidence and an evaluation of the potential for adverse environmental effects. The risk assessment consisted of eight primary steps, as discussed in detail in the 2011 proposal. The docket for this rulemaking contains the following document which provides more information on the risk assessment inputs and models: *Residual Risk Assessment for the Ferroalloys Production Source Category in Support of the September 2014 Supplemental Proposal* (risk assessment document). The methods used to assess risks (as described in the eight primary steps below) are consistent with those peer-reviewed by a panel of the EPA's Science Advisory Board (SAB) in 2009 and described in their peer review report issued in 2010;[7] they are also consistent with the key recommendations contained in that report.

1. How did we estimate actual emissions and identify the emissions release characteristics?

As explained previously, the revised data set for the ferroalloys production source category, derived from the two existing ferromanganese and silicomanganese production facilities, constitutes the basis for the revised risk assessment. We estimated the magnitude of emissions using emissions test data collected through ICRs along with additional data submitted voluntarily by the companies. We also collected information regarding emissions release characteristics such as stack heights, stack gas exit velocities, stack temperatures and source locations. In addition to the quality assurance (QA) of the source data for the facilities contained in the data set, we also checked the coordinates of every emission source in the data set through visual observations using tools such as GoogleEarth and ArcView. Where coordinates were found to be incorrect, we identified and corrected them to the extent possible. We also performed a QA assessment of the emissions data and release characteristics to ensure the data were reliable and that there were no outliers. The emissions data and the methods used to estimate emissions from all the various emissions sources are described in more detail in the technical document: *Revised Development of the RTR Emissions Dataset for the Ferroalloys Production Source Category for the 2014 Supplemental Proposal,* which is available in the docket for this action.

2. How did we estimate MACT-allowable emissions?

The available emissions data in the RTR emissions dataset include estimates of the mass of HAP emitted during the specified annual time period. In some cases, these ''actual'' emission levels are lower than the emission levels required to comply with the MACT standards. The emissions level allowed to be emitted by the MACT standards is referred to as the ''MACT-allowable'' emissions level. We discussed the use of both MACT-allowable and actual emissions in the final Coke Oven Batteries residual risk rule (70 FR 19998–19999, April 15, 2005) and in the proposed and final Hazardous Organic NESHAP residual risk rules (71 FR 34428, June 14, 2006, and 71 FR 76609, December 21, 2006, respectively). In those previous actions, we noted that assessing the risks at the MACT-allowable level is inherently reasonable since these risks reflect the maximum level facilities could emit and still comply with national emission standards. We also explained that it is reasonable to consider actual emissions, where such data are available, in both steps of the risk analysis, in accordance with the Benzene NESHAP approach. (54 FR 38044, September 14, 1989.)

For this supplemental proposal, we evaluated allowable stack emissions based on the level of control required by the 1999 MACT standards. We also evaluated the level of reported actual emissions and available information on the level of control achieved by the emissions controls in use. Further explanation is provided in the technical document: *Revised Development of the RTR Emissions Dataset for the Ferroalloys Production Source Category for the 2014 Supplemental Proposal,* which is available in the docket.

3. How did we conduct dispersion modeling, determine inhalation exposures and estimate individual and population inhalation risks?

Both long-term and short-term inhalation exposure concentrations and health risks from the source category addressed in this proposal were estimated using the Human Exposure Model (Community and Sector HEM–3 version 1.1.0). The HEM–3 performs three primary risk assessment activities: (1) Conducting dispersion modeling to estimate the concentrations of HAP in ambient air, (2) estimating long-term and short-term inhalation exposures to individuals residing within 50 kilometers (km) of the modeled sources[8], and (3) estimating individual and population-level inhalation risks using the exposure estimates and quantitative dose-response information.

The air dispersion model used by the HEM–3 model (AERMOD) is one of the EPA's preferred models for assessing pollutant concentrations from industrial facilities.[9] To perform the dispersion modeling and to develop the preliminary risk estimates, HEM–3 draws on three data libraries. The first is a library of meteorological data, which is used for dispersion calculations. This library includes 1 year (2011) of hourly surface and upper air observations for more than 800 meteorological stations, selected to provide coverage of the United States and Puerto Rico. A second library of United States Census Bureau census block[10] internal point locations and populations provides the basis of human exposure calculations (U.S. Census, 2010). In addition, for each census block, the census library includes the elevation and controlling hill height, which are also used in dispersion calculations. A third library of pollutant unit risk factors and other

[7] U.S. EPA SAB. *Risk and Technology Review (RTR) Risk Assessment Methodologies: For Review by the EPA's Science Advisory Board with Case Studies—MACT I Petroleum Refining Sources and Portland Cement Manufacturing,* May 2010.

[8] This metric comes from the Benzene NESHAP. See 54 FR 38046.

[9] U.S. EPA. Revision to the *Guideline on Air Quality Models: Adoption of a Preferred General Purpose (Flat and Complex Terrain) Dispersion Model and Other Revisions* (70 FR 68218, November 9, 2005).

[10] A census block is the smallest geographic area for which census statistics are tabulated.

health benchmarks is used to estimate health risks. These risk factors and health benchmarks are the latest values recommended by the EPA for HAP and other toxic air pollutants. These values are available at: *http://www.epa.gov/ttn/atw/toxsource/summary.html* and are discussed in more detail later in this section.

In developing the risk assessment for chronic exposures, we used the estimated annual average ambient air concentrations of each HAP emitted by each source for which we have emissions data in the source category. The air concentrations at each nearby census block centroid were used as a surrogate for the chronic inhalation exposure concentration for all the people who reside in that census block. We calculated the MIR for each facility as the cancer risk associated with a continuous lifetime (24 hours per day, 7 days per week, and 52 weeks per year for a 70-year period) exposure to the maximum concentration at the centroid of inhabited census blocks. Individual cancer risks were calculated by multiplying the estimated lifetime exposure to the ambient concentration of each of the HAP (in micrograms per cubic meter ($\mu g/m^3$)) by its unit risk estimate (URE). The URE is an upper bound estimate of an individual's probability of contracting cancer over a lifetime of exposure to a concentration of 1 microgram of the pollutant per cubic meter of air. For residual risk assessments, we generally use URE values from the EPA's Integrated Risk Information System (IRIS). For carcinogenic pollutants without EPA IRIS values, we look to other reputable sources of cancer dose-response values, often using California EPA (CalEPA) URE values, where available. In cases where new, scientifically credible dose response values have been developed in a manner consistent with the EPA guidelines and have undergone a peer review process similar to that used by the EPA, we may use such dose-response values in place of, or in addition to, other values, if appropriate.

In the case of nickel compounds, to provide a conservative estimate of potential cancer risks, we used the IRIS URE value for nickel subsulfide (which is considered the most potent carcinogen among all nickel compounds) in the assessment for the 2011 proposed rule for ferroalloys production. In the 2011 proposed rule, the determination of the percent of nickel subsulfide was considered a major factor for estimating the risks of cancer due to nickel-containing emissions. Nickel speciation information for some of the largest nickel-emitting sources (including oil combustion, coal combustion and others) suggested that at least 35 percent of total nickel emissions may be soluble compounds and that the cancer risk for the mixture of inhaled nickel compounds (based on nickel subsulfide and representative of pure insoluble crystalline nickel) was derived to reflect the assumption that 65 percent of the total mass of nickel may be carcinogenic.

Based on consistent views of major scientific bodies (*i.e.,* National Toxicology Program (NTP) in their 12th Report of the Carcinogens (ROC) [11], International Agency for Research on Cancer (IARC) [12] and other international agencies) [13] that consider all nickel compounds to be carcinogenic, we currently consider all nickel compounds to have the potential of being carcinogenic to humans. The *12th Report of the Carcinogens* states that the ''combined results of epidemiological studies, mechanistic studies, and carcinogenic studies in rodents support the concept that nickel compounds generate nickel ions in target cells at sites critical for carcinogenesis, thus allowing consideration and evaluation of these compounds as a single group.'' Although the precise nickel compound (or compounds) responsible for carcinogenic effects in humans is not always clear, studies indicate that nickel sulfate and the combinations of nickel sulfides and oxides encountered in the nickel refining industries cause cancer in humans (these studies are summarized in a review by Grimsrud *et al.,* 2010 [14]). The major scientific bodies mentioned above have also recognized that there are differences in toxicity and/or carcinogenic potential across the different nickel compounds.

In the inhalation risk assessment for the 2011 proposed rule, to take a conservative approach, we considered all nickel compounds to have the same carcinogenic potential as nickel subsulfide and used the IRIS URE for nickel subsulfide to estimate risks due to all nickel emissions from the source category. However, given that there are two additional URE values [15] derived for exposure to mixtures of nickel compounds, as a group, that are 2–3 fold lower than the IRIS URE for nickel subsulfide, the EPA also considers it reasonable to use a value that is 50 percent of the IRIS URE for nickel subsulfide for providing an estimate of the lower end of the plausible range of cancer potency values for different mixtures of nickel compounds. In the public comments provided in response to the proposal and available in the docket, one facility provided additional data in the form of a laboratory test report that indicated it would be unlikely that 100 percent of the nickel from the furnace would be in the form of nickel subsulfide. Given our current knowledge of the carcinogenic potential of all nickel compounds, and the potential differences in carcinogenic potential across nickel compounds, we consider it reasonable to use a value that is 50 percent of the IRIS URE for nickel subsulfide for providing an estimate of the cancer potency values for different mixtures of nickel compounds in the revised data set for the current supplemental proposal.

The EPA estimated incremental individual lifetime cancer risks associated with emissions from the facilities in the source category as the sum of the risks for each of the carcinogenic HAP (including those classified as carcinogenic to humans, likely to be carcinogenic to humans, and suggestive evidence of carcinogenic potential [16]) emitted by the modeled sources. Cancer incidence and the distribution of individual cancer risks for the population within 50 km of the sources were also estimated for the source category as part of this

[11] National Toxicology Program (NTP), 2011. Report on carcinogens. 12th ed. Research Triangle Park, NC: US Department of Health and Human Services (DHHS), Public Health Service. Available online at *http://ntp.niehs.nih.gov/ntp/roc/twelfth/roc12.pdf.*

[12] International Agency for Research on Cancer (IARC), 1990. IARC monographs on the evaluation of carcinogenic risks to humans. Chromium, nickel, and welding. Vol. 49. Lyons, France: International Agency for Research on Cancer, World Health Organization Vol. 49:256.

[13] World Health Organization (WHO, 1991) and the European Union's Scientific Committee on Health and Environmental Risks (SCHER, 2006).

[14] Grimsrud TK and Andersen A. Evidence of carcinogenicity in humans of water-soluble nickel salts. J Occup Med Toxicol 2010, 5:1–7. Available online at *http://www.ossup-med.com/content/5/1/7.*

[15] Two UREs (other than the current IRIS values) have been derived for nickel compounds as a group: One developed by the California Department of Health Services (*http://www.arb.ca.gov/toxics/id/summary/nickel_tech_b.pdf*) and the other by the Texas Commission on Environmental Quality (*http://www.epa.gov/ttn/atw/nata1999/99pdfs/healtheffectsinfo.pdf*).

[16] These classifications also coincide with the terms ''known carcinogen, probable carcinogen, and possible carcinogen,'' respectively, which are the terms advocated in the EPA's previous *Guidelines for Carcinogen Risk Assessment,* published in 1986 (51 FR 33992, September 24, 1986). Summing the risks of these individual compounds to obtain the cumulative cancer risks is an approach that was recommended by the EPA's Science Advisory Board (SAB) in their 2002 peer review of EPA's National Air Toxics Assessment (NATA) entitled, *NATA—Evaluating the National-scale Air Toxics Assessment 1996 Data—an SAB Advisory,* available at: *http://yosemite.epa.gov/sab/sabproduct.nsf/214C6E915BB04E14852570CA007A682C/$File/ecadv02001.pdf.*

assessment by summing individual risks. A distance of 50 km is consistent with both the analysis supporting the 1989 Benzene NESHAP (54 FR 38044, September 14, 1989) and the limitations of Gaussian dispersion models, including AERMOD.

To assess the risk of non-cancer health effects from chronic exposures, we summed the HQ for each of the HAP that affects a common target organ system to obtain the HI for that target organ system (or target organ-specific HI, TOSHI). The HQ is the estimated exposure divided by the chronic reference value, which is a value selected from one of several sources. First, the chronic reference level can be the EPA reference concentration (RfC) (*http://www.epa.gov/riskassessment/glossary.htm*), defined as ''an estimate (with uncertainty spanning perhaps an order of magnitude) of a continuous inhalation exposure to the human population (including sensitive subgroups) that is likely to be without an appreciable risk of deleterious effects during a lifetime.'' Alternatively, in cases where an RfC from the EPA's IRIS database is not available or where the EPA determines that using a value other than the RfC is appropriate, the chronic reference level can be a value from the following prioritized sources: (1) The Agency for Toxic Substances and Disease Registry Minimum Risk Level (MRL) (*http://www.atsdr.cdc.gov/mrls/index.asp*), which is defined as ''an estimate of daily human exposure to a hazardous substance that is likely to be without an appreciable risk of adverse non-cancer health effects (other than cancer) over a specified duration of exposure''; (2) the CalEPA Chronic Reference Exposure Level (REL) (*http://www.oehha.ca.gov/air/hot_spots/pdf/HRAguidefinal.pdf*), which is defined as ''the concentration level (that is expressed in units of micrograms per cubic meter (μg/m^3) for inhalation exposure and in a dose expressed in units of milligram per kilogram-day (mg/kg-day) for oral exposures), at or below which no adverse health effects are anticipated for a specified exposure duration''; or (3), as noted above, a scientifically credible dose-response value that has been developed in a manner consistent with the EPA guidelines and has undergone a peer review process similar to that used by the EPA, in place of or in concert with other values.

For the ferroalloys source category, we applied this policy in our estimate of noncancer inhalation hazards and note the following related to manganese. There is an existing IRIS RfC for manganese (Mn) published in 1993.[17] This value was used in the RTR risk assessment supporting the Ferroalloys Notice of Proposed Rulemaking.[18] However, since the 2011 proposal, ATSDR has published an assessment of Mn toxicity (2012) which includes a chronic inhalation value (*i.e.,* an ATSDR Minimal Risk Level or MRL).[19] Both the 1993 IRIS RfC and the 2012 ATSDR MRL were based on the same study (Roels *et al.,* 1993). In developing their assessment, ATSDR used updated dose-response modeling methodology (benchmark dose approach) and considered recent pharmacokinetic findings to support their MRL derivation. Consistent with Agency policy, which was supported by SAB,[20] the EPA has chosen in this instance to rely on the ATSDR MRL for Mn in the current ferroalloys supplemental proposal.

The EPA also evaluated screening estimates of acute exposures and risks for each of the HAP at the point of highest potential off-site exposure for each facility. To do this, the EPA estimated the risks when both the peak hourly emissions rate and worst-case dispersion conditions occur. We also assume that a person is located at the point of highest impact during that same time. In accordance with our mandate in section 112 of the Clean Air Act, we use the point of highest off-site exposure to assess the potential risk to the maximally exposed individual. The acute HQ is the estimated acute exposure divided by the acute dose-response value. In each case, the EPA calculated acute HQ values using best available, short-term dose-response values. These acute dose-response values, which are described below, include the acute REL, acute exposure guideline levels (AEGL) and emergency response planning guidelines (ERPG) for 1-hour exposure durations. As discussed below, we used conservative assumptions for emissions rates, meteorology and exposure location for our acute analysis.

As described in the *CalEPA's Air Toxics Hot Spots Program Risk Assessment Guidelines, Part I, The Determination of Acute Reference Exposure Levels for Airborne Toxicants,* an acute REL value (*http://www.oehha.ca.gov/air/pdf/acuterel.pdf*) is defined as ''the concentration level at or below which no adverse health effects are anticipated for a specified exposure duration.'' *Id.* at page 2. Acute REL values are based on the most sensitive, relevant, adverse health effect reported in the peer-reviewed medical and toxicological literature. Acute REL values are designed to protect the most sensitive individuals in the population through the inclusion of margins of safety. Because margins of safety are incorporated to address data gaps and uncertainties, exceeding the REL does not automatically indicate an adverse health impact.

As we state above, in assessing the potential risks associated with acute exposures to HAP, we do not follow a prioritization scheme and therefore we consider available dose-response values from multiple authoritative sources. In the RTR program, EPA assesses acute risk using toxicity values derived from one hour exposures. Based on an in-depth examination of the available acute value for nickel [California EPA's acute (1-hour) REL], we have concluded that this value is not appropriate to use to support EPA's risk and technology review rules. This conclusion takes into account: The effect on which the acute REL is based; aspects of the methodology used in its derivation; and how this assessment stands in comparison to the ATSDR toxicological assessment, which considered the broader nickel health effects database.

The broad nickel noncancer health effects database strongly suggests that the respiratory tract is the primary target of nickel toxicity following inhalation exposure. The available database on acute noncancer respiratory effects is limited and was considered unsuitable for quantitative analysis of nickel toxicity by both California EPA[21] and ATSDR.[22] The California EPA's acute (1-hour) REL is based on an alternative endpoint, immunotoxicity in mice, specifically depressed antibody response measured in an antibody plaque assay.

In addition, the current California acute (1-hour) REL for Ni includes the application of methods that are different from those described in EPA guidelines. Specifically, the (1-hour) REL applies uncertainty factors that depart from the defaults in EPA guidelines and does not

[17] US EPA Integrated Risk Information System Review of Manganese (1993) available at *http://www.epa.gov/iris/subst/0373.htm.*

[18] 2011 Notice of proposed Rulemaking reference (76 FR 72508).

[19] Agency for Toxic Substances & Disease Registry Toxicological Profile for Manganese (2012) available at *http://www.atsdr.cdc.gov/toxprofiles/tp.asp?id=102&tid=23.*

[20] The SAB peer review of RTR Risk Assessment Methodologies is available at: *http://yosemite.epa.gov/sab/sabproduct.nsf/4AB3966E263D943A8525771F00668381/$File/EPA-SAB-10-007-unsigned.pdf.*

[21] *http://oehha.ca.gov/air/allrels.html.*

[22] *http://www.atsdr.cdc.gov/substances/toxsubstance.asp?toxid=44.*

apply an inhalation dosimetric adjustment factor.

Further, the ATSDR's intermediate MRL (relevant to Ni exposures for a time frame between 14 and 364 days), was established at the same concentration as the California EPA (1- hour) REL, indicating that exposure to this concentration ''is likely to be without appreciable risk of adverse noncancer effects'' (MRL definition) [23] for up to 364 days.

We have high confidence in the nickel ATSDR intermediate MRL. Our analysis of the broad toxicity database for nickel indicates that this value is based on the most biologically-relevant endpoint. That is, the intermediate MRL is based on a scientifically sound study of acute respiratory toxicity. Furthermore, this value is supported by a robust subchronic nickel toxicity database and was derived following guidelines that are consistent with EPA guidelines.[24] Finally, there are no AEGL–1/ERPG–1 or AEGL–2/ERPG–2 values available for nickel. Thus, for all the above mentioned reasons, we will not include Ni in our acute analysis for this source category or in future assessments unless and until an appropriate value becomes available.

AEGL values were derived in response to recommendations from the National Research Council (NRC). As described in *Standing Operating Procedures (SOP) of the National Advisory Committee on Acute Exposure Guideline Levels for Hazardous Substances* (*http://www.epa.gov/oppt/aegl/pubs/sop.pdf*),[25] ''the NRC's previous name for acute exposure levels—community emergency exposure levels—was replaced by the term AEGL to reflect the broad application of these values to planning, response and prevention in the community, the workplace, transportation, the military and the remediation of Superfund sites.'' *Id.* at 2. This document also states that AEGL values ''represent threshold exposure limits for the general public and are applicable to emergency exposures ranging from 10 minutes to eight hours.'' *Id.* at 2.

The document lays out the purpose and objectives of AEGL by stating that ''the primary purpose of the AEGL program and the National Advisory Committee for Acute Exposure Guideline Levels for Hazardous Substances is to develop guideline levels for once-in-a-lifetime, short-term exposures to airborne concentrations of acutely toxic, high-priority chemicals.'' *Id.* at 21. In detailing the intended application of AEGL values, the document states that ''[i]t is anticipated that the AEGL values will be used for regulatory and nonregulatory purposes by U.S. Federal and state agencies and possibly the international community in conjunction with chemical emergency response, planning, and prevention programs. More specifically, the AEGL values will be used for conducting various risk assessments to aid in the development of emergency preparedness and prevention plans, as well as real-time emergency response actions, for accidental chemical releases at fixed facilities and from transport carriers.'' *Id.* at 31.

The AEGL–1 value is then specifically defined as ''the airborne concentration (expressed as ppm (parts per million) or mg/m^3 (milligrams per cubic meter)) of a substance above which it is predicted that the general population, including susceptible individuals, could experience notable discomfort, irritation, or certain asymptomatic nonsensory effects. However, the effects are not disabling and are transient and reversible upon cessation of exposure.'' *Id.* at 3. The document also notes that, ''Airborne concentrations below AEGL–1 represent exposure levels that can produce mild and progressively increasing but transient and nondisabling odor, taste, and sensory irritation or certain asymptomatic, nonsensory effects.'' *Id.* Similarly, the document defines AEGL–2 values as ''the airborne concentration (expressed as parts per million or milligrams per cubic meter) of a substance above which it is predicted that the general population, including susceptible individuals, could experience irreversible or other serious, long-lasting adverse health effects or an impaired ability to escape.'' *Id.*

ERPG values are derived for use in emergency response, as described in the American Industrial Hygiene Association's ERP Committee document entitled, *ERPGS Procedures and Responsibilities* (*http://sp4m.aiha.org/insideaiha/GuidelineDevelopment/ERPG/Documents/ERP–SOPs2006.pdf*), which states that, ''Emergency Response Planning Guidelines were developed for emergency planning and are intended as health based guideline concentrations for single exposures to chemicals.'' [26] *Id.* at 1. The ERPG–1 value is defined as ''the maximum airborne concentration below which it is believed that nearly all individuals could be exposed for up to 1 hour without experiencing other than mild transient adverse health effects or without perceiving a clearly defined, objectionable odor.'' *Id.* at 2. Similarly, the ERPG–2 value is defined as ''the maximum airborne concentration below which it is believed that nearly all individuals could be exposed for up to one hour without experiencing or developing irreversible or other serious health effects or symptoms which could impair an individual's ability to take protective action.'' *Id.* at 1.

As can be seen from the definitions above, the AEGL and ERPG values include the similarly-defined severity levels 1 and 2. For many chemicals, a severity level 1 value AEGL or ERPG has not been developed because the types of effects for these chemicals are not consistent with the AEGL–1/ERPG–1 definitions; in these instances, we compare higher severity level AEGL–2 or ERPG–2 values to our modeled exposure levels to screen for potential acute concerns. When AEGL–1/ERPG–1 values are available, they are used in our acute risk assessments.

Acute REL values for 1-hour exposure durations are typically lower than their corresponding AEGL–1 and ERPG–1 values. Even though their definitions are slightly different, AEGL–1 values are often the same as the corresponding ERPG–1 values, and AEGL–2 values are often equal to ERPG–2 values. Maximum HQ values from our acute screening risk assessments typically result when basing them on the acute REL value for a particular pollutant. In cases where our maximum acute HQ value exceeds 1, we also report the HQ value based on the next highest acute dose-response value (usually the AEGL–1 and/or the ERPG–1 value).

To develop screening estimates of acute exposures in the absence of hourly emissions data, generally we first develop estimates of maximum hourly emissions rates by multiplying the average actual annual hourly emissions rates by a default factor to cover routinely variable emissions. We choose the factor to use partially based on process knowledge and engineering judgment. The factor chosen also reflects a Texas study of short-term emissions variability, which showed that most peak emission events in a

[23] Agency for Toxic Substances and Disease Registry (ATSDR), Toxic Substances Portal. Minimal Risk Levels (MRLs) *http://www.atsdr.cdc.gov/mrls/index.asp.*

[24] US EPA 2002. Review of the reference dose and reference concentration processes (EPA/630/P–02/002F), December 2002, *http://www.epa.gov/raf/publications/pdfs/rfd-final.pdf*

[25] National Academy of Sciences (NAS), 2001. *Standing Operating Procedures for Developing Acute Exposure Levels for Hazardous Chemicals,* page 2.

[26] *ERP Committee Procedures and Responsibilities.* November 1, 2006. American Industrial Hygiene Association.

heavily-industrialized four-county area (Harris, Galveston, Chambers and Brazoria Counties, Texas) were less than twice the annual average hourly emissions rate. The highest peak emissions event was 74 times the annual average hourly emissions rate, and the 99th percentile ratio of peak hourly emissions rate to the annual average hourly emissions rate was 9.[27] Considering this analysis, to account for more than 99 percent of the peak hourly emissions, we apply a conservative screening multiplication factor of 10 to the average annual hourly emissions rate in our acute exposure screening assessments as our default approach. However, we use a factor other than 10 if we have information that indicates that a different factor is appropriate for a particular source category.

For this source category, data were available to determine process-specific factors. Some processes, for example the electric arc furnaces, operate continuously so there are no peak emissions. These processes received a factor of 1 in the acute assessment. Other processes, for example tapping and casting, have specific cycles, with peak emissions occurring for a part of that cycle (*e.g.,* 30 minutes during a 2-hour period). For these processes, we used a factor of 4 in the acute assessment. Even with data available to develop process-specific factors, our acute assessment is still conservative in that it assumes that every process releases its peak emissions at the same hour and that this is the same hour as the worst-case dispersion conditions. This results in a highly conservative exposure scenario. A further discussion of why this factor of 4 was chosen can be found in the memorandum, *Revised Development of the RTR Emissions Dataset for the Ferroalloys Production Source Category for the 2014 Supplemental Proposal,* available in the docket for this rulemaking.

As part of our acute risk assessment process, for cases where acute HQ values from the screening step were less than or equal to 1 (even under the conservative assumptions of the screening analysis), acute impacts were deemed negligible and no further analysis was performed. In cases where an acute HQ from the screening step was greater than 1, additional site-specific data were considered to develop a more refined estimate of the potential for acute impacts of concern. For this source category, the data refinements employed consisted of determining that the receptor with the maximum concentration was off of plant property. These refinements are discussed more fully in the *Residual Risk Assessment for the Ferroalloys Production Source Category in Support of the September 2014 Supplemental Proposal,* which is available in the docket for this source category. Ideally, we would prefer to have continuous measurements over time to see how the emissions vary by each hour over an entire year. Having a frequency distribution of hourly emissions rates over a year would allow us to perform a probabilistic analysis to estimate potential threshold exceedances and their frequency of occurrence. Such an evaluation could include a more complete statistical treatment of the key parameters and elements adopted in this screening analysis. Recognizing that this level of data is rarely available, we instead rely on the multiplier approach.

To better characterize the potential health risks associated with estimated acute exposures to HAP, and in response to a key recommendation from the SAB's peer review of the EPA's RTR risk assessment methodologies,[28] we generally examine a wider range of available acute health metrics (*e.g.,* RELs, AEGLs) than we do for our chronic risk assessments. This is in response to the SAB's acknowledgement that there are generally more data gaps and inconsistencies in acute reference values than there are in chronic reference values. In some cases, when Reference Value Arrays[29] for HAP have been developed, we consider additional acute values (*i.e.,* occupational and international values) to provide a more complete risk characterization.

4. How did we conduct the multipathway exposure and risk screening?

The EPA conducted a screening analysis examining the potential for significant human health risks due to exposures via routes other than inhalation (*i.e.,* ingestion). We first determined whether any sources in the source category emitted any hazardous air pollutants known to be persistent and bioaccumulative in the environment (PB–HAP). The PB–HAP compounds or compound classes are identified for the screening from the EPA's Air Toxics Risk Assessment Library (available at *http://www2.epa.gov/fera/risk-assessment-and-modeling-air-toxics-risk-assessment-reference-library*).

For the Ferroalloys Production source category, we identified emissions of cadmium compounds, chlorinated dibenzodioxins and furans, lead compounds, mercury compounds and polycyclic organic matter. Because one or more of these PB–HAP are emitted by at least one facility in the Ferroalloys Production source category, we proceeded to the second step of the evaluation. In this step, we determined whether the facility-specific emissions rates of each of the emitted PB–HAP were large enough to create the potential for significant non-inhalation human health risks under reasonable worst-case conditions. To facilitate this step, we developed emissions rate screening levels for several PB–HAP using a hypothetical upper-end screening exposure scenario developed for use in conjunction with the EPA's Total Risk Integrated Methodology.Fate, Transport, and Ecological Exposure (TRIM.FaTE) model. The PB–HAP with emissions rate screening level values are: Lead, cadmium, chlorinated dibenzodioxins and furans, mercury compounds, and polycyclic organic matter (POM). We conducted a sensitivity analysis on the screening scenario to ensure that its key design parameters would represent the upper end of the range of possible values, such that it would represent a conservative but not impossible scenario. The facility-specific emissions rates of these PB–HAP were compared to the emission rate screening levels for these PB–HAP to assess the potential for significant human health risks via non-inhalation pathways. We call this application of the TRIM.FaTE model the Tier I TRIM-screen or Tier I screen.

For the purpose of developing emissions rates for our Tier I TRIM-screen, we derived emission levels for these PB–HAP (other than lead compounds) at which the maximum excess lifetime cancer risk would be 1-in-1 million (*i.e.,* for polychlorinated dibenzodioxins and furans and POM) or, for HAP that cause non-cancer health effects (*i.e.,* cadmium compounds and mercury compounds), the maximum hazard quotient would be 1. If the emissions rate of any PB–HAP included in the Tier I screen exceeds the Tier I screening emissions rate for any facility, we conduct a second screen, which we call the Tier II TRIM-screen or Tier II screen.

[27] See *http://www.tceq.state.tx.us/compliance/field_ops/eer/index.html* or docket to access the source of these data.

[28] The SAB peer review of RTR Risk Assessment Methodologies is available at: *http://yosemite.epa.gov/sab/sabproduct.nsf/4AB3966E263D943A8525771F00668381/$File/EPA-SAB-10-007-unsigned.pdf.*

[29] U.S. EPA. (2009) Chapter 2.9 Chemical Specific Reference Values for Formaldehyde in Graphical Arrays of Chemical-Specific Health Effect Reference Values for Inhalation Exposures (Final Report). U.S. Environmental Protection Agency, Washington, DC, EPA/600/R–09/061 and available online at *http://cfpub.epa.gov/ncea/cfm/recordisplay.cfm?deid=211003.*

In the Tier II screen, the location of each facility that exceeded the Tier I emission rate is used to refine the assumptions associated with the environmental scenario while maintaining the exposure scenario assumptions. We then adjust the risk-based Tier I screening level for each PB–HAP for each facility based on an understanding of how exposure concentrations estimated for the screening scenario change with meteorology and environmental assumptions. PB–HAP emissions that do not exceed these new Tier II screening levels are considered to pose no unacceptable risks. When facilities exceed the Tier II screening levels, it does not mean that multipathway impacts are significant, only that we cannot rule out that possibility based on the results of the screen.

If the PB–HAP emissions for a facility exceed the Tier II screening emissions rate and data are available, we may decide to conduct a more refined multipathway assessment. A refined assessment replaces some of the assumptions made in the Tier II screen, with site-specific data. The refined assessment also uses the TRIM.FaTE model and facility-specific emission rate screening levels that are created for each PB–HAP. For the ferroalloys production source category, we did conduct a refined multipathway assessment for one facility in the category. A detailed discussion of the approach for this assessment can be found in Appendix 10 (*Technical Support Document: Human Health Multipathway Residual Risk Assessment for the Ferroalloys Production Source Category*) of the risk assessment document.

In evaluating the potential multi-pathway risk from emissions of lead compounds, rather than developing a screening emissions rate for them, we compared maximum estimated chronic inhalation exposures with the level of the current National Ambient Air Quality Standard (NAAQS) for lead.[30] Values below the level of the primary (health-based) lead NAAQS were considered to have a low potential for multi-pathway risk.

For further information on the multipathway analysis approach, see the *Residual Risk Assessment for the Ferroalloys Production Source Category in Support of the September 2014 Supplemental Proposal,* which is available in the docket for this action.

5. How did we assess risks considering the revised emissions control options?

In addition to assessing baseline inhalation risks and potential multipathway risks, we also estimated risks considering the emissions reductions that would be achieved by the control options under consideration in this supplemental proposal. In these cases, the expected emissions reductions were applied to the specific HAP and emissions points in the RTR emissions dataset to develop corresponding estimates of risk that would exist after implementation of the proposed amendments in today's action.

6. How did we conduct the environmental risk screening assessment?

a. Adverse Environmental Effect

The EPA has developed a screening approach to examine the potential for adverse environmental effects as required under section 112(f)(2)(A) of the CAA. Section 112(a)(7) of the CAA defines ''adverse environmental effect'' as ''any significant and widespread adverse effect, which may reasonably be anticipated, to wildlife, aquatic life, or other natural resources, including adverse impacts on populations of endangered or threatened species or significant degradation of environmental quality over broad areas.''

b. Environmental HAP

The EPA focuses on seven HAP, which we refer to as ''environmental HAP,'' in its screening analysis: Five persistent bioaccumulative HAP (PB–HAP) and two acid gases. The five PB–HAP are cadmium, dioxins/furans, polycyclic organic matter (POM), mercury (both inorganic mercury and methyl mercury) and lead compounds. The two acid gases are hydrogen chloride (HCl) and hydrogen fluoride (HF). The rationale for including these seven HAP in the environmental risk screening analysis is presented below.

The HAP that persist and bioaccumulate are of particular environmental concern because they accumulate in the soil, sediment and water. The PB–HAP are taken up, through sediment, soil, water, and/or ingestion of other organisms, by plants or animals (*e.g.,* small fish) at the bottom of the food chain. As larger and larger predators consume these organisms, concentrations of the PB–HAP in the animal tissues increase as does the potential for adverse effects. The five PB–HAP we evaluate as part of our screening analysis account for 99.8 percent of all PB–HAP emissions nationally from stationary sources (on a mass basis from the 2005 NEI).

In addition to accounting for almost all of the mass of PB–HAP emitted, we note that the TRIM.FaTE model that we use to evaluate multipathway risk allows us to estimate concentrations of cadmium compounds, dioxins/furans, POM and mercury in soil, sediment and water. For lead compounds, we currently do not have the ability to calculate these concentrations using the TRIM.FaTE model. Therefore, to evaluate the potential for adverse environmental effects from lead compounds, we compare the estimated HEM-modeled exposures from the source category emissions of lead with the level of the secondary National Ambient Air Quality Standard (NAAQS) for lead.[31] We consider values below the level of the secondary lead NAAQS as unlikely to cause adverse environmental effects.

Due to their well-documented potential to cause direct damage to terrestrial plants, we include two acid gases, HCl and HF, in the environmental screening analysis. According to the 2005 NEI, HCl and HF account for about 99 percent (on a mass basis) of the total acid gas HAP emitted by stationary sources in the U.S. In addition to the potential to cause direct damage to plants, high concentrations of HF in the air have been linked to fluorosis in livestock. Air concentrations of these HAP are already calculated as part of the human multipathway exposure and risk screening analysis using the HEM3–AERMOD air dispersion model, and we are able to use the air dispersion modeling results to estimate the potential for an adverse environmental effect.

The EPA acknowledges that other HAP beyond the seven HAP discussed above may have the potential to cause adverse environmental effects. Therefore, the EPA may include other relevant HAP in its environmental risk

[30] In doing so, EPA notes that the legal standard for a primary NAAQS—that a standard is requisite to protect public health and provide an adequate margin of safety (CAA section 109(b))—differs from the section 112(f) standard (requiring among other things that the standard provide an ''ample margin of safety''). However, the lead NAAQS is a reasonable measure of determining risk acceptability (i.e. the first step of the Benzene NESHAP analysis) since it is designed to protect the most susceptible group in the human population—children, including children living near major lead emitting sources. 73 FR 67002/3; 73 FR 67000/3; 73 FR 67005/1. In addition, applying the level of the primary lead NAAQS at the risk acceptability step is conservative, since that primary lead NAAQS reflects an adequate margin of safety.

[31] The secondary lead NAAQS is a reasonable measure of determining whether there is an adverse environmental effect since it was established considering ''effects on soils, water, crops, vegetation, man-made materials, animals, wildlife, weather, visibility and climate, damage to and deterioration of property, and hazards to transportation, as well as effects on economic values and on personal comfort and well-being.''

screening in the future, as modeling science and resources allow. The EPA invites comment on the extent to which other HAP emitted by the source category may cause adverse environmental effects. Such information should include references to peer-reviewed ecological effects benchmarks that are of sufficient quality for making regulatory decisions, as well as information on the presence of organisms located near facilities within the source category that such benchmarks indicate could be adversely affected.

c. Ecological Assessment Endpoints and Benchmarks for PB–HAP

An important consideration in the development of the EPA's screening methodology is the selection of ecological assessment endpoints and benchmarks. Ecological assessment endpoints are defined by the ecological entity (*e.g.,* aquatic communities including fish and plankton) and its attributes (*e.g.,* frequency of mortality). Ecological assessment endpoints can be established for organisms, populations, communities or assemblages, and ecosystems.

For PB–HAP (other than lead compounds), we evaluated the following community-level ecological assessment endpoints to screen for organisms directly exposed to HAP in soils, sediment and water:

- Local terrestrial communities (*i.e.,* soil invertebrates, plants) and populations of small birds and mammals that consume soil invertebrates exposed to PB–HAP in the surface soil.
- Local benthic (*i.e.,* bottom sediment dwelling insects, amphipods, isopods and crayfish) communities exposed to PB–HAP in sediment in nearby water bodies.
- Local aquatic (water-column) communities (including fish and plankton) exposed to PB–HAP in nearby surface waters.

For PB–HAP (other than lead compounds), we also evaluated the following population-level ecological assessment endpoint to screen for indirect HAP exposures of top consumers via the bioaccumulation of HAP in food chains.

- Piscivorous (*i.e.,* fish-eating) wildlife consuming PB–HAP-contaminated fish from nearby water bodies.

For cadmium compounds, dioxins/furans, POM and mercury, we identified the available ecological benchmarks for each assessment endpoint. An ecological benchmark represents a concentration of HAP (*e.g.,* 0.77 ug of HAP per liter of water) that has been linked to a particular environmental effect level (*e.g.,* a no-observed-adverse-effect level (NOAEL)) through scientific study. For PB–HAP we identified, where possible, ecological benchmarks at the following effect levels:

Probable effect levels (PEL): Level above which adverse effects are expected to occur frequently.

Lowest-observed-adverse-effect level (LOAEL): The lowest exposure level tested at which there are biologically significant increases in frequency or severity of adverse effects.

No-observed-adverse-effect levels (NOAEL): The highest exposure level tested at which there are no biologically significant increases in the frequency or severity of adverse effect.

We established a hierarchy of preferred benchmark sources to allow selection of benchmarks for each environmental HAP at each ecological assessment endpoint. In general, the EPA sources that are used at a programmatic level (*e.g.,* Office of Water, Superfund Program) were used, if available. If not, the EPA benchmarks used in regional programs (*e.g.,* Superfund) were used. If benchmarks were not available at a programmatic or regional level, we used benchmarks developed by other federal agencies (*e.g.,* National Oceanic and Atmospheric Administration (NOAA)) or state agencies.

Benchmarks for all effect levels are not available for all PB–HAP and assessment endpoints. In cases where multiple effect levels were available for a particular PB–HAP and assessment endpoint, we use all of the available effect levels to help us to determine whether ecological risks exist and, if so, whether the risks could be considered significant and widespread.

d. Ecological Assessment Endpoints and Benchmarks for Acid Gases

The environmental screening analysis also evaluated potential damage and reduced productivity of plants due to direct exposure to acid gases in the air. For acid gases, we evaluated the following ecological assessment endpoint:

- Local terrestrial plant communities with foliage exposed to acidic gaseous HAP in the air.

The selection of ecological benchmarks for the effects of acid gases on plants followed the same approach as for PB–HAP (*i.e.,* we examine all of the available benchmarks). For HCl, the EPA identified chronic benchmark concentrations. We note that the benchmark for chronic HCl exposure to plants is greater than the reference concentration for chronic inhalation exposure for human health. This means that where the EPA includes regulatory requirements to prevent an exceedance of the reference concentration for human health, additional analyses for adverse environmental effects of HCl would not be necessary.

For HF, the EPA identified chronic benchmark concentrations for plants and evaluated chronic exposures to plants in the screening analysis. High concentrations of HF in the air have also been linked to fluorosis in livestock. However, the HF concentrations at which fluorosis in livestock occur are higher than those at which plant damage begins. Therefore, the benchmarks for plants are protective of both plants and livestock.

e. Screening Methodology

For the environmental risk screening analysis, the EPA first determined whether any facilities in the ferroalloys production source category sources emitted any of the seven environmental HAP. For the ferroalloys production source category, we identified emissions of five of the PB HAP (cadmium, mercury, lead compounds, dioxins and polycyclic organic matter) and one acid gas (HCl).

Because one or more of the seven environmental HAP evaluated are emitted by the facilities in the source category, we proceeded to the second step of the evaluation.

f. PB–HAP Methodology

For cadmium, mercury, POM and dioxins/furans, the environmental screening analysis consists of two tiers, while lead compounds are analyzed differently as discussed earlier. In the first tier, we determined whether the maximum facility-specific emission rates of each of the emitted environmental HAP were large enough to create the potential for adverse environmental effects under reasonable worst-case environmental conditions. These are the same environmental conditions used in the human multipathway exposure and risk screening analysis.

To facilitate this step, TRIM.FaTE was run for each PB–HAP under hypothetical environmental conditions designed to provide conservatively high HAP concentrations. The model was set to maximize runoff from terrestrial parcels into the modeled lake, which in turn, maximized the chemical concentrations in the water, the sediments and the fish. The resulting media concentrations were then used to back-calculate a screening level emission rate that corresponded to the

relevant exposure benchmark concentration value for each assessment endpoint. To assess emissions from a facility, the reported emission rate for each PB–HAP was compared to the screening level emission rate for that PB–HAP for each assessment endpoint. If emissions from a facility do not exceed the Tier I screening level, the facility ''passes'' the screen, and therefore, is not evaluated further under the screening approach. If emissions from a facility exceed the Tier I screening level, we evaluate the facility further in Tier II.

In Tier II of the environmental screening analysis, the emission rate screening levels are adjusted to account for local meteorology and the actual location of lakes in the vicinity of facilities that did not pass the Tier I screen. The modeling domain for each facility in the tier II analysis consists of eight octants. Each octant contains 5 modeled soil concentrations at various distances from the facility (5 soil concentrations × 8 octants = total of 40 soil concentrations per facility) and 1 lake with modeled concentrations for water, sediment and fish tissue. In the tier II environmental risk screening analysis, the 40 soil concentration points are averaged to obtain an average soil concentration for each facility for each PB–HAP. For the water, sediment and fish tissue concentrations, the highest value for each facility for each pollutant is used. If emission concentrations from a facility do not exceed the Tier II screening levels, the facility passes the screen and typically is not evaluated further. If emissions from a facility exceed the Tier II screening level, the facility does not pass the screen and, therefore, may have the potential to cause adverse environmental effects. Such facilities are evaluated further to investigate factors such as the magnitude and characteristics of the area of exceedance.

g. Acid Gas Methodology

The environmental screening analysis evaluates the potential phytotoxicity and reduced productivity of plants due to chronic exposure to acid gases. The environmental risk screening methodology for acid gases is a single-tier screen that compares the average off-site ambient air concentration over the modeling domain to ecological benchmarks for each of the acid gases. Because air concentrations are compared directly to the ecological benchmarks, emission-based screening levels are not calculated for acid gases as they are in the ecological risk screening methodology for PB–HAPs.

For purposes of ecological risk screening, the EPA identifies a potential for adverse environmental effects to plant communities from exposure to acid gases when the average concentration of the HAP around a facility exceeds the LOAEL ecological benchmark. In such cases, we further investigate factors such as the magnitude and characteristics of the area of exceedance (*e.g.,* land use of exceedance area, size of exceedance area) to determine if there is an adverse environmental effect. For further information on the environmental screening analysis approach, see the *Residual Risk Assessment for the Ferroalloys Production Source Category in Support of the September 2014 Supplemental Proposal,* which is available in the docket for this action.

7. How did we conduct facility-wide assessments?

To put the source category risks in context, we typically examine the risks from the entire ''facility,'' where the facility includes all HAP-emitting operations within a contiguous area and under common control. In other words, we examine the HAP emissions not only from the source category of interest, but also emissions of HAP from all other emissions sources at the facility for which we have data. However, for the Ferroalloys Production source category, we did not identify other HAP emissions sources located at these facilities. Thus, we did not perform a separate facility wide risk assessment.

8. How did we consider uncertainties in risk assessment?

In the Benzene NESHAP, we concluded that risk estimation uncertainty should be considered in our decision-making under the ample margin of safety framework. Uncertainty and the potential for bias are inherent in all risk assessments, including those performed for this proposal. Although uncertainty exists, we believe that our approach, which used conservative tools and assumptions, ensures that our decisions are health protective and environmentally protective. A brief discussion of the uncertainties in the RTR emissions dataset, dispersion modeling, inhalation exposure estimates and dose-response relationships follows below. A more thorough discussion of these uncertainties is included in the *Revised Development of the RTR Emissions Dataset for the Ferroalloys Production Source Category for the 2014 Supplemental Proposal* (Emissions Memo) and the other uncertainties are described in more detail in the *Residual Risk Assessment for the Ferroalloys Production Source Category in Support of the September 2014 Supplemental Proposal,* which is available in the docket for this action.

a. Uncertainties in the RTR Emissions Dataset

Although the development of the RTR emissions dataset involved quality assurance/quality control processes, the accuracy of emissions values will vary depending on the source of the data, the degree to which data are incomplete or missing, the degree to which assumptions made to complete the datasets are accurate, errors in emission estimates and other factors. The emission estimates considered in this analysis generally are annual totals for certain years, and they do not reflect short-term fluctuations during the course of a year or variations from year to year. The estimates of peak hourly emission rates for the acute effects screening assessment were based on an emission adjustment factor applied to the average annual hourly emission rates, which are intended to account for emission fluctuations due to normal facility operations.

As described above and in the emissions technical document, we gathered a substantial amount of emissions test data for the stack emissions from both facilities. Therefore, the level of uncertainty in the estimates of HAP emissions from the stacks is relatively low. Regarding fugitive emissions, we lack direct quantitative measurements of these emissions, therefore, we had to rely on available emissions factors and other technical information to derive the best estimates of emissions for these emissions. To estimate these fugitive emissions, we relied on information and observations gathered through several site visits by the EPA technical experts, reviewed and evaluated all available emissions factors and analyzed other relevant information such as the measured ratios of HAP metals to particulate matter, estimated capture efficiencies of the various ventilation hoods currently used to capture and control some of the fugitive emissions and the production rates for various products. Based on this information, we have derived the best estimates of fugitive emissions from these sources. Details are described in the Emissions Memo, which is available in the docket for this action. Nevertheless, there are still some uncertainties regarding the precise quantities of fugitive HAP being emitted from these plants.

b. Uncertainties in Dispersion Modeling

We recognize there is uncertainty in ambient concentration estimates associated with any model, including the EPA's recommended regulatory dispersion model, AERMOD. In using a model to estimate ambient pollutant concentrations, the user chooses certain options to apply. For RTR assessments, we select some model options that have the potential to overestimate ambient air concentrations (*e.g.,* not including plume depletion or pollutant transformation). We select other model options that have the potential to underestimate ambient impacts (*e.g.,* not including building downwash). Other options that we select have the potential to either under- or overestimate ambient levels (*e.g.,* meteorology and receptor locations). On balance, considering the directional nature of the uncertainties commonly present in ambient concentrations estimated by dispersion models, the approach we apply in the RTR assessments should yield unbiased estimates of ambient HAP concentrations.

c. Uncertainties in Inhalation Exposure

The EPA did not include the effects of human mobility on exposures in the assessment. Specifically, short-term mobility and long-term mobility between census blocks in the modeling domain were not considered.[32] The approach of not considering short or long-term population mobility does not bias the estimate of the theoretical MIR (by definition), nor does it affect the estimate of cancer incidence because the total population number remains the same. It does, however, affect the shape of the distribution of individual risks across the affected population, shifting it toward higher estimated individual risks at the upper end and reducing the number of people estimated to be at lower risks, thereby increasing the estimated number of people at specific high risk levels (*e.g.,* 1-in-10 thousand or 1-in-1 million).

In addition, the assessment predicted the chronic exposures at the centroid of each populated census block as surrogates for the exposure concentrations for all people living in that block. Using the census block centroid to predict chronic exposures tends to over-predict exposures for people in the census block who live farther from the facility and under-predict exposures for people in the census block who live closer to the facility. Thus, using the census block centroid to predict chronic exposures may lead to a potential understatement or overstatement of the true maximum impact, but is an unbiased estimate of average risk and incidence. We reduce this uncertainty by analyzing large census blocks near facilities using aerial imagery and adjusting the location of the block centroid to better represent the population in the block, as well as adding additional receptor locations where the block population is not well represented by a single location.

The assessment evaluates the cancer inhalation risks associated with pollutant exposures over a 70-year period, which is the assumed lifetime of an individual. In reality, both the length of time that modeled emission sources at facilities actually operate (*i.e.,* more or less than 70 years) and the domestic growth or decline of the modeled industry (*i.e.,* the increase or decrease in the number or size of domestic facilities) will influence the future risks posed by a given source or source category. Depending on the characteristics of the industry, these factors will, in most cases, result in an overestimate both in individual risk levels and in the total estimated number of cancer cases. However, in the unlikely scenario where a facility maintains, or even increases, its emissions levels over a period of more than 70 years, residents live beyond 70 years at the same location, and the residents spend most of their days at that location, then the cancer inhalation risks could potentially be underestimated. However, annual cancer incidence estimates from exposures to emissions from these sources would not be affected by the length of time an emissions source operates.

The exposure estimates used in these analyses assume chronic exposures to ambient (outdoor) levels of pollutants. Because most people spend the majority of their time indoors, actual exposures may not be as high, depending on the characteristics of the pollutants modeled. For many of the HAP, indoor levels are roughly equivalent to ambient levels, but for very reactive pollutants or larger particles, indoor levels are typically lower. This factor has the potential to result in an overestimate of 25 to 30 percent of exposures.[33]

In addition to the uncertainties highlighted above, there are several factors specific to the acute exposure assessment that the EPA conducts as part of the risk review under section 112 of the CAA that should be highlighted. The accuracy of an acute inhalation exposure assessment depends on the simultaneous occurrence of independent factors that may vary greatly, such as hourly emissions rates, meteorology and the presence of humans at the location of the maximum concentration. In the acute screening assessment that we conduct under the RTR program, we assume that peak emissions from the source category and worst-case meteorological conditions co-occur, thus resulting in maximum ambient concentrations. These two events are unlikely to occur at the same time, making these assumptions conservative. We then include the additional assumption that a person is located at this point during this same time period. For this source category, these assumptions would tend to be worst-case actual exposures as it is unlikely that a person would be located at the point of maximum exposure during the time when peak emissions and worst-case meteorological conditions occur simultaneously.

d. Uncertainties in Dose-Response Relationships

There are uncertainties inherent in the development of the dose-response values used in our risk assessments for cancer effects from chronic exposures and non-cancer effects from both chronic and acute exposures. Some uncertainties may be considered quantitatively, and others generally are expressed in qualitative terms. We note as a preface to this discussion a point on dose-response uncertainty that is brought out in the EPA's *2005 Cancer Guidelines;* namely, that ''the primary goal of EPA actions is protection of human health; accordingly, as an Agency policy, risk assessment procedures, including default options that are used in the absence of scientific data to the contrary, should be health protective'' (*EPA 2005 Cancer Guidelines,* pages 1–7). This is the approach followed here as summarized in the next several paragraphs. A complete detailed discussion of uncertainties and variability in dose-response relationships is given in the *Residual Risk Assessment for the Ferroalloys Production Source Category in Support of the September 2014 Supplemental Proposal,* which is available in the docket for this action.

Cancer URE values used in our risk assessments are those that have been developed to generally provide an upper bound estimate of risk. That is, they represent a ''plausible upper limit to the

[32] Short-term mobility is movement from one micro-environment to another over the course of hours or days. Long-term mobility is movement from one residence to another over the course of a lifetime.

[33] U.S. EPA. *National-Scale Air Toxics Assessment for 1996.* (EPA 453/R–01–003; January 2001; page 85.)

true value of a quantity'' (although this is usually not a true statistical confidence limit).[34] In some circumstances, the true risk could be as low as zero; however, in other circumstances the risk could be greater.[35] When developing an upper bound estimate of risk and to provide risk values that do not underestimate risk, health-protective default approaches are generally used. To err on the side of ensuring adequate health protection, the EPA typically uses the upper bound estimates rather than lower bound or central tendency estimates in our risk assessments, an approach that may have limitations for other uses (*e.g.,* priority-setting or expected benefits analysis).

Chronic non-cancer RfC and reference dose (RfD) values represent chronic exposure levels that are intended to be health-protective levels. Specifically, these values provide an estimate (with uncertainty spanning perhaps an order of magnitude) of a continuous inhalation exposure (RfC) or a daily oral exposure (RfD) to the human population (including sensitive subgroups) that is likely to be without an appreciable risk of deleterious effects during a lifetime. To derive values that are intended to be ''without appreciable risk,'' the methodology relies upon an uncertainty factor (UF) approach (U.S. EPA, 1993, 1994) which considers uncertainty, variability and gaps in the available data. The UF are applied to derive reference values that are intended to protect against appreciable risk of deleterious effects. The UF are commonly default values,[36] *e.g.,* factors of 10 or 3, used in the absence of compound-specific data; where data are available, UF may also be developed using compound-specific information. When data are limited, more assumptions are needed and more UF are used. Thus, there may be a greater tendency to overestimate risk in the sense that further study might support development of reference values that are higher (*i.e.,* less potent) because fewer default assumptions are needed. However, for some pollutants, it is possible that risks may be underestimated.

While collectively termed ''UF,'' these factors account for a number of different quantitative considerations when using observed animal (usually rodent) or human toxicity data in the development of the RfC. The UF are intended to account for: (1) Variation in susceptibility among the members of the human population (*i.e.,* inter-individual variability); (2) uncertainty in extrapolating from experimental animal data to humans (*i.e.,* interspecies differences); (3) uncertainty in extrapolating from data obtained in a study with less-than-lifetime exposure (*i.e.,* extrapolating from sub-chronic to chronic exposure); (4) uncertainty in extrapolating the observed data to obtain an estimate of the exposure associated with no adverse effects; and (5) uncertainty when the database is incomplete or there are problems with the applicability of available studies.

Many of the UF used to account for variability and uncertainty in the development of acute reference values are quite similar to those developed for chronic durations, but they more often use individual UF values that may be less than 10. The UF are applied based on chemical-specific or health effect-specific information (*e.g.,* simple irritation effects do not vary appreciably between human individuals, hence a value of 3 is typically used), or based on the purpose for the reference value (see the following paragraph). The UF applied in acute reference value derivation include: (1) Heterogeneity among humans; (2) uncertainty in extrapolating from animals to humans; (3) uncertainty in lowest observed adverse effect (exposure) level to no observed adverse effect (exposure) level adjustments; and (4) uncertainty in accounting for an incomplete database on toxic effects of potential concern. Additional adjustments are often applied to account for uncertainty in extrapolation from observations at one exposure duration (*e.g.,* 4 hours) to derive an acute reference value at another exposure duration (*e.g.,* 1 hour).

Not all acute reference values are developed for the same purpose and care must be taken when interpreting the results of an acute assessment of human health effects relative to the reference value or values being exceeded. Where relevant to the estimated exposures, the lack of short-term dose-response values at different levels of severity should be factored into the risk characterization as potential uncertainties.

Although every effort is made to identify appropriate human health effect dose-response assessment values for all pollutants emitted by the sources in this risk assessment, some HAP emitted by this source category are lacking dose-response assessments. Accordingly, these pollutants cannot be included in the quantitative risk assessment, which could result in quantitative estimates understating HAP risk. As we state above in section III.A.3, based on a recent in-depth examination of the available acute value for nickel (California EPA's acute (1-hour) REL), we have concluded that this value is not appropriate for our regulatory needs in characterizing the potential for acute health risks. This conclusion takes into account the effect on which the acute REL is based, aspects of the methodology used in its derivation, and how this assessment stands in comparison to other comprehensive toxicological assessments which considered the broader nickel health effects database. Also, there are no AEGL–1 or -2 or ERPG–1 or -2 values available to use in this acute risk assessment. Therefore, we will not include nickel in our acute analysis for this source category or in future assessments unless and until an appropriate value becomes available.

To help to alleviate this potential underestimate, where we conclude similarity with a HAP for which a dose-response assessment value is available, we use that value as a surrogate for the assessment of the HAP for which no value is available. To the extent use of surrogates indicates appreciable risk, we may identify a need to increase priority for new IRIS assessment of that substance. We additionally note that, generally speaking, HAP of greatest concern due to environmental exposures and hazard are those for which dose-response assessments have been performed, reducing the likelihood of understating risk. Further, HAP not included in the quantitative assessment are assessed qualitatively and considered in the risk characterization that informs the risk management decisions, including with regard to consideration of HAP reductions achieved by various control options.

[34] IRIS glossary (*http://www.epa.gov/NCEA/iris/help_gloss.htm*).

[35] An exception to this is the URE for benzene, which is considered to cover a range of values, each end of which is considered to be equally plausible and which is based on maximum likelihood estimates.

[36] According to the NRC report, *Science and Judgment in Risk Assessment* (NRC, 1994) ''[Default] options are generic approaches, based on general scientific knowledge and policy judgment, that are applied to various elements of the risk assessment process when the correct scientific model is unknown or uncertain.'' The 1983 NRC report, *Risk Assessment in the Federal Government: Managing the Process,* defined default option as ''the option chosen on the basis of risk assessment policy that appears to be the best choice in the absence of data to the contrary'' (NRC, 1983a, p. 63). Therefore, default options are not rules that bind the Agency; rather, the Agency may depart from them in evaluating the risks posed by a specific substance when it believes this to be appropriate. In keeping with EPA's goal of protecting public health and the environment, default assumptions are used to ensure that risk to chemicals is not underestimated (although defaults are not intended to overtly overestimate risk). See EPA, 2004, *An Examination of EPA Risk Assessment Principles and Practices,* EPA/100/B–04/001 available at: *http://www.epa.gov/osa/pdfs/ratf-final.pdf.*

For a group of compounds that are unspeciated (*e.g.,* glycol ethers), we conservatively use the most protective reference value of an individual compound in that group to estimate risk. Similarly, for an individual compound in a group (*e.g.,* ethylene glycol diethyl ether) that does not have a specified reference value, we also apply the most protective reference value from the other compounds in the group to estimate risk.

e. Uncertainties in the Multipathway Assessment

For each source category, we generally rely on site-specific levels of PB–HAP emissions to determine whether a refined assessment of the impacts from multipathway exposures is necessary. This determination is based on the results of a two-tiered screening analysis that relies on the outputs from models that estimate environmental pollutant concentrations and human exposures for four PB–HAP. Two important types of uncertainty associated with the use of these models in RTR risk assessments and inherent to any assessment that relies on environmental modeling are model uncertainty and input uncertainty.[37] Model uncertainty concerns whether the selected models are appropriate for the assessment being conducted and whether they adequately represent the actual processes that might occur for that situation. An example of model uncertainty is the question of whether the model adequately describes the movement of a pollutant through the soil. This type of uncertainty is difficult to quantify. However, based on feedback received from previous EPA Science Advisory Board reviews and other reviews, we are confident that the models used in the screen are appropriate and state-of-the-art for the multipathway risk assessments conducted in support of RTR.

Input uncertainty is concerned with how accurately the models have been configured and parameterized for the assessment at hand. For Tier I of the multipathway screen, we configured the models to avoid underestimating exposure and risk. This was accomplished by selecting upper-end values from nationally-representative data sets for the more influential parameters in the environmental model, including selection and spatial configuration of the area of interest, lake location and size, meteorology, surface water and soil characteristics and structure of the aquatic food web. We also assume an ingestion exposure scenario and values for human exposure factors that represent reasonable maximum exposures.

In Tier II of the multipathway assessment, we refine the model inputs to account for meteorological patterns in the vicinity of the facility versus using upper-end national values and we identify the actual location of lakes near the facility rather than the default lake location that we apply in Tier I. By refining the screening approach in Tier II to account for local geographical and meteorological data, we decrease the likelihood that concentrations in environmental media are overestimated, thereby increasing the usefulness of the screen. The assumptions and the associated uncertainties regarding the selected ingestion exposure scenario are the same for Tier I and Tier II.

For both Tiers I and II of the multipathway assessment, our approach to addressing model input uncertainty is generally cautious. We choose model inputs from the upper end of the range of possible values for the influential parameters used in the models, and we assume that the exposed individual exhibits ingestion behavior that would lead to a high total exposure. This approach reduces the likelihood of not identifying high risks for adverse impacts.

Despite the uncertainties, when individual pollutants or facilities do screen out, we are confident that the potential for adverse multipathway impacts on human health is very low. On the other hand, when individual pollutants or facilities do not screen out, it does not mean that multipathway impacts are significant, only that we cannot rule out that possibility and that a refined multipathway analysis for the site might be necessary to obtain a more accurate risk characterization for the source category.

For further information on uncertainties and the Tier I and II screening methods, refer to the risk document Appendix 4, *Technical Support Document for TRIM-Based Multipathway Tiered Screening Methodology for RTR.*

We also completed a refined multi-pathway assessment for this supplemental proposal. The refined assessment contains considerably less uncertainty compared to the Tier I and Tier II screens. Nevertheless, some uncertainties also exist with the refined assessments. The refined multi-pathway assessment and related uncertainties are described in detail in the risk document Appendix 10, *Residual Risk Assessment for the Ferroalloys Production Source Category in Support of the September 2014 Supplemental Proposal,* which is available in the docket for this action.

f. Uncertainties in the Environmental Risk Screening Assessment

For each source category, we generally rely on site-specific levels of environmental HAP emissions to perform an environmental screening assessment. The environmental screening assessment is based on the outputs from models that estimate environmental HAP concentrations. The same models, specifically the TRIM.FaTE multipathway model and the AERMOD air dispersion model, are used to estimate environmental HAP concentrations for both the human multipathway screening analysis and for the environmental screening analysis. Therefore, both screening assessments have similar modeling uncertainties.

Two important types of uncertainty associated with the use of these models in RTR environmental screening assessments—and inherent to any assessment that relies on environmental modeling—are model uncertainty and input uncertainty.[38]

Model uncertainty concerns whether the selected models are appropriate for the assessment being conducted and whether they adequately represent the movement and accumulation of environmental HAP emissions in the environment. For example, does the model adequately describe the movement of a pollutant through the soil? This type of uncertainty is difficult to quantify. However, based on feedback received from previous EPA Science Advisory Board reviews and other reviews, we are confident that the models used in the screen are appropriate and state-of-the-art for the environmental risk assessments conducted in support of our RTR analyses.

Input uncertainty is concerned with how accurately the models have been configured and parameterized for the assessment at hand. For Tier I of the environmental screen for PB–HAP, we configured the models to avoid underestimating exposure and risk to reduce the likelihood that the results indicate the risks are lower than they actually are. This was accomplished by

[37] In the context of this discussion, the term ''uncertainty'' as it pertains to exposure and risk encompasses both *variability* in the range of expected inputs and screening results due to existing spatial, temporal, and other factors, as well as *uncertainty* in being able to accurately estimate the true result.

[38] In the context of this discussion, the term ''uncertainty,'' as it pertains to exposure and risk assessment, encompasses both *variability* in the range of expected inputs and screening results due to existing spatial, temporal and other factors, as well as *uncertainty* in being able to accurately estimate the true result.

selecting upper-end values from nationally-representative data sets for the more influential parameters in the environmental model, including selection and spatial configuration of the area of interest, the location and size of any bodies of water, meteorology, surface water and soil characteristics and structure of the aquatic food web. In Tier I, we used the maximum facility-specific emissions for the PB–HAP (other than lead compounds, which were evaluated by comparison to the secondary lead NAAQS) that were included in the environmental screening assessment and each of the media when comparing to ecological benchmarks. This is consistent with the conservative design of Tier I of the screen. In Tier II of the environmental screening analysis for PB–HAP, we refine the model inputs to account for meteorological patterns in the vicinity of the facility versus using upper-end national values, and we identify the locations of water bodies near the facility location. By refining the screening approach in Tier II to account for local geographical and meteorological data, we decrease the likelihood that concentrations in environmental media are overestimated, thereby increasing the usefulness of the screen. To better represent widespread impacts, the modeled soil concentrations are averaged in Tier II to obtain one average soil concentration value for each facility and for each PB–HAP. For PB–HAP concentrations in water, sediment and fish tissue, the highest value for each facility for each pollutant is used.

For the environmental screening assessment for acid gases, we employ a single-tiered approach. We use the modeled air concentrations and compare those with ecological benchmarks.

For both Tiers I and II of the environmental screening assessment, our approach to addressing model input uncertainty is generally cautious. We choose model inputs from the upper end of the range of possible values for the influential parameters used in the models, and we assume that the exposed individual exhibits ingestion behavior that would lead to a high total exposure. This approach reduces the likelihood of not identifying potential risks for adverse environmental impacts.

Uncertainty also exists in the ecological benchmarks for the environmental risk screening analysis. We established a hierarchy of preferred benchmark sources to allow selection of benchmarks for each environmental HAP at each ecological assessment endpoint. In general, EPA benchmarks used at a programmatic level (*e.g.,* Office of Water, Superfund Program) were used if available. If not, we used EPA benchmarks used in regional programs (*e.g.,* Superfund Program). If benchmarks were not available at a programmatic or regional level, we used benchmarks developed by other agencies (*e.g.,* NOAA) or by state agencies.

In all cases (except for lead compounds, which were evaluated through a comparison to the NAAQS), we searched for benchmarks at the following three effect levels, as described in section III.A.6. of this notice:

1. A no-effect level (*i.e.,* NOAEL).
2. Threshold-effect level (*i.e.,* LOAEL).
3. Probable effect level (*i.e.,* PEL).

For some ecological assessment endpoint/environmental HAP combinations, we could identify benchmarks for all three effect levels, but for most, we could not. In one case, where different agencies derived significantly different numbers to represent a threshold for effect, we included both. In several cases, only a single benchmark was available. In cases where multiple effect levels were available for a particular PB–HAP and assessment endpoint, we used all of the available effect levels to help us to determine whether risk exists and if the risks could be considered significant and widespread.

The EPA evaluates the following seven HAP in the environmental risk screening assessment: Cadmium, dioxins/furans, POM, mercury (both inorganic mercury and methyl mercury), lead compounds, HCl and HF, where applicable. These seven HAP represent pollutants that can cause adverse impacts for plants and animals either through direct exposure to HAP in the air or through exposure to HAP that is deposited from the air onto soils and surface waters. These seven HAP also represent those HAP for which we can conduct a meaningful environmental risk screening assessment. For other HAP not included in our screening assessment, the model has not been parameterized such that it can be used for that purpose. In some cases, depending on the HAP, we may not have appropriate multipathway models that allow us to predict the concentration of that pollutant. The EPA acknowledges that other HAP beyond the seven HAP that we are evaluating may have the potential to cause adverse environmental effects and, therefore, the EPA may evaluate other relevant HAP in the future, as modeling science and resources allow.

Further information on uncertainties and the Tier I and II screening methods is provided in Appendix 4 of the document ''Technical Support Document for TRIM-Based Multipathway Tiered Screening Methodology for RTR: Summary of Approach and Evaluation.'' Also, see the *Residual Risk Assessment for the Ferroalloys Production Source Category in Support of the September 2014 Supplemental Proposal,* available in the docket for this action.

B. How did we consider the risk results in making decisions for this supplemental proposal?

As discussed in section II.A of this preamble, in evaluating and developing standards under section 112(f)(2), we apply a two-step process to address residual risk. In the first step, the EPA determines whether risks are acceptable. This determination ''considers all health information, including risk estimation uncertainty, and includes a presumptive limit on maximum individual lifetime [cancer] risk (MIR) [39] of approximately [1-in-10 thousand] [*i.e.,* 100-in-1 million].'' 54 FR 38045, September 14, 1989. If risks are unacceptable, the EPA must determine the emissions standards necessary to bring risks to an acceptable level without considering costs. In the second step of the process, the EPA considers whether the emissions standards provide an ample margin of safety ''in consideration of all health information, including the number of persons at risk levels higher than approximately 1-in-1 million, as well as other relevant factors, including costs and economic impacts, technological feasibility, and other factors relevant to each particular decision.'' *Id.* The EPA must promulgate emission standards necessary to provide an ample margin of safety.

In past residual risk actions, the EPA considered a number of human health risk metrics associated with emissions from the categories under review, including the MIR, the number of persons in various risk ranges, cancer incidence, the maximum non-cancer HI and the maximum acute non-cancer hazard. *See, e.g.,* 72 FR 25138, May 3, 2007; 71 FR 42724, July 27, 2006. The EPA considered this health information for both actual and allowable emissions. *See, e.g.,* 75 FR 65068, October 21, 2010; 75 FR 80220, December 21, 2010; 76 FR 29032, May 19, 2011. The EPA also discussed risk estimation uncertainties

[39] Although defined as ''maximum individual risk,'' MIR refers only to cancer risk. MIR, one metric for assessing cancer risk, is the estimated risk were an individual exposed to the maximum level of a pollutant for a lifetime.

and considered the uncertainties in the determination of acceptable risk and ample margin of safety in these past actions. The EPA considered this same type of information in support of this action.

The agency is considering these various measures of health information to inform our determinations of risk acceptability and ample margin of safety under CAA section 112(f). As explained in the Benzene NESHAP, ''the first step judgment on acceptability cannot be reduced to any single factor'' and thus ''[t]he Administrator believes that the acceptability of risk under [previous] section 112 is best judged on the basis of a broad set of health risk measures and information.'' 54 FR 38046, September 14, 1989. Similarly, with regard to the ample margin of safety determination, ''the Agency again considers all of the health risk and other health information considered in the first step. Beyond that information, additional factors relating to the appropriate level of control will also be considered, including cost and economic impacts of controls, technological feasibility, uncertainties, and any other relevant factors.'' *Id.*

The Benzene NESHAP approach provides flexibility regarding factors the EPA may consider in making determinations and how the EPA may weigh those factors for each source category. In responding to comment on our policy under the Benzene NESHAP, the EPA explained that:

> ''[t]he policy chosen by the Administrator permits consideration of multiple measures of health risk. Not only can the MIR figure be considered, but also incidence, the presence of non-cancer health effects, and the uncertainties of the risk estimates. In this way, the effect on the most exposed individuals can be reviewed as well as the impact on the general public. These factors can then be weighed in each individual case. This approach complies with the *Vinyl Chloride* mandate that the Administrator ascertain an acceptable level of risk to the public by employing [her] expertise to assess available data. It also complies with the Congressional intent behind the CAA, which did not exclude the use of any particular measure of public health risk from the EPA's consideration with respect to CAA section 112 regulations, and thereby implicitly permits consideration of any and all measures of health risk which the Administrator, in [her] judgment, believes are appropriate to determining what will 'protect the public health'.''

See 54 FR at 38057, September 14, 1989. Thus, the level of the MIR is only one factor to be weighed in determining acceptability of risks. The Benzene NESHAP explained that ''an MIR of approximately one in 10 thousand should ordinarily be the upper end of the range of acceptability. As risks increase above this benchmark, they become presumptively less acceptable under CAA section 112, and would be weighed with the other health risk measures and information in making an overall judgment on acceptability. Or, the Agency may find, in a particular case, that a risk that includes MIR less than the presumptively acceptable level is unacceptable in the light of other health risk factors.'' *Id.* at 38045. Similarly, with regard to the ample margin of safety analysis, the EPA stated in the Benzene NESHAP that: ''EPA believes the relative weight of the many factors that can be considered in selecting an ample margin of safety can only be determined for each specific source category. This occurs mainly because technological and economic factors (along with the health-related factors) vary from source category to source category.'' *Id.* at 38061. We also consider the uncertainties associated with the various risk analyses, as discussed earlier in this preamble, in our determinations of acceptability and ample margin of safety.

The EPA notes that it has not considered certain health information to date in making residual risk determinations. At this time, we do not attempt to quantify those HAP risks that may be associated with emissions from other facilities that do not include the source categories in question, mobile source emissions, natural source emissions, persistent environmental pollution or atmospheric transformation in the vicinity of the sources in these categories.

The agency understands the potential importance of considering an individual's total exposure to HAP in addition to considering exposure to HAP emissions from the source category and facility. We recognize that such consideration may be particularly important when assessing non-cancer risks, where pollutant-specific exposure health reference levels (*e.g.,* RfCs) are based on the assumption that thresholds exist for adverse health effects. For example, the agency recognizes that, although exposures attributable to emissions from a source category or facility alone may not indicate the potential for increased risk of adverse non-cancer health effects in a population, the exposures resulting from emissions from the facility in combination with emissions from all of the other sources (*e.g.,* other facilities) to which an individual is exposed may be sufficient to result in increased risk of adverse non-cancer health effects. In May 2010, the SAB advised the EPA ''that RTR assessments will be most useful to decision makers and communities if results are presented in the broader context of aggregate and cumulative risks, including background concentrations and contributions from other sources in the area.'' [40]

In response to the SAB recommendations, the EPA is incorporating cumulative risk analyses into its RTR risk assessments, including those reflected in this proposal. The agency is: (1) Conducting facility-wide assessments, which include source category emission points as well as other emission points within the facilities; (2) considering sources in the same category whose emissions result in exposures to the same individuals; and (3) for some persistent and bioaccumulative pollutants, analyzing the ingestion route of exposure. In addition, the RTR risk assessments have always considered aggregate cancer risk from all carcinogens and aggregate non-cancer hazard indices from all non-carcinogens affecting the same target organ system.

Although we are interested in placing source category and facility-wide HAP risks in the context of *total* HAP risks from all sources combined in the vicinity of each source, we are concerned about the uncertainties of doing so. Because of the contribution to total HAP risk from emission sources other than those that we have studied in depth during this RTR review, such estimates of total HAP risks would have significantly greater associated uncertainties than the source category or facility-wide estimates. Such aggregate or cumulative assessments would compound those uncertainties, making the assessments too unreliable.

C. How did we perform the technology review?

Our technology review focused on the identification and evaluation of developments in practices, processes and control technologies that have occurred since the MACT standards were promulgated. Where we identified such developments, in order to inform our decision of whether it is ''necessary'' to revise the emissions standards, we analyzed the technical feasibility of applying these developments and the estimated costs,

[40] EPA's responses to this and all other key recommendations of the SAB's advisory on RTR risk assessment methodologies (which is available at: *http://yosemite.epa.gov/sab/sabproduct.nsf/4AB3966E263D943A8525771F00668381/$File/EPA-SAB-10-007-unsigned.pdf*) are outlined in a memo to this rulemaking docket from David Guinnup entitled, *EPA's Actions in Response to the Key Recommendations of the SAB Review of RTR Risk Assessment Methodologies.*

energy implications, non-air environmental impacts, as well as considering the emission reductions. We also considered the appropriateness of applying controls to new sources versus retrofitting existing sources.

Based on our analyses of the available data and information, we identified potential developments in practices, processes and control technologies. For this exercise, we considered any of the following to be a ''development'':

- Any add-on control technology or other equipment that was not identified and considered during development of the original MACT standards.
- Any improvements in add-on control technology or other equipment (that were identified and considered during development of the original MACT standards) that could result in additional emissions reduction.
- Any work practice or operational procedure that was not identified or considered during development of the original MACT standards.
- Any process change or pollution prevention alternative that could be broadly applied to the industry and that was not identified or considered during development of the original MACT standards.
- Any significant changes in the cost (including cost effectiveness) of applying controls (including controls the EPA considered during the development of the original MACT standards).

We reviewed a variety of data sources in our investigation of potential practices, processes or controls to consider. Among the sources we reviewed were the NESHAP for various industries that were promulgated since the MACT standards being reviewed in this action. We reviewed the regulatory requirements and/or technical analyses associated with these regulatory actions to identify any practices, processes and control technologies considered in these efforts that could be applied to emission sources in the Ferroalloys Production source category, as well as the costs, non-air impacts and energy implications associated with the use of these technologies. Additionally, we requested information from facilities regarding developments in practices, processes or control technology. Finally, we reviewed information from other sources, such as state and/or local permitting agency databases and industry-supported databases.

For the 2011 proposal, our technology review focused on the identification and evaluation of developments in practices, processes and control technologies that have occurred since the 1999 NESHAP was promulgated. In cases where the technology review identified such developments, we conducted an analysis of the technical feasibility of applying these developments, along with the estimated impacts (costs, emissions reductions, risk reductions, etc.) of applying these developments. We then made decisions on whether it is necessary to propose amendments to the 1999 NESHAP to require any of the identified developments. Based on our analyses of the data and information collected by the 2010 ICR and our general understanding of the industry and other available information on potential controls for this industry, we identified several potential developments in practices, processes and control technologies.

Based on our technology review for the 2011 proposed rule, we determined that there had been advances in emissions control measures since the Ferroalloys Production NESHAP was originally promulgated in 1999. Based on that review, we proposed lower PM emissions limits for the process vents because we determined that the existing add-on control devices (baghouses and wet venture scrubbers) were achieving better control than that reflected by the emissions limits in the 1999 MACT rule. Furthermore, based on that previous technology review, to reduce fugitive process emissions, in 2011 we proposed a requirement for sources to enclose the furnace building, prevent the fugitive emissions from being released to the atmosphere by maintaining the furnace building under negative pressure and collect and duct those fugitive emissions to a control device. We proposed that approach in 2011, because at that time, we believed it represented a technically-feasible cost-effective advance in emissions control since the Ferroalloys Production NESHAP was originally promulgated in 1999. Additional details regarding the previously-conducted technology review can be found in the *Technology Review for Ferroalloys Production Source Category* (Docket No. EPA–HQ–OAR–2010–0895–0044), which is available in the docket and are discussed in the preamble to the 2011 proposal (76 FR 72508). However, we received significant adverse public comments regarding the proposed requirement for full-enclosure with negative pressure. After reviewing and considering the comments and other information regarding the costs and feasibility of full-enclosure, we determined that full-enclosure with negative pressure may not be feasible for these facilities and, if feasible, would be much more costly than what we had estimated for the 2011 proposal. Therefore we evaluated other potential approaches to reduce fugitive process emissions based on enhanced local capture and control of the fugitive emissions and secondary capture and control, which are described in more detail below.

We also gathered additional emissions data for the process vents. Therefore, we have updated and revised our technology review for the process vent emissions and fugitive emissions control options. The following paragraphs describe the up-dated and revised technology review and additional analyses that were performed for today's supplemental proposal.

1. Process Vent Emission Limits

The ferroalloy production facilities have add-on control devices such as venturi scrubbers or fabric filters to control emissions of metal HAP from the furnace operations. The furnace operations include charging, smelting and tapping. Other operations that take place inside the furnace buildings include casting and ladle treatment. The vast majority of emissions from the charging and smelting processes are currently vented to the add-on control devices. However, the percent of emissions currently captured and controlled from tapping, ladle treatment and casting are considerably lower and varies across furnaces. The ferroalloy production facilities also use add-on control devices to reduce emissions from the metal oxygen refining (MOR) process, local ventilation sources (*e.g.,* tapping fugitive control device) and the product crushing operations.

To evaluate the effectiveness of these emission control technologies currently used to reduce emissions and meet the emission limits in the 1999 MACT rule, an ICR under section 114 of the Clean Air Act was sent to each of the ferroalloy production facilities on April 28, 2010 and December 21, 2012 to gather source emissions test data and other information for the furnaces, the MOR process and the product crushing operations. The HAP source test data that were collected from the control device outlet for each furnace include: metal HAP (arsenic, cadmium, chromium (total and Cr^{+6}), lead compounds, manganese, mercury and nickel) [41], HCl, formaldehyde, PAH,

[41] Total phosphorus was also measured for the ICR using EPA Method 29; however this method does not distinguish between white phosphorus (which is a non-HAP) and red phosphorus (which is a HAP). Due to the uncertainty of the percentage of red phosphorus in the total phosphorus test results, it was concluded that phosphorus would not be incorporated in the emissions used for modeling.

PCB and chlorodibenzodioxins and chlorodibenzofurans (CDD/CDF). In addition, emissions were measured from the furnace control device outlet for two non-HAP air pollutants (carbon monoxide and particulate matter). The pollutants measured from the MOR and crushing and sizing operations in 2010 include particulate matter (PM) and metal HAP (arsenic, total chromium, lead compounds, manganese, mercury and nickel).[42] In addition, the facilities provided compliance test reports from 2011 and 2012 and additional emissions data they collected voluntarily, which included test data for PM, metal HAP (arsenic, cadmium, total chromium, lead compounds, manganese, mercury and nickel) and organic HAP (PAH, PCB, CDD/CDF) from the furnace control device outlets.

The test data collected from the ICR responses, the compliance reports and other testing indicate that the PM emissions from the furnace process vents (also known as process stacks) are well below the level of emissions allowed by the current emission standards in subpart XXX. In the 2011 proposal, we proposed lower PM limits to reflect the better performance of these sources. We also proposed lower limits for the MOR process and the crushing and screening process vents in the 2011 proposal. We did not receive any additional test data for the MOR process or the crushing and screening process since the 2011 proposal and have received no other information indicating that changes to the limits we proposed in 2011 for these sources are necessary, therefore we plan no changes to the proposed emission standards in this supplemental proposal for the MOR process and the crushing and screening processes.

However, for the furnace process vents, we did receive additional data and based on that data combined with the data we already had, we evaluated whether it is appropriate to propose revised emissions limits for PM from the furnace process vents. We also re-evaluated the proposed emission limits for the local ventilation system based on the new test data received. Further discussions of the re-evaluations and the proposed revised limits are presented in Section IV below.

For purposes of addressing new ferroalloy production facilities, we considered the feasibility of more stringent emission limits. Specifically, we examined what emission level could be met using available add-on control devices and the emission concentrations that could be achieved by the use of the control devices. The results of this analysis and the proposed decisions are described in Section IV below.

2. Process Fugitive Control Standards

We re-evaluated the costs and operational feasibility associated with the option of requiring full building enclosure with negative pressure at all openings. We also consulted with ventilation experts working with hot process fugitives like those found in the ferroalloys industry (*e.g.,* electric arc furnace steel mini-mills and secondary lead smelters). Furthermore, we received detailed information from each of the Ferroalloys facilities that provides an alternative approach to achieve significant reductions of process fugitive emissions using enhanced local capture, including primary and secondary hoods, which would effectively capture most of the fugitive process emissions and route these emissions to a PM control device (*e.g.,* baghouse or wet scrubber). The plans provided by the facilities are designed to achieve a high overall level of control. These plans are available in the docket for this action (identified by document numbers: EPA–HQ–OAR–2010–0895–0106 and EPA–HQ–OAR–2010–0895–0073).

We also reviewed other options to control process fugitive emissions. When we consider the evolution of the EPA rules on process fugitives in the metallurgical industry, we observe that the primary emphasis on quantifiable emission standards is based on controlling stack emissions with a high degree of efficiency. Standards related to emissions capture are generally related to parameter monitoring of flow rates and damper positions of capture equipment when the stack emission test is occurring. There typically has not been an independent evaluation of the effectiveness of process fugitive control through local ventilation in a quantitative, rigorous manner.

However, there is a history of addressing fugitive emissions by requiring a building opacity limit, including a 20 percent limit in the current subpart XXX (although this limit also contains a 60-percent short-term excursion and it excludes some key process fugitives events such as casting). Subpart FFFFF of Part 63, National Emission Standards for Hazardous Air Pollutants for Integrated Iron and Steel Manufacturing Facilities, contains various building opacity limits ranging from 20 percent for existing sources to 10 percent for new sources. Section 60.272a in the Subpart AAa—Standards of Performance for Steel Plants: Electric Arc Furnaces and Argon-Oxygen Decarburization Vessels Constructed After August 17, 1983 establishes a shop building opacity limit of 6 percent, due solely to the operations of affected electric arc furnace (EAF)(s) or argon-oxygen decarburization vessel (AOD vessel)(s). Building opacity limits in these rules serve as an emissions standard for the control of process fugitive emissions. Opacity limits can ensure effective capture and control of these fugitive emissions if they are established at the appropriate levels and have appropriate compliance monitoring requirements to ensure the fugitive emissions are minimized continuously over time.

After reviewing and evaluating available information regarding approaches to reduce process fugitive emissions, we revised our analysis of options to control these fugitive emissions. The results of the revised analyses of control options for process fugitive emissions are summarized in Section IV and also presented in the *Cost Impacts of Control Options to Address Fugitive HAP Emissions for the Ferroalloys Production NESHAP Supplemental Proposal* document and the *Revised Technology Review for the Ferroalloys Production Source Category for the Supplemental Proposal* document (Revised Technology Review document), which are available in the docket.

IV. Revised Analytical Results and Proposed Decisions for the Ferroalloys Production Source Category

A. What actions are we taking pursuant to CAA sections 112(d)(2) and 112(d)(3)?

As described previously, CAA section 112(d) requires the EPA to promulgate national technology-based emission standards for hazardous air pollutants (NESHAP) for listed source categories, including this source category. In the 2011 proposal, we proposed emissions limits for mercury, PAHs and HCl, which were previously unregulated HAP, pursuant to section 112(d)(2) and 112(d)(3). After proposal, we received a substantial amount of additional data for these HAP and re-analyzed the proposed limits for these HAP considering the additional data.

Based on those analyses we determined it is appropriate to propose revised limits for these three HAP. Therefore, in today's supplemental notice, we are proposing revised emissions limits pursuant to section 112(d)(2) and 112(d)(3) for mercury, PAHs and HCl. In this section, we describe how we developed the revised

[42] Total phosphorus was also measured using Method 29, but was not used in the technology review.

proposed standards for these HAP, including how we calculated MACT floor limits, how we account for variability in those floor calculations and how we considered beyond the floor (BTF) options. The revised MACT analyses for these previously unregulated pollutants (*i.e.,* mercury, PAH and HCl) are presented in the following paragraphs. For more information on these analyses, see the *Revised MACT Floor Analysis for the Ferroalloys Production Source Category* and the *Mercury Control Options and Impacts for the Ferroalloys Production Industry* documents which are available in the docket for this action.

1. How do we develop MACT floor limits?

As discussed in the 2011 proposal (76 FR 72508), the MACT floor limit for existing sources is calculated based on the average performance of the best performing units in each category or subcategory, and also on a consideration of these units' variability, and the MACT floor for new sources is based on the single best performing source, with a similar consideration of that source's variability. The MACT floor for new sources cannot be less stringent than the emissions performance that is achieved in practice by the best-controlled similar source. To account for variability in the operation and emissions, the stack test data were used to calculate the average emissions and the 99 percent upper predictive limit (UPL) to derive the MACT floor limits. For more information regarding the general use of the UPL and why it is appropriate for calculating MACT floors, see the memorandum titled *Use of the Upper Prediction Limit for Calculating MACT Floors* (UPL Memo), which is available in the docket for this action. Furthermore, with regard to calculation of MACT Floor limits based on limited datasets, we considered additional factors as summarized below and described in more details in the memorandum titled: *Approach for Applying the Upper Prediction Limit to Limited Datasets,* which is available in the docket for this action.

2. What is our approach for applying the upper prediction limit to limited datasets?

The UPL approach addresses variability of emissions data from the best performing source or sources in setting MACT standards. The UPL also accounts for uncertainty associated with emission values in a dataset, which can be influenced by components such as the number of samples available for developing MACT standards and the number of samples that will be collected to assess compliance with the emission limit. The UPL approach has been used in many environmental science applications.[43 44 45 46 47 48] As explained in more detail in the UPL Memo, the EPA uses the UPL approach to reasonably estimate the emissions performance of the best performing source or sources to establish MACT floor standards.

With regard to the derivation of MACT limits using limited datasets, in a recent D.C. Circuit Court of Appeals decision in *National Association of Clean Water Agencies* v. *EPA (NACWA),* which involved challenges to EPA's MACT standards for sewage sludge incinerators, questions were raised regarding the application of the UPL to limited datasets. We have since addressed these questions, as explained in detail in the memorandum titled: *Approach for Applying the Upper Prediction Limit to Limited Datasets* (*i.e.,* Limited Dataset Memo), which is available in the docket for this action. We seek comments on the approach described in the Limited Dataset Memo and whether there are other approaches we should consider for such datasets. We also seek comments on the application of this approach for the derivation of MACT limits based on limited datasets in this supplemental proposal, which are described in the following sections of today's notice and in the Limited Dataset Memo.

3. How did we apply the approach for limited datasets to limited datasets in the ferroalloys source category?

For the ferroalloys source category, we have limited datasets for the following pollutants and subcategories: PAHs for existing and new furnaces producing ferromanganese (FeMn); PAHs for new furnaces producing silicon manganese (SiMn); mercury for new furnaces producing SiMn; mercury for existing and new furnaces producing FeMn; and HCl for new furnaces producing FeMn or SiMn. Therefore, we evaluated these specific datasets to determine whether it is appropriate to make any modifications to the approach used to calculate MACT floors for each of these datasets.

For each dataset, we performed the steps outlined in the Limited Dataset Memo, including: Ensuring that we selected the data distribution that best represents each dataset; ensuring that the correct equation for the distribution was then applied to the data; and comparing individual components of each small dataset to determine if the standards based on small datasets reasonably represent the performance of the units included in the dataset. The results of each analysis are described and presented below in the applicable sections for each of the three HAP (i.e., mercury, PAHs and HCl). We seek comments regarding the specific application of the limited dataset approach used to derive the proposed emissions limits for Hg, PAHs and HCl described in the sections below.

4. How did we develop proposed limits for mercury emissions?

a. Background on Mercury

As described above, we obtained significant additional data on mercury emissions from the two ferroalloys production facilities since the 2011 proposal. In particular, we obtained data from each furnace and for each product type (ferromanganese and silicomanganese). While the mercury test data from the 2010 ICR were collected using EPA Method 29 and the mercury test data from the 2012 ICR and other submitted test reports were collected using EPA Method 30B, the mercury test results from the two test methods were considered to be comparable and were used in the MACT Floor analysis. All of the test reports provided analytical results for mercury that were above the detection limit.

The raw materials used to produce ferroalloys contain various amounts of mercury, which is emitted during the smelting process. These mercury emissions are derived primarily from

[43] Gibbons, R. D. (1987), *Statistical Prediction Intervals for the Evaluation of Ground-Water Quality*. Groundwater, 25: 455–465 and Hart, Barbara F. and Janet Chaseling, *Optimizing Landfill Ground Water Analytes*—New South Wales, Australia, Groundwater Monitoring & Remediation, 2003, 23, 2.

[44] Wan, Can; Xu, Zhao; Pinson, Pierre; Dong, Zhao Yang; Wong, Kit Po. Optimal Prediction Intervals of Wind Power Generation. 2014. IEEE Transactions on Power Systems, ISSN 0885–8950, 29(3): pp. 1166–1174.

[45] Khosravi, Abbas; Mazloumi, Ehsan; Nahavandi, Saeid; Creighton, Doug; van Lint, J. W. C. Prediction Intervals to Account for Uncertainties in Travel Time Prediction. 2011. IEEE Transactions on Intelligent Transportation Systems, ISSN 1524–9050, 12(2):537–547.

[46] Ashkan Zarnani; Petr Musilek; Jana Heckenbergerova. 2014. Clustering numerical weather forecasts to obtain statistical prediction intervals. Meteorological Applications, ISSN 1350–4827. 21(3): 605.

[47] Rayer, Stefan; Smith, Stanley K; Tayman, Jeff. 2009. Empirical Prediction Intervals for County Population Forecasts. Population Research and Policy Review, 28(6): 773–793.

[48] Nicholas A Som; Nicolas P Zegre; Lisa M Ganio; Arne E Skaugset. 2012. Corrected prediction intervals for change detection in paired watershed studies. Hydrological Sciences Journal, ISSN 0262–6667, 57(1): 134–143

the manganese ore although there may be trace amounts in the coke or coal used in the smelting process. Some of the mercury that is in oxidized form is captured on the particulate matter (PM) and then collected in the particle control device (*e.g.,* fabric filter or wet scrubber). In contrast, most of the gaseous elemental mercury is not captured by these particulate control devices and is largely emitted to the atmosphere. Based on the available emissions test data, we estimate Eramet (which, as noted above, produces FeMn and SiMn) emits about 342 pounds per year of mercury from their furnaces and that Felman, which produces only SiMn, emits about 35 lb/yr of mercury from their furnaces. Pursuant to CAA section 112(d)(2) and 112(d)(3), we are proposing to revise the 1999 NESHAP to include emission limits for mercury.

b. Calculation of MACT Floor Limits for Mercury

With regard to determining appropriate MACT limits for mercury, importantly, the new test data confirm that ferromanganese (FeMn) production has substantially higher mercury emissions compared to silicomanganese (SiMn) production and that emissions are considerably higher at Eramet as compared to Felman. This finding is based on an analysis of the product-specific data sets. Furthermore, we evaluated differences in the processes and input materials to try to determine the reasons for the significant difference in mercury emissions. Based on this evaluation, we have determined the input material recipes for producing the different products are quite different. In the case of FeMn production, much more of the Mn ore and high carbon coke are used to reduce the MnO_2 in the ore to Mn to produce FeMn. We conclude the difference in emissions of mercury is due to the significant differences in the input materials and recipe for FeMn as compared to SiMn production.

Because of the significant differences in the input material and the mercury emissions between FeMn and SiMn, we determined that subcategories should be created for ferromanganese and silicomanganese production, with separate MACT limits for mercury proposed for each ferroalloys product (FeMn and SiMn).

The MACT floor dataset for mercury from existing and new furnaces producing FeMn includes 6 test runs from a single furnace. As described above, this dataset (for the calculation of MACT limits for mercury from furnaces producing FeMn) was considered limited and therefore we followed the steps described in the Limited Dataset Memo to determine the appropriate MACT floor limits for mercury for furnaces producing FeMn. We first determined that the dataset is best represented by a normal distribution and ensured that we used the correct equation for the distribution. Because the floor for both existing and new furnaces is based on the performance of a single unit, our evaluation of the data was limited to ensuring that the emission limit is a reasonable estimate of the performance of the unit based on our knowledge about the process and controls. Accordingly, we compared the calculated emission limit to the highest measured value and the average short-term emissions from the unit, and found that the calculated emission limit is about 2.5 times the short-term average from the unit, which is within the range that we see when we evaluate larger data sets using our MACT floor calculation procedures. The fairly wide range in mercury emissions shown by the available data for this best performing unit indicate that variability is significant, and we determined that the emission limit is representative of the actual performance of the unit upon which the limit is based, considering variability. Therefore, we determined that no changes to our standard floor calculation procedure were warranted for this pollutant and subcategory, and we are proposing that the MACT floor is 170 μg/dscm for Hg from existing furnaces producing FeMn. We also note that while we calculated the same MACT floor value for new sources, we are proposing a beyond-the-floor standard for new sources, which is discussed later in this section of this preamble.

The MACT floor dataset for mercury from new furnaces producing SiMn includes 3 test runs from a single furnace (furnace #7 at Felman) that we identified as the best performing unit based on average emissions. After determining that the dataset is best represented by a normal distribution and ensuring that we used the correct equation for the distribution, we evaluated the variance of this unit (furnace #7 at Felman). Our analysis showed that this unit, identified as the best unit based on average emissions, also had the lowest variance, indicating consistent performance. Therefore, we determined that the emission limit reasonably accounts for variability and that no changes to the standard floor calculation procedure were warranted for this pollutant and subcategory, and we are proposing that the MACT floor is 4.0 μg/dscm for Hg from new furnaces producing SiMn.

With regard to mercury emissions from existing furnaces producing SiMn, we have 12 test runs in our dataset. This data set was not determined to be a limited data set. Using the 99 percent UPL method described above, we calculated the MACT floor limit (or 99 percent UPL) for exhaust mercury concentrations from existing furnaces producing SiMn to be 12 μg/dscm.

The MACT floor limits for mercury for existing furnaces are higher than the actual emissions measured during the ICR performance tests at each plant due to an allowance for variability reflected in the UPL. We anticipate that both of the existing sources would be able to meet these product-specific MACT Floor limits for existing sources without installing additional controls. Therefore, the costs and reductions for the MACT floor option were estimated to be zero because we conclude that the facilities would be able to meet the mercury limits with their current furnace controls.

The next step in establishing MACT standards is the BTF analysis. In this step, we investigate other mechanisms for further reducing HAP emissions that are more stringent than the MACT floor level of control in order to ''require the maximum degree of reduction in emissions'' of HAP. In setting such standards, section 112(d)(2) requires the Agency to consider the cost of achieving the additional emission reductions, any non-air quality health and environmental impacts and energy requirements. Historically, these factors have included factors such as solid waste impacts of a control, effects of emissions on bodies of water, as well as the energy impacts.

c. Beyond the Floor Analysis for Mercury for Existing Furnaces

As described below, we considered BTF control options to further reduce emissions of mercury. The BTF mercury control options were developed assuming sub-categorization of furnace melting operations into ferromanganese production operations and silicomanganese production operations and installing activated carbon injection (ACI) technology with brominated carbon to control mercury emissions.

The BTF mercury limits would be based on the estimated mercury emission reduction that can be achieved through the use of ACI and brominated carbon. The bromine in the activated carbon can oxidize elemental mercury (Hg^0) to oxidized mercury (Hg^{+2}). The oxidized mercury is then suitable for capture on the activated carbon sorbent

or further reacts with the bromine to produce mercuric bromide ($HgBr_2$). Both the oxidized mercury and the mercuric bromide can be removed using a PM control device. It is generally accepted that the installation of ACI in conjunction with a fabric filter achieves at least 90 percent reduction of mercury.[49]

All three furnaces at Felman and one of the two furnaces at Eramet (Furnace #1) are equipped with a fabric filter system to reduce PM. The other furnace at Eramet (Furnace #12) controls PM using a wet venturi scrubber. Limited data are available for mercury reduction using ACI with a venturi scrubber system, as described in the mercury control options memorandum.[50] However, we identified one study conducted by the Minnesota Taconite Mercury Control Advisory Committee that evaluated mercury reductions from particulate scrubber systems and ACI.[51] In 2011, a field trial was conducted at Hibbing Taconite to demonstrate the effectiveness of brominated ACI in controlling mercury emissions from a taconite facility. The trial of the brominated ACI system was conducted in September and October 2011 and it was determined that 75 percent Hg removal could be achieved with a brominated ACI rate of about 3 lb/MMacf (126 lb/hr) for the taconite iron ore processing sources. This 75 percent mercury reduction was demonstrated during a two-week continuous injection run in this study. The project also noted that better mercury removal results could be achieved with improved sorbent distribution. Therefore, although the ferroalloys production furnaces are different than the taconite production sources, we assume that the retrofit of ACI on the furnace at Eramet controlled by a wet scrubber would achieve 50 percent additional mercury reduction beyond the level of control that the scrubber is currently achieving. Because of the lower potential mercury reductions expected for brominated carbon ACI and a venturi scrubber (compared to the reductions that would be achieved with use of ACI with fabric filters), we determined that a reduction of 50 percent should be used in establishing the BTF mercury emissions limit to ensure that the limit could be achieved with brominated ACI on both furnaces at all times during FeMn production. Therefore, the BTF limit for FeMn production for existing sources would be 82 μg/dscm.

We estimated the capital costs, annualized costs, emissions reductions and cost effectiveness for the BTF limits for FeMn and SiMn production sources. The details regarding how these limits were derived and the estimated costs and expected reductions of mercury emissions by installing ACI controls, are provided in the *Mercury Control Options and Impacts for the Ferroalloys Production Industry* document which is available in the docket.

Regarding the BTF control option for existing sources that produce ferromanganese, we estimated the costs and reductions based on the installation of ACI on Furnaces 1 and 12 at Eramet with operation only during the production of ferromanganese and a polishing baghouse on Furnace 1. Other costs include labor, materials and waste disposal. The emissions and annual cost for this BTF control option are based on the assumption that both furnaces at Eramet produce ferromanganese 50 percent of the time annually and produce SiMn the other 50 percent of the year. We based this reasonable assumption on available information regarding production patterns for the 2 products at Eramet. The estimated mercury reduction that would be achieved at Furnace 1 at Eramet (which is currently controlled with a baghouse) is assumed to be 90 percent based on the installation of ACI and a new polishing baghouse. Regarding Furnace 12 at Eramet (which is currently controlled with a wet venturi scrubber), the mercury reductions that would be achieved with brominated ACI are assumed to be 50 percent. For the BTF control option for existing sources that produce ferromanganese, we estimate the capital costs would be about $30 million, annualized costs of about $3.3 million and would achieve about 191 pounds per year of reductions in mercury emissions, which results in estimated cost-effectiveness of about $17,600 per pound. All the costs and reductions would be at Eramet since Eramet is the only facility in the U.S. that produces FeMn.

As stated earlier the cost-effectiveness is estimated to be $17,600/lb. However, it is important to note that cost-effectiveness is but one factor we consider in assessing the cost of the emission reduction at issue here. See *NRDC* v. *EPA,* 749 F.3d 1055, 1060 (D.C. Cir. April 18, 2014) (''Section 112 does not command EPA to use a particular form of cost analysis.''). We also consider other factors in assessing the cost of the emission reduction as part of our beyond-the-floor analysis, including, but not limited to, total capital costs, annual costs and costs compared to total revenues (*e.g.,* costs to revenue ratios).

As mentioned above, we estimate the capital costs would be about $30 million, annualized costs of about $3.3 million and that all these costs would be for Eramet, which is the only facility in the United States that produces FeMn. Furthermore, we estimate the annual costs for BTF controls for mercury at Eramet (in addition to the costs for controls for fugitive HAP emissions required as part of the risk analysis explained later in this preamble) would be about 3 percent of revenues, which we believe is potentially significant given the facts at issue here. In addition, it is our understanding that for the past few years the plant has not made any profits. More details regarding the potential economic impacts of the BTF option are provided in the *Economic Impact Analysis (EIA) for the Manganese Ferroalloys RTR Supplemental Proposal* document which is available in the docket for this action.

We also evaluated an approach that could reduce the compliance costs of the BTF option. We considered the possibility that Eramet could potentially decide to produce FeMn in only one furnace and if so, would only need to install ACI for 1 furnace. If so, the costs for Eramet to comply with the BTF option could be significantly lower. This approach would reduce production flexibility, which could pose significant production issues for the company, but would allow Eramet to avoid some of the emissions control costs under the BTF option. However, we realize there would likely be production issues and other issues, with this approach. Furthermore, we believe it would be inappropriate for the rule to essentially restrict production flexibility. Therefore for our cost impacts analysis of the BTF option we have assumed brominated ACI would be needed for both furnaces.

Based on the available economic information, assuming market conditions remain approximately the same, we believe Eramet Marietta would not be able to sustain the costs of BTF mercury controls (in addition to the fugitive control costs required as part of the risk analysis explained later in this

[49] Sargent & Lundy, IPM Model—Revisions to Cost and Performance for APC Technologies, Mercury Control Cost Development, Final, March 2013.

[50] Memorandum from Bradley Nelson, EC/R to Phil Mulrine, EPA OAQPS/SPPD/MICG, Mercury Control Options and Impacts for the Ferroalloys Production Industry, March 16, 2014.

[51] Michael E Berndt, Minnesota Department of Natural Resources, Division of Lands and Minerals, Minnesota Taconite Mercury Control Advisory Committee: Summary of Phase One Research Results (2010–2012), November 29, 2012. *http://files.dnr.state.mn.us/lands_minerals/reclamation/berndt_2012_final.pdf.*

preamble, in Section IV.C.).[52] This would likely result in substantial economic impacts in the short-term and potential closure of the facility in the longer-term. Since Eramet Marietta is the only facility in the United States which produces FeMn, closure of this facility would eliminate 100 percent of the United States production of FeMn, which is an important product for the steel industry. After considering all the factors described above, we are not proposing BTF limits for mercury for FeMn production.

We also evaluated possible BTF controls for existing SiMn production sources, which have much lower mercury emissions as compared to FeMn production. We estimated that the BTF option for SiMn would achieve an additional 60 pounds/year reductions and that the cost-effectiveness would be about $109,000 per pound of mercury reduced for SiMn production, which we conclude is not cost-effective as a BTF option. Furthermore, based on our economic analyses, we believe that the Felman facility could be at potential risk of closure under this option, especially given that these costs would be in addition to the costs for controlling fugitive HAP metals emissions (such as Mn, As, Ni and Cd). Therefore, we are not proposing BTF limits for mercury for SiMn production.

d. Beyond the Floor Analysis for New and Reconstructed Furnaces

Regarding BTF controls for new or major reconstructed furnaces, we believe such sources would be constructed to include a baghouse as the primary PM control device (in order to comply with the proposed lower new source limits for PM) and then they could add ACI after the baghouse for mercury control along with a polishing baghouse and would achieve at least 90 percent reduction. Therefore, the BTF limit for new FeMn production sources is calculated to be 17 μg/dscm. Regarding SiMn, the BTF limit for new sources producing SiMn would be 1.2 μg/dscm.

The estimated costs for beyond the floor controls for mercury for new and reconstructed sources are based on the costs of installing and operating brominated ACI and a polishing baghouse. Based on this, we estimate that the cost effectiveness of BTF controls for a new and major reconstructed FeMn production source would be about $12,000/lb. Therefore, we conclude that BTF controls would be cost-effective and feasible for any new or major reconstructed furnace that produces FeMn. Therefore we are proposing a limit of 17 μg/dscm for new or major reconstructed furnaces that produce FeMn.

However, for a new SiMn production source, the cost effectiveness would be at least $51,000/lb. Therefore, we believe BTF controls for new SiMn production sources would not be cost-effective. Furthermore, for SiMn production, as described above, the new source MACT floor limit is already low (*i.e.,* 4.0 μg/dscm). Therefore we are proposing an emissions limit of 4.0 μg/dscm for new or major reconstructed SiMn production furnaces based on the new source MACT Floor.

e. Proposed Limits for Existing, New and Reconstructed Sources

Based on all our analyses described above, we are proposing mercury limits based on the MACT Floor (UPL) for each product type (ferromanganese, silicomanganese) for existing furnaces; BTF limits for mercury for new and reconstructed FeMn production furnaces; and mercury limits for new and reconstructed SiMn production furnaces based on the MACT Floor. These limits are summarized in Table 4.

TABLE 4—SUMMARY OF THE PROPOSED MERCURY CONTROL EMISSIONS LIMITS (μg/dscm) FROM THE FURNACE MELTING PROCESSES

Proposed mercury controls	FeMn production (existing sources)	FeMn production (new and reconstructed sources)	SiMn production (existing sources)	SiMn production (new and reconstructed sources)
MACT Floor limits for FeMn and SiMn existing sources; BTF limit for new and reconstructed FeMn sources; and MACT floor limit for new and reconstructed SiMn sources	170	17	12	4.0

5. How did we develop proposed limits for Polycyclic Aromatic Hydrocarbons (PAHs)?

As described above, we obtained additional data on PAH emissions from the two ferroalloys production facilities since the 2011 proposal. In particular, we obtained data from each furnace and for each product type (FeMn and SiMn). We used the resulting dataset to re-evaluate the MACT floor limits and BTF options. For more information on this analysis, see *Revised MACT Floor Analysis for the Ferroalloys Production Source Category,* which is available in the docket.

As in the case of the mercury analysis, our results show that there is a significant difference in PAH emissions during FeMn production as compared to SiMn production. Furthermore, similar to mercury, we conclude that this difference is due to significant differences in the recipe and input materials for FeMn compared to SiMn production.

Therefore, we determined that it would be appropriate to have two subcategories for PAH emissions and establish separate MACT limits for each of these two subcategories.

The MACT floor dataset for PAHs from existing furnaces producing FeMn includes 6 test runs from 2 furnaces. As described above, this dataset (for the calculation of the MACT Floor limit for PAHs for FeMn production furnaces) was considered a limited dataset and therefore we followed the steps described in the Limited Dataset Memo to determine the appropriate MACT Floor limit for PAHs for these sources. This subcategory includes only two units, and the CAA specifies that the existing source MACT floor for subcategories with fewer than 30 sources shall not be less stringent than ''the average emission limitation achieved by the best performing 5 sources.'' However, since there are only 2 units in the subcategory and we have data for both units, the data from both units serve as the basis for the MACT floor. After determining that the dataset is best represented by a normal distribution and ensuring that we used

[52] As noted in our risk analysis explained later in this preamble, proposal of the MACT floor standard for mercury (along with the controls for fugitive manganese emissions, which are explained later in this preamble) provide an ample margin of safety to protect public health.

the correct equation for the distribution, we considered the selection of a lower confidence level for determining the emission limit by evaluating whether the calculated limit reasonably represents the performance of the units upon which it is based. In this case, where two units make up the pool of best performers, the calculated emission limit is about twice the short-term average emissions from the best performing sources, indicating that the emission limit is not unreasonable compared to the actual performance of the units upon which the limit is based and is within the range that we see when we evaluate larger datasets using our MACT floor calculation procedures. Therefore, we determined that no changes to our standard floor calculation procedure are warranted for this pollutant and subcategory, and we are proposing that the MACT floor is 1,400 μg/dscm for PAHs from existing furnaces producing FeMn.

The MACT floor dataset for PAHs from new furnaces producing FeMn includes 3 test runs from a single furnace (furnace #12 at Eramet) that we identified as the best performing unit based on average emissions performance. After determining that the dataset is best represented by a normal distribution and ensuring that we used the correct equation for the distribution, we evaluated the variance of the best performing unit. Our analysis showed that this unit, which was identified as the best unit based on average emissions, also had the lowest variance. Therefore, we determined that the emission limit would reasonably account for variability and that no changes to the standard floor calculation procedure were warranted for this pollutant and subcategory, and we are proposing that the MACT floor is 880 μg/dscm for PAHs from new furnaces producing FeMn.

The MACT floor dataset for PAHs initially identified for new furnaces producing SiMn includes 6 test runs from a single furnace (furnace #2 at Felman) that we identified as the best performing unit based on average emissions. After determining that the dataset is best represented by a normal distribution and ensuring that we used the correct equation for the distribution, we evaluated the variance of this unit (furnace #2 at Felman) and concluded that further consideration of the variance was warranted. In particular, we noted that the variance of the dataset for this unit was almost twice as large as the variance of the dataset for the pool of best performing units that was used to calculate the existing source MACT floor. The high degree of variance in the dataset for the unit with the lowest average prompted us to question whether this unit was, in fact, the best performing unit and to evaluate the dataset for the unit with the next lowest average (furnace #7 at Felman). The dataset for furnace #7 includes 3 test runs, the furnaces are controlled with the same type of add-on control technology, and the average emissions from furnace #2 are only about 22 percent lower than the average emissions from furnace #7. While we find the average performance of these 2 units to be similar, the unit with the higher average has a variance more than 2 orders of magnitude lower than that of the unit with the lower average, thus indicating that the unit with the higher average has a far more consistent level of performance. The combination of components from the unit with the higher average (furnace #7) yields an emissions limit that is lower than that calculated from the dataset of the unit (furnace #2) with the lowest average (71.7 versus 132.8 μg/dscm). For these reasons, we determined that the unit with the lowest average (furnace #2) is not the best performing source for this pollutant and we are instead selecting furnace #7 as the best performing source. After selecting the source upon which the new source limit would be based, we next considered whether the selection of a different confidence level would be appropriate. In this case, we determined that a lower confidence level was not warranted given the small amount of variability in the data for the unit that we identified as the best performer. Based on the factors outlined above, we are proposing that the MACT floor is 72 μg/dscm for PAHs from new furnaces producing SiMn.

With regard to PAH emissions from existing furnaces producing SiMn, we have 18 test runs in our dataset. This dataset was not determined to be a limited data set. The UPL results for this dataset using a 99 percent confidence level was determined to be 120 μg/dscm for SiMn production and was determined to be the MACT floor limit for PAHs for existing furnaces producing SiMn.

Based on the data we received prior to summer 2014, we estimate that neither source would need to install additional controls to meet the MACT Floor emission limits described above. However, as mentioned in Section II.D of today's notice, we received additional PAH data in August 2014. We have not yet completed our review and technical analyses of those new data, and have not yet incorporated these new data into our analyses. Nevertheless, we are seeking comments regarding the new PAH data and how these data could affect our analyses.

The current PM controls on both facilities capture some of PAH emissions. Nevertheless, we also considered BTF options for control of PAH emissions based on the additional reductions that could be achieved via control with ACI. Based on information from carbon vendors, an activated carbon system that is designed to achieve up to 90 percent reduction in mercury emissions should also achieve significant reductions in PAH with no additional costs. However, significant uncertainties remain regarding the percent of reductions in PAHs that would be achieved with ACI. One study [53] found that ACI can achieve 74–91 percent reduction in PAH emissions depending on the concentration of activated carbon in the flue gas. Based on this information, we assume that ACI probably can achieve 75 percent reduction in PAH emissions from the furnace. Therefore, for our analysis of BTF options, we assumed an ACI system can achieve 75 percent reduction of PAH emissions from the furnace exhaust. Based on this assumption, possible BTF limits for PAHs would be 340 μg/dscm for FeMn production furnaces and 28 μg/dscm for SiMn production furnaces. The estimated capital and annualized costs to achieve these BTF PAH limits are the same costs as those shown for mercury in the mercury control options memorandum. For FeMn production, the capital cost was calculated to be $30.2 million and the annual cost was calculated to be $3.4 million and would only apply to the furnaces at Eramet and the estimated PAH reductions would be 2.35 tons per year, which results in cost-effectiveness of $1.4 million per ton of PAH. The capital cost for a beyond the floor PAH option for SiMn and FeMn production was calculated to be $41.7 million with an annual cost of $6.9 million and the estimated PAH reductions would be 4.0 tons per year, which results in cost-effectiveness of $1.7 million per ton, which we conclude is not cost-effective for PAHs. Given the uncertainties regarding the percent of PAH reductions that can be achieved with ACI and since the cost-effectiveness is relatively high for this HAP, we are not proposing BTF limits for PAHs. Instead, we have determined that it is appropriate to propose PAH limits based on the MACT Floor level of control, therefore we are proposing a MACT limit of 1,400 μg/

[53] Hong-Cang Zhou, Zhao-Ping Zhong, Bao-Sheng Jin, Ya-Ji Huang and Rui Xiao, Experimental study on the removal of PAHs using in-duct activated carbon injection, Chemosphere, November 17, 2004.

dscm for PAHs for existing FeMn production furnaces and 880 µg/dscm for PAHs for new and reconstructed FeMn production furnaces and we are proposing a MACT floor limit of 120 µg/dscm for PAHs for existing SiMn production furnaces and 72 µg/dscm for PAHs for new and reconstructed SiMn production furnaces.

TABLE 5—PROPOSED EMISSIONS LIMITS (µG/dscm) FOR PAHS FROM THE FURNACE MELTING PROCESSES

	FeMn production (existing sources)	FeMn production (new and reconstructed sources)	SiMn production (existing sources)	SiMn production (new and reconstructed sources)
Proposed Emissions Limits for PAHs	1400	880	120	72

6. How did we develop limits for hydrochloric acid (HCl)?

Like mercury and PAH, we obtained additional HCl test data since proposal. However, more than half the test results (20 of the 36 test runs) were below the detection limit. This situation required the use of additional statistical analysis, as described in the *Revised MACT Floor Analysis for the Ferroalloys Production Source Category,* which is available in the docket. We determined the data set for HCl from furnace outlets has a non-normal distribution. The non-normal distribution of the data is a result of the mix of analytical results reported above and below the detection limit and is not due to the type of product being produced (FeMn or SiMn) in the furnace. Therefore, for HCL we are not establishing subcategories based on product. An equation for log-normally distributed data was used to determine the UPL of the HCl dataset for both FeMn and SiMn production combined. The UPL for the log-normal dataset was calculated to be 1,100 µg/dscm. Because more than half of the dataset were reported below the detection limit, using EPA procedures, three times the representative method detection level (RDL) for HCl (180 µg/dscm), was compared to the calculated UPL. The calculated UPL was higher and, thus, was selected as the MACT floor limit for existing furnaces. At this level, we expect neither source would need to install additional controls to meet the MACT floor emission limits.

The MACT floor dataset for HCl from new furnaces producing FeMn or SiMn includes 6 test runs from a single furnace (furnace #5 at Felman) that we identified as the best performing unit based on average emissions. As described above, this dataset (for the calculation of the new source limit for HCL) was considered a limited dataset and therefore we followed the steps described in the Limited Dataset Memo to determine the appropriate MACT Floor limit for HCl for new furnaces. After determining that the dataset is best represented by a non-normal distribution and ensuring that we used the correct equation for the distribution, we evaluated the variance of this best performing unit. Our analysis showed that this unit, identified as the best unit based on average emission, also had the lowest variance, indicating consistent performance. Therefore, we determined that the emission limit reasonably accounts for variability and that no changes to the standard floor calculation procedure were warranted for this pollutant and subcategory. We also note that for this standard, the calculated new source floor level was below the level that can be accurately measured (the level that we refer to as ''3 times the representative detection level'' or 3xRDL). Therefore, we are proposing a new source MACT emission limit of 180 ppm for HCl, which is the 3xRDL value for HCl.

No facilities in the source category use add-on control devices or work practices to limit emissions of HCl beyond what is normally achieved as co-control of the emissions with particulate matter control device. Also, as explained above, there are a significant number of non-detects for HCl. Thus, emissions are already low. Nevertheless, we evaluated possible beyond the floor options to further reduce HCl to ensure our analyses were complete. The BTF analyses are described in the *Revised MACT Floor Analysis for the Ferroalloys Production Source Category* document which is available in the docket. We did not identify any appropriate BTF options for HCl.

Given the low emissions of HCl and the results of our analyses, we are not proposing beyond the floor limits for HCl. Therefore, in this supplemental proposal, we are proposing emission limits for HCl of 1,100 µg/dscm for existing furnaces and 180 µg/dscm for new or reconstructed furnaces, which are at the level of the MACT floors.

TABLE 6—PROPOSED EMISSIONS LIMITS (µg/dscm) FOR HCL FROM THE FURNACE MELTING PROCESSES

	FeMn and SiMn production (existing sources)	FeMn and SiMn production (new and reconstructed sources)
Proposed Emissions Limits for HCl	1100	180

B. What are the results of the risk assessment and analyses?

1. Inhalation Risk Assessment Results

Table 7 of this preamble provides an overall summary of the results of the inhalation risk assessment.

TABLE 7—FERROALLOYS PRODUCTION SOURCE CATEGORY INHALATION RISK ASSESSMENT RESULTS

Maximum Individual Cancer Risk (-in-1 million) [a]	Estimated Population at Increased Risk Levels of Cancer	Estimated Annual Cancer Incidence (cases per year)	Maximum Chronic Non-cancer TOSHI [b]	Maximum Screening Acute Non-cancer HQ [c]
Actual Emissions				
20	≥ 1-in-1 million: 31,000. ≥ 10-in-1 million: 400	0.002	4	HQ_{REL} = 1 (arsenic compounds, hydrofluoric acid, formaldehyde)

TABLE 7—FERROALLOYS PRODUCTION SOURCE CATEGORY INHALATION RISK ASSESSMENT RESULTS—Continued

Maximum Individual Cancer Risk (-in-1 million) [a]	Estimated Population at Increased Risk Levels of Cancer	Estimated Annual Cancer Incidence (cases per year)	Maximum Chronic Noncancer TOSHI [b]	Maximum Screening Acute Non-cancer HQ [c]
Allowable Emissions [d]	≥ 100-in-1 million: 0.			
	≥ 1-in-1 million: 94,000.			
100	≥ 10-in-1 million: 2,500	0.005	40	—
	≥ 100-in-1 million: 0.			

[a] Estimated maximum individual excess lifetime cancer risk due to HAP emissions from the source category.
[b] Maximum TOSHI. The target organ with the highest TOSHI for the Ferroalloys Production source category for both actual and allowable emissions is the neurological system. The estimated population at increased levels of noncancer hazard is 1,500 based on actual emissions and 11,000 based on allowable emissions.
[c] See Section III.A.3 of this notice for explanation of acute dose-response values. Acute assessments are not performed on allowable emissions.
[d] The development of allowable emission estimates can be found in the memorandum titled *Revised Development of the RTR Emissions Dataset for the Ferroalloys Production Source Category for the 2014 Supplemental Proposal,* which is available in the docket.

The inhalation risk modeling performed to estimate risks based on actual and allowable emissions relied primarily on emissions data from the ICRs and calculations described in the Emissions Memo. The results of the chronic baseline inhalation cancer risk assessment indicate that, based on estimates of current actual emissions, the maximum individual lifetime cancer risk (MIR) posed by the ferroalloys production source category is 20-in-1 million, with chromium compounds, PAHs and nickel compounds from tapping fugitives, furnace fugitives and a furnace accounting for 70 percent of the MIR. The total estimated cancer incidence from ferroalloys production sources based on actual emission levels is 0.002 excess cancer cases per year or one case every 500 years, with emissions of PAH, chromium compounds and cadmium compounds contributing 42 percent, 18 percent and 15 percent, respectively, to this cancer incidence. In addition, we note that approximately 400 people are estimated to have cancer risks greater than or equal to 10-in-1 million, and approximately 31,000 people are estimated to have risks greater than or equal to 1-in-1 million as a result of actual emissions from this source category.

When considering MACT-allowable emissions, the maximum individual lifetime cancer risk is estimated to be up to 100-in-1 million, driven by emissions of arsenic compounds and cadmium compounds from the MOR process baghouse outlet. The estimated cancer incidence is estimated to be 0.005 excess cancer cases per year or one excess case in every 200 years. Approximately 2,500 people are estimated to have cancer risks greater than or equal to 10-in-1 million and approximately 94,000 people are estimated to have cancer risks greater than or equal to 1-in-1 million considering allowable emissions from ferroalloys facilities.

The risk results described in this section and shown in Table 7 are based on the emissions data received prior to summer 2014. These results do not reflect the new PAH, PM or mercury data we received in August 2014 (as described in Section II.D. in this notice). We seek comment on the new data, which are available in the docket for today's action, and how these additional data would impact the risk assessment.

The maximum modeled chronic noncancer HI (TOSHI) value for the source category based on actual emissions is estimated to be 4, with manganese emissions from tapping fugitives accounting for 93 percent of the HI. Approximately 1,500 people are estimated to have exposure to HI levels greater than 1 as a result of actual emissions from this source category. When considering MACT-allowable emissions, the maximum chronic noncancer TOSHI value is estimated to be 40, driven by allowable emissions of manganese from the MOR process baghouse outlet. Approximately 11,000 people are estimated to have exposure to HI levels greater than 1 considering allowable emissions from these ferroalloys facilities.

2. Acute Risk Results

Our screening analysis for worst-case acute impacts based on actual emissions indicates the potential for three pollutants—arsenic compounds, formaldehyde, and hydrofluoric acid—to have HQ values of 1, based on their respective REL value. Both facilities have estimated HQs of 1 for these pollutants.

To better characterize the potential health risks associated with estimated worst-case acute exposures to HAP from the source category at issue and in response to a key recommendation from the SAB's peer review of the EPA's section 112(f) RTR risk assessment methodologies, we examine a wider range of available acute health metrics than we do for our chronic risk assessments. This is in acknowledgement that there are generally more data gaps and inconsistencies in acute reference values than there are in chronic reference values. By definition, the acute CalEPA REL represents a health-protective level of exposure, with no risk anticipated below those levels, even for repeated exposures; however, the health risk from higher-level exposures is unknown. Therefore, when a CalEPA REL is exceeded and an AEGL–1 or ERPG–1 level is available (*i.e.,* levels at which mild effects are anticipated in the general public for a single exposure), we have used them as a second comparative measure. Historically, comparisons of the estimated maximum off-site 1-hour exposure levels have not been typically made to occupational levels for the purpose of characterizing public health risks in RTR assessments. This is because occupational ceiling values are not generally considered protective for the general public since they are designed to protect the worker population (presumed healthy adults) for short-duration (less than 15-minute) increases in exposure. As a result, for most chemicals, the 15-minute occupational ceiling values are set at levels higher than a 1-hour AEGL–1, making comparisons to them irrelevant unless the AEGL–1 or ERPG–1 levels are also exceeded.

All the HAP in this analysis have worst-case acute HQ values of 1 or less, indicating that they carry no potential to pose acute concerns. In characterizing

the potential for acute non-cancer impacts of concern, it is important to remember the upward bias of these exposure estimates (*e.g.,* worst-case meteorology coinciding with a person located at the point of maximum concentration during the hour) and to consider the results along with the conservative estimates used to develop peak hourly emissions as described earlier, as well as the screening methodology. Refer to the document titled *Revised Development of the RTR Emissions Dataset for the Ferroalloys Production Source Category for the 2014 Supplemental Proposal* (which is available in the docket for this action) for a detailed description of how the hourly emissions were developed for this source category.

3. Multipathway Risk Screening Results

Results of the worst-case Tier I screening analysis indicate that PB–HAP emissions (based on estimates of actual emissions) from one or both facilities in this source category exceed the screening emission rates for cadmium compounds, mercury compounds, dioxins and PAH. For the compounds and facilities that did not screen out at Tier I, we conducted a Tier II screen. The Tier II screen replaces some of the assumptions used in Tier I with site-specific data, including the land use around the facilities, the location of fishable lakes and local wind direction and speed. The Tier II screen continues to rely on high-end assumptions about consumption of local fish and locally grown or raised foods (adult female angler at 99th percentile consumption for fish [54] and 90th percentile for consumption of locally grown or raised foods [55]) and uses an assumption that the same individual consumes each of these foods in high end quantities (*i.e.,* that an individual has high end ingestion rates for each food). The result of this analysis was the development of site-specific emission rate screening levels for each PB–HAP. It is important to note that, even with the inclusion of some site-specific information in the Tier II analysis, the multi-pathway screening analysis is still a very conservative, health-protective assessment (*e.g.,* upper-bound consumption of local fish, locally grown and/or raised foods) and in all likelihood will yield results that serve as an upper-bound multi-pathway risk associated with a facility.

While the screening analysis is not designed to produce a quantitative risk result, the factor by which the emissions exceed the screening level serves as a rough gauge of the ''upper-limit'' risks we would expect from a facility. Thus, for example, if a facility emitted a PB–HAP carcinogen at a level 2 times the screening level, we can say with a high degree of confidence that the actual maximum cancer risks will be less than 2-in-1 million. Likewise, if a facility emitted a noncancer PB–HAP at a level 2 times the screening level, the maximum noncancer hazard would represent an HQ less than 2. The high degree of confidence comes from the fact that the screens are developed using the very conservative (health-protective) assumptions that we describe above.

Based on the Tier II screening analysis, no facility emits cadmium compounds above the Tier II screening levels. One facility emits mercury compounds above the Tier II screening levels and exceeds that level by a factor of 9. Both facilities emit chlorinated dibenzodioxins and furans (CDDF) as 2,3,7,8-tetrachlorodibenzo-p-dioxin toxicity equivalent (TEQ) above the Tier II screening levels and the facility with the highest emissions of dioxins exceeds its Tier II screening level by a factor of 20. Both facilities emit POM as benzo(a)pyrene TEQ above the Tier II screening levels and the facility with the highest emissions exceeds its screening level by a factor of 20.

Polychlorinated biphenyls (PCB) are PB–HAP that do not currently have multi-pathway screening values and so are not evaluated for potential non-inhalation risks. These HAP however, are not emitted in appreciable quantities (estimated to be 0.00026 tpy) from the ferroalloys source category and we do not believe they contribute to multi-pathway risks for this source category.

Results of the analysis for lead indicate that based on the baseline, actual emissions, the maximum annual off-site ambient lead concentration was only 50 percent of the NAAQS for lead and if the total annual emissions occurred during a 3-month period, the maximum 3-month rolling average concentrations would exceed the NAAQS. However, as shown later in this preamble, based on emissions estimated for the post-control scenario, the maximum annual off-site ambient lead concentration was only 3 percent of the NAAQS for lead. If the total annual emissions occurred during a 3-month period, the maximum 3-month rolling average concentrations would be about 12 percent of the NAAQS for lead, indicating that there is no concern for multi-pathway risks due to lead emissions.

4. Multipathway Refined Risk Results

A refined multipathway analysis was conducted for one facility in this source category using the TRIM.FaTE model. The facility, Eramet Marietta Incorporated, in Marietta, Ohio, was selected based upon its close proximity to nearby lakes and farms as well as having the highest potential multipathway risks for three of the four PB–HAP based on the Tier II analysis. These three PB–HAP were cadmium, mercury and PAHs. (Even though neither facility exceeded the Tier II screening levels for cadmium, Eramet had the higher value.) Eramet also emits dioxins, but the other facility had a higher exceedance of its Tier II screening level. The refined analysis was conducted on all four PB–HAP. The refined analysis for this facility showed that the Tier II screen for each pollutant over-predicted the potential risk when compared to the refined analysis results.

Overall, the refined analysis predicts a potential lifetime cancer risk of 10-in-1 million to the maximum most exposed individual due to exposure to dioxins and PAHs. The non-cancer HQ is predicted to be below 1 for cadmium compounds and 1 for mercury compounds.

Further details on the refined multipathway analysis can be found in Appendix 10 of the *Residual Risk Assessment for the Ferroalloys Production Source Category in Support of the September 2014 Supplemental Proposal,* which is available in the docket.

5. Environmental Risk Screening Results

As described in Section III.A, we conducted an environmental risk screening assessment for the ferroalloys source category. In the Tier I screening analysis for PB–HAP the individual modeled Tier I concentrations for one facility in the source category exceeded some sediment, fish—avian piscivorus and surface soil benchmarks for PAHs, methylmercury and mercuric chloride. Therefore, we conducted a Tier II assessment.

In the Tier II screening analysis for PAHs and methylmercury none of the individual modeled concentrations for any facility in the source category exceeded any of the ecological benchmarks (either the LOAEL or NOAEL). For mercuric chloride, soil benchmarks were exceeded for some individual modeled points that collectively accounted for 5 percent of the modeled area. However, the

[54] Burger, J. 2002. Daily consumption of wild fish and game: Exposures of high end recreationists. International Journal of Environmental Health Research 12:343–354.

[55] U.S. EPA. Exposure Factors Handbook 2011 Edition (Final). U.S. Environmental Protection Agency, Washington, DC, EPA/600/R–09/052F, 2011.

weighted average modeled concentration for all soil parcels was well below the soil benchmarks.

For HCl, each individual concentration (*i.e.,* each off-site data point in the modeling domain) was below the ecological benchmarks for all facilities. The average modeled HCl concentration around each facility (*i.e.,* the average concentration of all off-site data points in the modeling domain) did not exceed any ecological benchmark.

6. Facility-Wide Risk Assessment Results

For both facilities in this source category, there are no other HAP emissions sources present beyond those included in the source category. Therefore, we conclude that the facility-wide risk is the same as the source category risk and that no separate facility-wide analysis is necessary.

7. Demographic Analysis Results

To examine the potential for any environmental justice (EJ) issues that might be associated with the source category, we performed a demographic analysis, which is an assessment of risks to individual demographic groups, of the population close to the facilities. In this analysis, we evaluated the distribution of HAP-related cancer risks and non-cancer hazards from the ferroalloys production source category across different social, demographic and economic groups within the populations living near facilities identified as having the highest risks. The methodology and the results of the demographic analyses are included in a technical report, *Risk and Technology Review—Analysis of Socio-Economic Factors for Populations Living Near Ferroalloys Facilities,* which is available in the docket for this action.

The results of the demographic analysis are summarized in Table 8 below. These results, for various demographic groups, are based on the estimated risks from actual emissions levels for the population living within 50 km of the facilities.

TABLE 8—FERROALLOY PRODUCTION DEMOGRAPHIC RISK ANALYSIS RESULTS

	Nationwide	Population with cancer risk at or above 1-in-1 million due to ferroalloys production	Population with chronic hazard index above 1 due to ferroalloys production
Total Population	312,861,265	31,283	1,521
Race by Percent			
White	72	96	99
All Other Races	28	4	1
Race by Percent			
White	72	96	99
African American	13	1	0
Native American	1	0	0
Other and Multiracial	14	2	1
Ethnicity by Percent			
Hispanic	17	1	1
Non-Hispanic	83	99	99
Income by Percent			
Below Poverty Level	14	15	7
Above Poverty Level	86	85	93
Education by Percent			
Over 25 and without High School Diploma	15	11	11
Over 25 and with a High School Diploma	85	89	89

The results of the ferroalloys production source category demographic analysis indicate that emissions from the source category expose approximately 31,000 people to a cancer risk at or above 1-in-1 million and approximately 1,500 people to a chronic non-cancer TOSHI greater than 1 (we note that many of those in the first risk group are the same as those in the second). The percentages of the at-risk population in each demographic group (except for White and non-Hispanic) are similar to or lower than their respective nationwide percentages. Implementation of the provisions included in this proposal is expected to significantly reduce the number of people estimated to have a cancer risk greater than 1-in-1 million due to HAP emissions from these sources from 31,000 people to about 6,600 people. Implementation of the provisions included in the proposal also is expected to reduce the number of people estimated to have a chronic non-cancer TOSHI greater than 1 from 1,500 people to no people with a TOSHI greater than 1.

C. What are our proposed decisions regarding risk acceptability, ample margin of safety and adverse environmental effects based on our revised analyses?

1. Risk Acceptability

As noted in Section II.A.1 of this preamble, the EPA sets standards under CAA section 112(f)(2) using ''a two-step standard-setting approach, with an analytical first step to determine an 'acceptable risk' that considers all health information, including risk estimation uncertainty and includes a presumptive limit on maximum individual lifetime risk (MIR) of

approximately 1 in 10 thousand[56].'' (54 FR 38045, September 14, 1989).

In this proposal, the EPA estimated risks based on both actual and allowable emissions from ferroalloy facilities. In determining acceptability, we considered risks based on both actual and allowable emissions.

a. Estimated Risks From Actual Emissions

The baseline inhalation cancer risk to the individual most exposed to emissions from sources in the ferroalloys source category is 20-in-1 million based on actual emissions. The estimated incidence of cancer due to inhalation exposures is 0.002 excess cancer cases per year, or 1 case every 500 years. Approximately 31,000 people face an increased cancer risk greater than 1-in-1 million due to inhalation exposure to actual HAP emissions from this source category and approximately 400 people face an increased risk greater than 10-in-1 million and up to 20-in-1 million. The agency estimates that the maximum chronic non-cancer TOSHI from inhalation exposure is 4, with manganese emissions from tapping fugitives accounting for a large portion (93 percent) of the HI.

The Tier II multipathway screening analysis of actual emissions indicated the potential for PAH emissions that are about 20 times the screening level for cancer, dioxin emissions that are about 20 times the screening level for cancer and mercury emissions that are 9 times above the screening level for non-cancer.

As noted above, the Tier II multipathway screen is conservative in that it incorporates many health-protective assumptions. For example, the EPA chooses inputs from the upper end of the range of possible values for the influential parameters used in the Tier II screen and assumes that the exposed individual exhibits ingestion behavior that would lead to a high total exposure. A Tier II exceedance cannot be equated with a risk value or a HQ or HI. Rather, it represents a high-end estimate of what the risk or hazard may be. For example, an exceedance of 2 for a non-carcinogen can be interpreted to mean that we have high confidence that the HI would be lower than 2. Similarly, an exceedance of 30 for a carcinogen means that we have high confidence that the risk is lower than 30-in-1-million. Confidence comes from the conservative, or health-protective, assumptions that are used in the Tier II screen.

The refined multipathway analysis that the EPA conducted for one specific facility showed that the Tier II screen for each pollutant over-predicted the potential risk when compared to the refined analysis results. That refined multipathway assessment showed that the Tier II screen resulted in estimated risks that are higher than the risks estimated by the refined analysis by 3 times for PAH, 2 times for dioxins, and 6 times for cadmium. The HQ for mercury went from 9 in Tier II to 1.

The screening assessment of worst-case acute inhalation impacts from baseline actual emissions indicates that all pollutants have HQ values of 1 or less, based on their respective REL values. Considering the conservative, health-protective nature of the approach that is used to develop these acute estimates, it is highly unlikely that an individual would have an acute exposure above the REL. Specifically, the analysis is based on the assumption that worst-case emissions and meteorology would coincide with a person being at the exact location of maximum impact for a period of time long enough to have an exposure level above the conservative REL value. The fact that the facilities in this source category are not located in areas that naturally lead to people being near the fence line for periods of time indicates that the exposure scenario used in the screening assessment would be unlikely to occur.

b. Estimated Risks From Allowable Emissions

The EPA estimates that the baseline inhalation cancer risk to the individual most exposed to emissions from sources in the ferroalloys source category is up to 100-in-1 million based on allowable emissions, with arsenic and cadmium emissions driving the risks. The EPA estimates that the incidence of cancer due to inhalation exposures could be up to 0.005 excess cancer cases per year, or 1 case approximately every 200 years. About 94,000 people could face an increased cancer risk greater than 1-in-1 million due to inhalation exposure to allowable HAP emissions from these source categories and approximately 2,500 people could face an increased risk greater than 10-in-1 million and up to 100-in-1 million due to allowable emissions.

The risk assessment estimates that the maximum chronic non-cancer TOSHI from inhalation exposure values is up to 40, driven by allowable manganese emissions. Approximately 11,000 people are estimated to have exposure to HI levels greater than 1.

c. Acceptability Determination

In determining whether risks are acceptable for this source category, the EPA considered all available health information and risk estimation uncertainty as described above.

The risk results indicate that the allowable inhalation cancer risks to the individual most exposed are up to but no greater than approximately 100–in-1 million, which is the presumptive limit of acceptability. The MIR based on actual emissions is 20-in-1 million, well below the presumptive limit. The maximum chronic exposure to manganese exceeds the human health dose-response value for manganese by a factor of approximately 4 based on actual emissions. For allowable emissions, exposures could exceed the health value up to a factor of approximately 40. The noncancer hazard is driven by manganese emissions.

Neither the acute risk nor the risks from the multipathway assessment exceeded levels of concern, however the EPA does note that the refined multipathway exposure estimate for mercury was at the level of the RfD.

The EPA proposes that the risks are unacceptable for the following reasons. First, the EPA considered the fact that the noncancer hazard quotient ranges from 4 based on actual emissions to 40 based on allowable emissions. The EPA has not established under section 112 of the CAA a numerical range for risk acceptability for noncancer effects as it has with carcinogens, nor has it determined that there is a bright line above which acceptability is denied. However, the Agency has established that, as exposure increases above a reference level (as indicated by a HQ or TOSHI greater than 1), confidence that the public will not experience adverse health effects decreases and the likelihood that an effect will occur increases. For the ferroalloys source category, the potential for members of the public to be exposed to manganese at concentrations up to 40 times the MRL reduces the Agency's confidence that the public is protected from adverse health effects and diminishes the Agency's ability to determine that such exposures are acceptable. Second, the EPA considered the fact that the cancer risk estimate for actual emissions is 20-in-1 million and up to 100-in-1 million for allowable emissions. While 20-in-1 million is well within the acceptable range, risks from allowable emissions are at the upper end of the range of acceptability. This fact, combined with

[56] 1-in-10 thousand is equivalent to 100-in-1 million. The EPA currently describes cancer risks as 'n-in-1 million.'

the fact that the noncancer hazard is up to 40 times the MRL and the refined multipathway HQ for mercury is at the RfD, leads the agency to conclude that the risk from this source category is unacceptable.

2. Proposed Controls to Address Unacceptable Risks

a. Stack Emissions

In order to address the unacceptable risk from this source category, we evaluated the potential to reduce MACT-allowable stack emissions, which resulted in a cancer MIR of 100-in-1 million, primarily due to allowable stack emissions of arsenic and cadmium and contributed significantly to the chronic noncancer TOSHI of 40, primarily due to allowable stack emissions of manganese. Our analysis determined that we could lower the existing particulate matter emission limits by approximately 50 percent for furnace stack emissions, by 80 percent for crushing and screening stack emissions and by 98 percent for the metal oxygen refining (MOR) process, which would help reduce risk to an acceptable level. As explained above, the MOR is a major driver of the allowable risks. Therefore, by lowering the MOR limit by 98 percent, this results in a large reduction in the allowable risks.

For the reasons described above, under the authority of CAA section 112(f)(2), we propose particulate matter emission limits for the stacks at the following levels: 4.0 mg/dscm for new or reconstructed electric arc furnaces and 25 mg/dscm for existing electric arc furnaces. In the 2011 proposal, we proposed a limit of 3.9 mg/dscm for any new, reconstructed or existing MOR process and 13 mg/dscm for any new, reconstructed or existing crushing and screening equipment. We believe sources can achieve the limits we are proposing today with existing controls. These emissions limits will substantially reduce potential risks due to allowable emissions from the stacks. We propose that compliance for all existing and new sources will be demonstrated by periodic stack testing, along with installation and continuous operation of bag leak detection systems for both new and existing sources that have baghouses, and continuous monitoring of liquid flow rate and pressure drop for sources controlled with wet scrubbers.

b. Process Fugitive Emissions Sources

Process fugitive sources are partially controlled by the existing MACT rule via a shop building opacity standard; however, that standard was only intended to address tapping process fugitives generated under ''normal'' tapping process operating conditions. Casting and crushing and screening process fugitives in the furnace building were not included. Under the authority of section 112 of the Act, which allows the use of measures to enclose systems or processes to eliminate emissions and measures to collect, capture or treat such pollutants when released from a process, stack, storage, or fugitive emissions point, we evaluated options to achieve improved emissions capture. In the 2011 proposal, we proposed full-enclosure with negative pressure and viewed local capture as not being an appropriate method of risk reduction. However, based on comments and other information gathered since the 2011 proposal and after further review and analyses of available information, we reevaluated whether the necessary risk reduction could be accomplished by an alternative approach to control fugitive emissions based on enhanced local capture of emissions. This control approach would include a combination of primary and secondary hoods that effectively capture process fugitive emissions and vents those emissions to PM control devices. The secondary capture would include hooding at the roof-lines whereby remaining fugitives are collected and vented to control devices. As described further under the technology review section of this preamble, this approach (based on enhanced local capture and control of process fugitives, using primary and secondary hoods), will effectively reduce process fugitive emissions. We conclude that this approach will achieve substantial reductions of process fugitive emissions (approximately 95 percent capture and control of fugitive emissions) and will also substantially reduce the estimated risks due to these emissions. Therefore, under section 112(f) of the CAA we are proposing this control option that is based on enhanced capture of fugitive emissions using primary hoods (that capture process fugitive emissions near the source) and secondary capture of fugitives (which would capture remaining fugitive emissions near the roof-line) and includes a tight opacity limit of 8 percent to ensure fugitives are effectively captured and controlled. We are proposing that the facilities in this source category must install and maintain a process fugitives capture system that is designed to capture and control 95 percent or more of the process fugitive emissions. This is the same exact control approach described in more detail under the technology review section of today's notice and the same control approach that we are proposing under section 112(d)(6) of the Act, as described below. We estimate that this control approach will achieve about 95 percent capture of process fugitive emissions and will achieve about 77 tpy reduction in HAP metals emissions and will substantially reduce risks due to process fugitive emissions. We conclude that achieving these reductions is the level of control needed to address the unacceptable risks due to HAP emissions from the source category.

c. Results of the Post-control Risk Assessment

The results of the post-control chronic inhalation cancer risk assessment indicate that the maximum individual lifetime cancer risk posed by these two facilities, after the implementation of the proposed controls, could be up to 10-in-1 million, reduced from 20-in-1 million (i.e., pre-controls), with an estimated reduction in cancer incidence to 0.001 excess cancer cases per year, reduced from 0.002 excess cancer cases per year. In addition, the number of people estimated to have a cancer risk greater than or equal to 1-in-1 million would be reduced from 31,000 to 6,600. The results of the post-control assessment also indicate that the maximum chronic noncancer inhalation TOSHI value would be reduced to 1, from the baseline estimate of 4. The number of people estimated to have a TOSHI greater than 1 would be reduced from 1,500 to 0. We also estimate that after the implementation of controls, the maximum worst-case acute HQ value would be reduced from 1 to less than 1 (based on REL values).

Considering post-control emissions of multipathway HAP, mercury emissions would be reduced by approximately 3 lbs/yr, lead would be reduced by about 1,600 lbs/yr, POM emissions would be reduced by approximately 5,200 lbs/yr, cadmium would be reduced by about 150 lbs/yr and dioxins and furans would be reduced by about 0.002 lbs/yr from the baseline emission rates.

3. Ample Margin of Safety Analysis

Under the ample margin of safety analysis, we again consider all of the health factors evaluated in the acceptability determination and evaluate the cost and feasibility of available control technologies and other measures (including the controls, measures and costs reviewed under the technology review) that could be applied in this source category to further reduce the risks due to

emissions of HAP identified in our risk assessment.

We estimate that the actions proposed under CAA section 112(f)(2), as described above to address unacceptable risks, will reduce the MIR associated with arsenic, nickel, chromium and PAHs from 20-in-1 million to 10-in-1 million for actual emissions. The cancer incidence will be reduced from 0.002 to 0.001 cases per year and the number of people estimated to have cancer risks greater than 1-in-1 million will be reduced, from 31,000 people to 6,600 people. The chronic noncancer inhalation TOSHI will be reduced from 4 to 1 and the number of people exposed to a TOSHI level greater than 1 will be reduced from 1,500 people to 0. In addition, the potential multipathway impacts will be reduced.

Based on all of the above information, we conclude that the risks after implementation of the proposed controls are acceptable. Based on our research and analysis, we did not identify any cost-effective controls beyond those proposed above that would achieve further reduction in risk. While in theory the 2011 proposed approach of total enclosure would provide some additional risk reduction, the additional risk reduction is minimal and, as noted, we have substantial doubts that it would be feasible for these facilities. Therefore we conclude that the controls to achieve acceptable risks (described above) will also provide an ample margin of safety to protect public health.

D. What are the results and proposed decisions based on our technology review?

1. Metal HAP Emissions Limits From Stacks

As mentioned in the previous section, the available test data from the five furnaces located at two facilities indicate that all of these furnaces have PM emission levels that are well below their respective emission limits (the emission limits are based on size and product being produced in the furnace) in the 1999 MACT rule. These findings demonstrate that the add-on emission control technologies (venturi scrubber, positive pressure fabric filter, negative pressure fabric filter) used to control emissions from the furnaces are quite effective in reducing particulate matter (used as a surrogate for metal HAP) and that all of the facilities have emissions well below the current limits.

Under section 112(d)(6) of the Clean Air Act (CAA), we are required to revise emission standards, taking into account developments in practices, processes and control technologies. The particulate matter (PM) emissions, used as a surrogate for metal HAP, that were reported by the industry in response to the 2010 ICR were far below the level specified in the current NESHAP, indicating improvements in the control of PM emissions since promulgation of the current NESHAP. We re-evaluated the data received in 2010, along with additional data received in 2012 and 2013, to determine whether it is appropriate to propose revised emissions limits for PM from the furnace process vents. The re-evaluation of the PM limits was completed using available PM emissions test data from all the furnaces and consideration of variability across those data. More details regarding the available PM data and this re-evaluation are provided in the *Revised Technology Review for the Ferroalloys Production Source Category for the Supplemental Proposal,* which is available in the docket. Unlike PAH and mercury stack data, we did not see significant differences in variability of the PM data sets depending on product produced (*e.g.,* ferromanganese or silicomanganese). Therefore, we are not proposing to subcategorize the PM stack limits based on product type.

Based on this analysis, we determined that it is appropriate to propose revised PM limits for the furnaces and that the revised existing source furnace stack PM emissions limit should be 25 milligrams per dry standard cubic meter (mg/dscm). Therefore, we are proposing a revised emissions limit of 25 mg/dscm for existing furnace stack PM emissions in this supplemental proposal. This emission limit is slightly higher than the existing source furnace PM emission limit of 24 mg/dscm that we proposed in the 2011 proposal. The revised emissions limit is based on more data than the previous proposed limit. No additional add-on controls are expected to be required by the facilities to meet the revised existing source limit of 25 mg/dscm. However, this revised limit would result in significantly lower ''allowable'' PM emissions from the source category compared to the level of emissions allowed by the 1999 MACT rule and would help prevent any emissions increases. To demonstrate compliance, we propose these sources would be required to conduct periodic performance testing and develop and operate according to a baghouse operating plan or continuously monitor venturi scrubber operating parameters. We also propose that furnace baghouses would be required to be equipped with bag leak detection systems (BLDS).

The revised new source PM standard for furnaces was determined by evaluating the available data from the best performing furnace (which was determined to be furnace #2 at Felman). The new source MACT limit was determined to be 4.0 mg/dscm based on data from furnace #2 and was selected as the proposed MACT emissions limit for PM from new and reconstructed source furnace stacks.

The PM emission limit for the local ventilation control device outlet was also re-evaluated using compliance test data and test data from the 2012 ICR. A local ventilation control device is used to capture tapping, casting, or ladle treatment emissions and direct them to a control device other than one associated with the furnace. The 2011 proposal included a proposed PM limit for the local ventilation control device that was based on PM data from the furnaces. After the 2011 proposal, we received test data from 3 different emissions tests (for a total of 9 test runs) specifically for this local ventilation source. We determined these data were more appropriate for the development of a limit for this source than the furnace data we had used for the 2011 proposal. There is currently only one local ventilation control device outlet emissions source in this source category.

Using the new data for the one existing local ventilation source, we calculated a revised emissions limit of 4.0 mg/dscm and determined that this was an appropriate emissions limit for this source. Therefore we are proposing this emissions limit of 4.0 mg/dscm for existing, new and reconstructed local ventilation control device emissions sources.

2. Metal HAP Emissions From Process Fugitives

In the 2011 proposal, we concluded that a proposed requirement for sources to enclose the furnace building, collect fugitive emissions such that the furnace building is maintained under negative pressure and duct those emissions to a control device represented an advance in emissions control measures since the Ferroalloys Production NESHAP was originally promulgated in 1999. Commenters on the 2011 proposal disagreed with our assessment. Based on these comments, we reassessed the proposed requirement for negative pressure ventilation and determined that the installation and operation of the proposed system may not be feasible and would likely be very costly. For example, the recent secondary lead NESHAP requires use of such a system, but we recognize that a much smaller volume of air must be evacuated at secondary lead facilities because of their

smaller size compared to ferroalloy facilities. We agree that we had underestimated the costs of such negative pressure systems and we have provided updated cost analyses.

Commenters also raised concerns about worker safety and comfort in designing and operating such systems based on historical examples. We believe that such issues can be overcome with proper ventilation design and installation of air conditioning systems and other steps to ensure these issues are not a problem. However, after further review and evaluation we conclude that it would be quite costly for these facilities to become fully enclosed with negative pressure and achieve the appropriate ventilation and conditioning of indoor air.

Going back to the original goal of identifying advances in emissions control measures since the Ferroalloys Production NESHAP was promulgated in 1999, we have arrived at a different conclusion than we described in the 2011 proposal. We re-evaluated the costs and operational feasibility associated with the full building enclosure with negative pressure that we proposed in 2011. We consulted with ventilation experts who have worked with hot process fugitives similar to those found in the ferroalloys industry (*e.g.,* electric arc furnace steel mini-mills and secondary lead smelters). We determined that substantially more air flow, air exchanges, ductwork, fans and control devices and supporting structural improvements would be needed (compared to what we had estimated in the 2011 proposal) to achieve negative pressure and also ensure adequate ventilation and air quality in these large furnace buildings. Therefore, we determined that the proposed negative pressure approach presented in the 2011 proposal would be much more expensive than what we had estimated in 2011 and may not be feasible for these facilities.

We also evaluated another option based on enhanced capture of the process fugitive emissions using a combination of effective local capture with primary hooding close to the emissions sources and secondary capture of remaining fugitives with roof-line capture hoods and control devices. These buildings are currently designed such that fugitive emissions that are not captured by the primary hoods flow upward with a natural draft to the open roof vents and are vented to the atmosphere uncontrolled. Under our enhanced control scenario, the primary capture close to the emissions sources would be significantly improved with effective local hooding and ventilation and the remaining fugitive emissions (that are not captured by the primary hoods) would be drawn up to the roof-line and captured with secondary hooding and vented to control devices.

In cases where additional collection of fugitives from the roof monitors is needed to comply with building opacity limits, fume collection areas may be isolated via baffles (so the area above the furnace where fumes collect may be kept separated from ''empty'' spaces in large buildings) and roof monitors over fume collection areas can be sealed and directed to control devices. The fugitive emission capture system should achieve inflow at the building floor, but outflow toward the roof where most of the remaining fugitives would be captured by the secondary hooding. We conclude that a rigorous, systematic examination of the ventilation requirements throughout the building is the key to developing a fugitive emission capture system (consisting of primary hoods, secondary hoods, enclosures and/or building ventilation ducted to particulate matter control devices) that can be designed and operated to achieve very low levels of fugitive emissions. Such an evaluation considers worker health, safety and comfort and it is designed to optimize existing ventilation options (fan capacity and hood design) and add additional capture options to meet specified design criteria determined through the evaluation process. Thus, we conclude that an enhanced capture system based on these design principles does represent an advancement in technology. We estimate that this control scenario would capture about 95 percent of the process fugitive emissions and vent those emissions to PM control devices. This enhanced local capture option is described in more detail in the Revised Technology Review document and in the *Cost Impacts of Control Options to Address Fugitive HAP Emissions for the Ferroalloys Production NESHAP Supplemental Proposal* document (Cost Impacts document) which are available in the docket.

Under this control option, the cost elements vary by plant and furnace and include the following:

- Curtains or doors surrounding furnace tops to contain fugitive emissions;
- Improvements to hoods collecting tapping emissions;
- Upgrade fans to improve the airflow of fabric filters controlling fugitive emissions;
- Addition of ''secondary capture'' or additional hoods to capture emissions from tapping platforms or crucibles;
- Addition of fugitives capture for casting operations;
- Improvement of existing control devices or addition of fabric filters; and
- Addition of rooftop ventilation, in which fugitive emissions escaping local capture are collected in the roof canopy over process areas through addition of partitions, hoods, and then directed through ducts to control devices.

We estimate the total capital costs of installing the required ductwork, fans and control devices under the enhanced capture option (which is described above and in more detail in the Cost Impacts document) to be $37.6 million and the total annualized cost to be $7.1 million for the two plants. We estimate that this option would reduce metal HAP emissions by 75 tons per year, resulting in a cost per ton of metal HAP removed to be $94,600 per ton ($47 per pound). The total estimated HAP reduction for the enhanced capture option is 77 tons per year at a cost per ton of $91,900 ($46 per pound). We also estimate that this option would achieve PM emission reductions of 229 tons per year, resulting in cost per ton of PM removed of $30,900 per ton and achieve $PM_{2.5}$ emission reductions of 48 tons per year, resulting in a cost per ton of $PM_{2.5}$ removal of $147,000 per ton. We believe these controls for process fugitive HAP emissions (described above), which are based on enhanced capture (with primary and secondary hooding) are feasible for the Ferroalloys Production source category from a technical standpoint and are cost effective. This cost effectiveness is in the range of cost effectiveness for PM and HAP metals from other previous rules. However, it is important to note that there is no bright line for determining cost-effectiveness for HAP metals. Each rulemaking is different and various factors must be considered. Some of the other factors we consider when making decisions whether to establish standards beyond the floor under section 112(d)(2) or under section 112(d)(6) include, but are not limited to, the following: which of the HAP metals are being reduced and by how much; total capital costs; annual costs; and costs compared to total revenues (*e.g.,* costs to revenue ratios).

We also re-evaluated the option based on building ventilation as described in the 2011 proposal. This control option involves installation of full building ventilation at negative pressure for furnace buildings instead of installing fugitive controls on individual tapping and casting operations. This option would require installation of ductwork

from the roof vents of furnace buildings, additional fans, structural repairs to buildings and a new fabric filter for each building. Both Eramet and Felman provided extensive comments and information regarding implementation of building ventilation, including cost estimates based on their own engineering analyses. We thoroughly reviewed the comments and information provided by the companies along with information gathered from other sources, and then revised our costs analyses accordingly for this supplemental proposal.

We estimate that the full building enclosure option would reduce PM emissions from the facilities by 252 tons per year (and total HAP emissions by 83 tons per year). The total estimated capital cost for these fugitive controls is $61 million. Annualized capital cost and operational and maintenance costs are estimated at $19 million per year, which results in an estimated cost per ton of metal HAP removed of $226,000 per ton. We also estimate that this option would achieve PM emission reductions of 252 tons, resulting in cost per ton of PM removed of $74,200 per ton and achieve $PM_{2.5}$ emission reductions of 53 tons, resulting in a cost per ton of $PM_{2.5}$ removal of $353,000 per ton. The incremental cost effectiveness comparing the enhanced capture option to the building ventilation option is $501,000 per ton of PM removed, $2.4 million per ton of $PM_{2.5}$ removed and $2.2 million per ton of HAP removed.

Based on these analyses, we conclude that the full-building enclosure option with negative pressure may not be feasible and would have significant economic impacts on the facilities (including potential closure for one or more facilities). However, we conclude that the enhanced local capture option is a feasible and cost-effective approach to achieve significant reductions in fugitive HAP emissions and will achieve almost as much reductions as the full-building enclosure option (229 vs 252 tons PM reductions) thus achieving most of the risk reductions. In light of the technical feasibility and cost effectiveness of the enhanced capture options, we are proposing the enhanced capture option under the authority of section 112(d)(6) of the CAA.

In the 2011 proposal, we included a requirement that emissions exiting from a shop building may not exceed more than 10 percent opacity for more than one 6-minute period, to be demonstrated every 5 years as part of the periodic required performance tests. For day-to-day continuous monitoring to demonstrate compliance with the proposed shop building requirements, the 2011 proposal relied on achieving the requirement to maintain the shop building at negative pressure to at least 0.007 inches of water. This was to be supplemented by operation and work practice standards that required preparation of a process fugitive emissions ventilation plan for each shop building, which would include schematics with design parameters (*e.g.,* air flow and static pressure) of the ventilation system. The source would conduct a baseline survey to verify that building air supply and exhaust are balanced and the building will be maintained under at least 0.007 inches of water. Such plan would identify critical maintenance activities and schedules, be submitted to the permitting authority and incorporated into the source's operating permit. The baseline survey would be repeated every 5 years or following significant changes to the ventilation system.

With the move to the proposed enhanced local capture alternative, we believe that more frequent opacity monitoring based on an average of 8 percent opacity at all times, is appropriate to demonstrate compliance with the process fugitives standards. We propose that if the average opacity reading from the shop building is greater than 8 percent opacity during an observed furnace process cycle, an additional two more furnace process cycles must be observed such that the average opacity during the entire observation period is less than 7 percent opacity. A furnace process cycle means the period in which the furnace is tapped to the time in which the furnace is tapped again and includes periods of charging, smelting, tapping, casting and ladle raking. We also propose that at no time during operation may any two consecutive 6-minute block opacity readings be greater than 20 percent opacity. We believe that the longer averaging time for this new opacity limit (furnace process cycle vs. individual 6-minute averages) addresses concerns that small variations in an otherwise well-controlled furnace cycle could result in violations of the opacity standard. The proposed 20 percent ceiling ensures that there are no acute events that could adversely affect public health. Finally, the lower limit (8 vs. 10 percent opacity) also reflects that sources should achieve lower overall emissions over a longer averaging period. We propose that sources be required to conduct opacity observations at least once per week for each operating furnace and each MOR operation. Similar to the 2011 proposal, continuous monitoring of key ventilation operating system parameters and periodic inspections of the ventilation systems would ensure that the ventilation systems are operating as designed.

Also, similar to the 2011 proposal, we believe that the source should demonstrate that the overall design of the ventilation system is adequate to achieve the proposed standards. We propose that the facilities in this source category must maintain a process fugitives capture system that is designed to collect 95 percent or more of the process fugitive emissions from furnace operations, casting MOR process, ladle raking and slag skimming and crushing and screening operations and convey the collected emissions to a control device that meets specified emission limits and the proposed opacity limits. We believe that if the source designs the plan according to the most recent (at the time of construction) ventilation design principles recommended by the American Conference of Governmental Industrial Hygienists (ACHIH), includes detailed schematics of the ventilation system design, addresses variables that affect capture efficiency such as cross drafts and describes protocol or design characteristics to minimize such events and identifies monitoring and maintenance steps, the plan will be capable of ensuring the system is properly designed and continues to operate as designed. We would continue to require that this plan be submitted to the permitting authority, incorporated into the source's operating permit and updated every 5 years or when there is a significant change in variables that affect process fugitive emissions ventilation design. This list of design criteria, coupled with the requirement for frequent opacity observations and operating parameter monitoring will result in enforceable requirements. We recognize that other design requirements and/or more frequent opacity observations may yield more compliance certainty, but incur greater costs and not result in measurable decreases in emissions. However, we request comment on other measures that could be considered to demonstrate that well designed (*e.g.,* at least 95 percent overall capture of process fugitive emissions) plans are developed and maintained. We request that such comments include costs, measurement techniques or other information to evaluate their efficacy.

E. What other actions are we proposing?

In addition to the proposed actions described above, we re-evaluated compliance requirements associated with the 2011 proposed amendments to

determine whether we should make changes to those proposed amendments. Based on this re-evaluation, we are proposing the following changes to what was proposed in the 2011 proposal.

1. Stack Emission Limits

In response to public comments, we revisited the format of the stack emission limits. We concluded that a concentration-based limit is still appropriate, but we agree that the proposed CO_2 concentration correction poses a problem under certain control device configurations. While such a concentration correction is appropriate for combustion sources such as boilers, we agree that its use in the context of ferroalloys production is not helpful. The PM stack limits proposed above do not include a CO_2 correction.

2. Emissions Averaging

As described above, we have decided to retain a concentration format for the emissions limits for the stacks but we are not retaining the emissions averaging provision in this supplemental proposal that we had proposed in 2011. We believe a concentration format is the best format for this NESHAP and we have concluded that it is not the best format to use under an emissions averaging option. We are concerned that emissions from a large furnace emitting a lower than average concentration could still emit more emissions than a small furnace with a higher than average concentration. This could result in a net increase in emissions from the two furnaces compared to their emissions if they were not allowed to average emissions. For this reason, we are proposing not to include the emissions averaging provisions in the rule, which is a change from the 2011 proposal.

3. Fenceline Monitoring Alternative

In the 2011 proposal, we assumed there could be control measures other than maintaining the furnace buildings under negative pressure that would achieve equivalent emissions reductions. Therefore, to provide some flexibility to facilities regarding how to achieve the reductions of fugitive emissions, in lieu of building the full enclosure and evacuation system described in the 2011 proposal, we proposed that sources could demonstrate compliance with an alternative approach by conducting fenceline monitoring and demonstrate that the ambient concentrations of manganese at their facility boundary remain at levels no more than 0.1 $\mu g/m^3$ on a 60-day rolling average. However, at this time, we believe that the proposed enhanced local capture option described in this supplemental proposal incorporates the features anticipated in a non-negative pressure building option and contains compliance requirements (based on meeting a tight opacity limit and other requirements) that would assess emissions at the point of the maximum output, that is, from the roof monitor of the ferroalloys production building. Furthermore, we determined there were various issues associated with fenceline monitoring at facilities within this source category, including highly variable wind patterns, uncertainties as to how to account for background concentrations and road dust and the large difference between emissions release heights (from the high roof vents and stacks) compared to heights where fenceline monitors would be located (near ground level). Therefore, we are proposing to not include fenceline monitoring in the final rule as an alternative method to demonstrate compliance with a specific ambient level as was described in the 2011 proposal. We believe the proposed tight opacity limit (which would be measured at the emissions sources), along with the proposed requirements to install, operate and maintain effective fugitive capture and control systems, emissions limits for the stacks and various parametric monitoring requirements, are appropriate control requirements to ensure effective capture and control of emissions. However, as described in Section V.I. of this Notice, we are seeking comments regarding other possible options to monitor fugitive emissions, including fenceline monitoring as a tool to monitor trends in ambient concentrations at these locations and to use this information (along with meteorological data and modeling tools) to attempt to quantify trends in emissions that are leaving and entering the facility property.

4. Startup, Shutdown, Malfunction

In the 2011 proposal, we proposed to eliminate two provisions that exempt sources from the requirement to comply with the otherwise applicable CAA section 112(d) emission standards during periods of SSM. We also included provisions for affirmative defense to civil penalties for violations of emission standards caused by malfunctions. Periods of startup, normal operations, and shutdown are all predictable and routine aspects of a source's operations. However, by contrast, malfunction is defined as a ''sudden, infrequent, and not reasonably preventable failure of air pollution control and monitoring equipment, process equipment or a process to operate in a normal or usual manner . . .'' (40 CFR 63.2). As explained in the 2011 proposal, the EPA interprets CAA section 112 as not requiring emissions that occur during periods of malfunction to be factored into development of CAA section 112 standards. Under section 112, emissions standards for new sources must be no less stringent than the level ''achieved'' by the best controlled similar source and for existing sources generally must be no less stringent than the average emission limitation ''achieved'' by the best performing 12 percent of sources in the category. There is nothing in section 112 that directs the Agency to consider malfunctions in determining the level ''achieved'' by the best performing sources when setting emission standards. As the DC Circuit has recognized, the phrase ''average emissions limitation achieved by the best performing 12 percent of'' sources ''says nothing about how the performance of the best units is to be calculated.'' *Nat'l Ass'n of Clean Water Agencies* v. *EPA,* 734 F.3d 1115, 1141 (D.C. Cir. 2013). While the EPA accounts for variability in setting emissions standards, nothing in section 112 requires the Agency to consider malfunctions as part of that analysis. A malfunction should not be treated in the same manner as the type of variation in performance that occurs during routine operations of a source. A malfunction is a failure of the source to perform in a ''normal or usual manner'' and no statutory language compels the EPA to consider such events in setting section 112 standards.

Further, accounting for malfunctions in setting emission standards would be difficult, if not impossible, given the myriad different types of malfunctions that can occur across all sources in the category and given the difficulties associated with predicting or accounting for the frequency, degree and duration of various malfunctions that might occur. As such, the performance of units that are malfunctioning is not ''reasonably'' foreseeable. See, *e.g., Sierra Club* v. *EPA,* 167 F.3d 658, 662 (D.C. Cir. 1999) (''The EPA typically has wide latitude in determining the extent of data-gathering necessary to solve a problem. We generally defer to an agency's decision to proceed on the basis of imperfect scientific information, rather than to 'invest the resources to conduct the perfect study.' '') See also, *Weyerhaeuser* v. *Costle,* 590 F.2d 1011, 1058 (D.C. Cir. 1978) (''In the nature of things, no general limit, individual permit, or even any upset provision can anticipate all upset situations. After a

certain point, the transgression of regulatory limits caused by 'uncontrollable acts of third parties,' such as strikes, sabotage, operator intoxication or insanity, and a variety of other eventualities, must be a matter for the administrative exercise of case-by-case enforcement discretion, not for specification in advance by regulation.''). In addition, emissions during a malfunction event can be significantly higher than emissions at any other time of source operation. For example, if an air pollution control device with 99 percent removal goes off-line as a result of a malfunction (as might happen if, for example, the bags in a baghouse catch fire) and the emission unit is a steady state type unit that would take days to shut down, the source would go from 99 percent control to zero control until the control device was repaired. The source's emissions during the malfunction would be 100 times higher than during normal operations. As such, the emissions over a 4-day malfunction period would exceed the annual emissions of the source during normal operations. As this example illustrates, accounting for malfunctions could lead to standards that are not reflective of (and significantly less stringent than) levels that are achieved by a well-performing non-malfunctioning source. It is reasonable to interpret section 112 to avoid such a result. The EPA's approach to malfunctions is consistent with section 112 and is a reasonable interpretation of the statute.

In the event that a source fails to comply with the applicable CAA section 112 standards as a result of a malfunction event, the EPA would determine an appropriate response based on, among other things, the good faith efforts of the source to minimize emissions during malfunction periods, including preventative and corrective actions, as well as root cause analyses to ascertain and rectify excess emissions. The EPA would also consider whether the source's failure to comply with the CAA section 112 standard was, in fact, ''sudden, infrequent, not reasonably preventable'' and was not instead ''caused in part by poor maintenance or careless operation.'' 40 CFR § 63.2 (definition of malfunction).

Further, to the extent the EPA files an enforcement action against a source for violation of an emission standard, the source can raise any and all defenses in that enforcement action and the federal district court will determine what, if any, relief is appropriate. The same is true for citizen enforcement actions. Similarly, the presiding officer in an administrative proceeding can consider any defense raised and determine whether administrative penalties are appropriate.

As noted above, the 2011 proposal included an affirmative defense to civil penalties for violations caused by malfunctions. EPA included the affirmative defense in the 2011 proposal as it had in several prior rules in an effort to create a system that incorporates some flexibility, recognizing that there is a tension, inherent in many types of air regulation, to ensure adequate compliance while simultaneously recognizing that despite the most diligent of efforts, emission standards may be violated under circumstances entirely beyond the control of the source. Although the EPA recognized that its case-by-case enforcement discretion provides sufficient flexibility in these circumstances, it included the affirmative defense in the 2011 proposal and in several prior rules to provide a more formalized approach and more regulatory clarity. See *Weyerhaeuser Co.* v. *Costle,* 590 F.2d 1011, 1057–58 (D.C. Cir. 1978) (holding that an informal case-by-case enforcement discretion approach is adequate); but see *Marathon Oil Co.* v. *EPA,* 564 F.2d 1253, 1272–73 (9th Cir. 1977) (requiring a more formalized approach to consideration of ''upsets beyond the control of the permit holder.''). Under the EPA's regulatory affirmative defense provisions, if a source could demonstrate in a judicial or administrative proceeding that it had met the requirements of the affirmative defense in the regulation, civil penalties would not be assessed. The United States Court of Appeals for the District of Columbia Circuit vacated an affirmative defense in one of the EPA's Section 112 regulations. *NRDC* v. *EPA,* 749 F.3d 1055 No. 10–1371 (D.C. Cir., 2014) (vacating affirmative defense provisions in Section 112 rule establishing emission standards for Portland cement kilns). The court found that the EPA lacked authority to establish an affirmative defense for private civil suits and held that under the CAA, the authority to determine civil penalty amounts in such cases lies exclusively with the courts, not the EPA. Specifically, the Court found: ''As the language of the statute makes clear, the courts determine, on a case-by-case basis, whether civil penalties are 'appropriate.' '' See NRDC at *21 (''[U]nder this statute, deciding whether penalties are 'appropriate' in a given private civil suit is a job for the courts, not EPA.''). In light of NRDC, the EPA is withdrawing its proposal to include a regulatory affirmative defense provision in this rulemaking and in this proposal has eliminated sections 63.1627 and 63.1662 (the affirmative defense provisions in the proposed rule published in the **Federal Register** on November 23, 2011 (76 FR 72508)). As explained above, if a source is unable to comply with emissions standards as a result of a malfunction, the EPA may use its case-by-case enforcement discretion to provide flexibility, as appropriate. Further, as the DC Circuit recognized, in an EPA or citizen enforcement action, the court has the discretion to consider any defense raised and determine whether penalties are appropriate. Cf. NRDC at *24. (arguments that violation were caused by unavoidable technology failure can be made to the courts in future civil cases when the issue arises). The same logic applies to EPA administrative enforcement actions.

F. What compliance dates are we proposing?

The proposed changes to the 2011 proposal that are set out in this supplementary proposal will not change the compliance dates proposed. We continue to propose that facilities must comply with the changes set out in this supplementary proposal (which are being proposed under CAA sections 112(d)(2), 112(d)(3), 112(d)(6) and 112(f)(2) for all affected sources), no later than 2 years after the effective date of the final rule. We find that 2 years are necessary to complete the installation of the enhanced local capture system and other controls. In the period between the effective date of this rule and the compliance date, existing sources would continue to comply with the existing requirements specified in §§ 63.1650 through 63.1661, which will protect the health of persons from imminent endangerment.

V. Summary of the Revised Cost, Environmental and Economic Impacts

A. What are the affected sources?

We maintain, as at the 2011 proposal, that the two manganese ferroalloys production facilities currently operating in the United States will be affected by these proposed amendments. We do not know of any new facilities that are expected to be constructed in the foreseeable future. However, there is one other facility that has a permit to produce ferromanganese or silicomanganese in an electric arc furnace, but it is not doing so at present. It is possible, however, that this facility could resume production or another non-manganese ferroalloy producer

could decide to commence production of ferromanganese or silicomanganese. Given this uncertainty, our impact analysis is focused on the two existing sources that are currently operating.

B. What are the air quality impacts?

The EPA revised the estimated emissions reductions that are expected to result from the proposed amendments to the 1999 NESHAP based on the proposed changes in this supplemental proposal. A detailed documentation of the analysis can be found in the Cost Impacts document, which is available in the docket.

As noted in the 2011 proposal, emissions of metal HAP from ferroalloys production sources have declined in recent years, primarily as the result of state actions and also due to the industry's own initiative. The proposed amendments in this supplemental proposal would cut HAP emissions (primarily particulate metal HAP such as manganese, arsenic and nickel) by about 60 percent from their current levels. Under the revised proposed emissions standards for process fugitives emissions from the furnace building, we estimate that the HAP emissions reductions would be 77 tpy, including significant reductions of manganese.

As noted in the 2011 proposal, based on the emissions data available to the EPA, we believe that both facilities will be able to comply with the proposed emissions limits for HCl without additional controls. Based on the analyses presented today, we also anticipate that both facilities will be able to comply with the proposed emission limits for mercury and PAH without additional controls.

C. What are the cost impacts?

Under the revised proposed amendments, ferroalloys production facilities are expected to incur costs for the design of a local ventilation system, resulting in a site-specific local ventilation plan and installation of custom hoods and ventilation equipment and additional control devices to manage the air flows generated by the enhanced capture systems. There would also be capital costs associated with installing new or improved continuous monitoring systems, including installation of BLDS on the furnace baghouses that are not currently equipped with these systems.

The revised capital costs for each facility were estimated based on the projected number and types of upgrades required. The specific enhancements for each facility were selected for cost estimation based on estimates directly provided by the facilities based on their engineering analyses and discussions with the EPA. The Cost Impacts document includes a complete description of the revised cost estimate methods used for this analysis and is available in the docket.

Cost elements vary by plant and furnace and include the following elements:

- Curtains or doors surrounding furnace tops to contain fugitive emissions;
- Improvements to hoods collecting tapping emissions;
- Upgraded fans to improve the airflow of fabric filters controlling fugitive emissions;
- Addition of ''secondary capture'' or additional hoods to capture emissions from tapping platforms or crucibles;
- Addition of fugitives capture for casting operations;
- Improvement of existing control devices or addition of fabric filters; and
- Addition of rooftop ventilation, in which fugitive emissions escaping local control are collected in the roof canopy over process areas through addition of partitions and hoods, then directed through roof vents and ducts to control devices.

For purposes of the supplemental proposal analysis, we assumed that enhanced fugitive capture and control systems and roofline ventilation will be installed for all operational furnaces at both facilities and for MOR operations at Eramet Marietta. The specific elements of the capture and control systems selected for each facility are based on information supplied by the facilities incorporating their best estimates of the improvements to fugitive emission capture and control they would implement to achieve the standards included in the supplemental proposal. We estimate the total capital costs of installing the required ductwork, fans and control devices under the enhanced capture option to be $37.6 million and the total annualized cost to be $7.1 million (2012 dollars) for the two plants. We estimate that this option would reduce metal HAP emissions by 75 tons, resulting in a cost per ton of metal HAP removed to be $94,700 per ton ($47 per pound). The total HAP reduction for the enhanced capture option is estimated to be 77 tons per year at a cost per ton of $91,900 per ton ($46 per pound). We also estimate that this option would achieve PM emission reductions of 229 tons per year, resulting in cost per ton of PM removed of $30,900 per ton and achieve $PM_{2.5}$ emission reductions of 48 tons per year, resulting in a cost per ton of $PM_{2.5}$ removal of $147,000 per ton.

D. What are the economic impacts?

As a result of the requirements in this supplemental proposal, we estimate that the total capital cost for the Eramet facility will be about $25 million and the total annualized costs will be about $5.4 million (in 2012 dollars). For impacts to Felman Production LLC, this facility is estimated to incur a total capital cost of $12.4 million and a total annualized costs of just under $1.7 million (in 2012 dollars). In total, these costs could lead to an increase in annualized cost of as much as 1.8 percent of sales, which serves as an estimate for the increase in product prices, and a decrease in output of as much as 9.5 percent. For more information regarding economic impacts, please refer to the *Economic Impact Analysis* report that is included in the public docket for this supplemental proposal.

E. What are the benefits?

The estimated reductions in HAP emissions (*i.e.,* about 77 tpy) that would be achieved by this proposal would provide significant benefits to public health. For example, there would be a significant reduction in emissions of air toxics (especially Mn, Ni, Cd and PAHs). In addition to the HAP reductions, we also estimate that this supplemental proposal would achieve about 48 tons of reductions in $PM_{2.5}$ emissions as a co-benefit of the HAP reductions annually.

This rulemaking is not an ''economically significant regulatory action'' under Executive Order 12866 because it is not likely to have an annual effect on the economy of $100 million or more. Therefore, we have not conducted a Regulatory Impact Analysis (RIA) for this rulemaking or a benefits analysis. While we expect that these avoided emissions will result in improvements in air quality and reduce health effects associated with exposure to air pollution associated with these emissions, we have not quantified or monetized the benefits of reducing these emissions for this rulemaking. This does not imply that there are no benefits associated with these emission reductions. When determining if the benefits of an action exceed its costs, Executive Orders 12866 and 13563 direct the Agency to consider qualitative benefits that are difficult to quantity but nevertheless essential to consider.

Directly emitted particles are precursors to secondary formation of fine particles ($PM_{2.5}$). Controls installed to reduce HAP would also reduce ambient concentrations of $PM_{2.5}$ as a co-benefit. Reducing exposure to $PM_{2.5}$ is

associated with significant human health benefits, including avoiding mortality and morbidity from cardiovascular and respiratory illnesses. Researchers have associated $PM_{2.5}$ exposure with adverse health effects in numerous toxicological, clinical and epidemiological studies (U.S. EPA, 2009) [57]. When adequate data and resources are available and an RIA is required, the EPA generally quantifies several health effects associated with exposure to $PM_{2.5}$ (*e.g.,* U.S. EPA, 2012) [58]. These health effects include premature mortality for adults and infants, cardiovascular morbidities such as heart attacks, hospital admissions and respiratory morbidities such as asthma attacks, acute bronchitis, hospital and emergency department visits, work loss days, restricted activity days and respiratory symptoms. The scientific literature also suggests that exposure to $PM_{2.5}$ is also associated with adverse effects on birth weight, pre-term births, pulmonary function and other cardiovascular and respiratory effects (U.S. EPA, 2009), but the EPA has not quantified certain outcomes these impacts in its benefits analyses. $PM_{2.5}$ also increases light extinction, which is an important aspect of visibility.

The rulemaking is also anticipated to reduce emissions of other HAP, including metal HAP (arsenic, cadmium, chromium (both total and Cr^{+6}), lead compounds, manganese and nickel) and PAHs. Some of these HAP are carcinogenic (e.g., arsenic, PAHs) and some have effects other than cancer (e.g., kidney disease from cadmium, respiratory and immunological effects from nickel). While we cannot quantitatively estimate the benefits achieved by reducing emissions of these HAP, we would expect benefits by reducing exposures to these HAP. More information about the health effects of these HAP can be found on the IRIS,[59] ATSDR,[60] and California EPA [61] Web pages.

VI. Request for Comments

We solicit comments on the revised risk assessment and technology review and proposed changes to the previously proposed amendments. We seek comments on the additional data received in August 2014 (as described in Section II.D above) and the impacts of those new data on the analyses and results presented in this notice. We seek comments on the sufficiency of the proposed controls for process fugitive emissions, the design of such systems and how best to monitor them to ensure the systems achieve the estimated efficiency. We also seek comments on other aspects of this supplemental proposal, including, but not limited to, the proposed opacity standards.

The EPA is also soliciting comment with regard to expanding the monitoring requirements in this NESHAP for fugitive particulate matter and manganese emissions being released at the roof vents of furnace buildings using one or more of three different options. For the following three options the EPA is additionally seeking comment on the frequency of monitoring and the cost associated with installation, operation, analysis and ongoing reporting. Additional cost information of these three monitoring options is included in the Cost Impacts document, which is available in the docket.

First, the EPA is soliciting comment on the potential to require the facilities to take periodic measurements of fugitive particulate matter and manganese emissions from the roof vents using portable filter based measurement technologies. The EPA solicits comment on requiring no less than 3 filter based monitoring systems with associated anemometers with the goal of quantifying trends in the process fugitive emissions that are leaving the furnace buildings. We also solicit comment on the appropriate sampling duration and frequency of such measurements (e.g., 8-hour samples gathered at each monitor several times per week or month). This monitoring could provide useful information regarding the remaining fugitive emissions that will be escaping the buildings after the facilities install and operate the improved capture and controls systems that we expect will be installed to comply with this proposed rule. This information will also help improve our understanding of the relationship between the process fugitive emissions and the specific operations within the furnace buildings. However, the measurements would not be tied to a specific emissions limit.

Second, the EPA is soliciting comment on requiring fugitive fenceline filter based measurements of particulate matter and manganese emissions at the facilities with no less than 3 monitoring systems at the property boundaries to monitor trends in ambient concentrations at these locations and to use this information (along with meteorological data and modeling tools) to attempt to quantify trends in emissions that are leaving and entering the facility property. The EPA seeks comment on having the monitoring systems use common ambient filter based sampling techniques as well as gathering data on meteorological conditions simultaneously at each of the sampling sites. The EPA recognizes that this monitoring would be capturing both ground level and other fugitive emissions from the facilities as well as background contributions from other sources, and that this type of monitoring has limitations. Nevertheless, EPA is taking comment on the application and appropriateness of this type of monitoring as part of the requirements within this NESHAP to evaluate emissions leaving the facility property and is taking comment on where to position the monitoring systems to best evaluate the fugitive emissions.

Third, the EPA is soliciting comment regarding the use of new technologies to provide continuous or near continuous long term approaches to monitoring emissions from industrial sources such the Ferroalloys production facilities within this source category. To this end we are seeking comment on the feasibility and practice associated with the use of automated Opacity Monitoring with ASTM D7520–13, using digital camera technology (DCOT) at fixed points to interpret visible emissions from roof vents associated with the processes at each facility, and how this technology could potentially be included as part of the requirements in the NESHAP for ferroalloys production sources. Specifically we are interested in comments regarding how many fixed camera locations would be needed to provide sufficient sun-angle viewing during daylight operating hours, and the frequency of the EXIF 2.1 JPG image analysis (how often the roof vent plume should be evaluated).

[57] U.S. Environmental Protection Agency (U.S. EPA). 2009. *Integrated Science Assessment for Particulate Matter* (Final Report). EPA–600–R–08–139F. National Center for Environmental Assessment—RTP Division. Available on the Internet at *http://cfpub.epa.gov/ncea/cfm/recordisplay.cfm?deid=216546.*

[58] U.S. Environmental Protection Agency (U.S. EPA). 2012. Regulatory Impact Analysis for the Proposed Revisions to the National Ambient Air Quality Standards for Particulate Matter. Office of Air and Radiation, Research Triangle Park, NC. Available on the Internet at *http://www.epa.gov/ttnecas1/regdata/RIAs/PMRIACombinedFile_Bookmarked.pdf.*

[59] US EPA, 2006. Integrated Risk Information System. *http://www.epa.gov/iris/index.html.*

[60] US Agency for Toxic Substances and Disease Registry, 2006. Minimum Risk Levels (MRLs) for Hazardous Substances. *http://www.atsdr.cdc.gov/mrls/index.html.*

[61] CA Office of Environmental Health Hazard Assessment, 2005. Chronic Reference Exposure Levels Adopted by OEHHA as of December 2008. *http://www.oehha.ca.gov/air/chronic_rels.*

The EPA is moving toward advances in information and emissions monitoring technology that is setting the stage for detection, processing and communication capabilities that can revolutionize environmental protection. The EPA calls this Next Generation Compliance. One of the advances in information sharing is increased transparency. Using transparency as a way to improve performance and increase compliance, the EPA is seeking comments on whether affected sources should be required to post Method 9 readings on their company Web sites and/or State dashboards.

Electronic reporting is another next generation tool that saves time and money while improving results. The EPA is asking for comments on whether the EPA should require affected sources to submit all compliance documents such as notice of compliance status form, deviations from the process fugitive ventilation plan and outdoor fugitive dust plan, and electronic records of the bag leak detection system output.

We are not opening comment on aspects of the 2011 proposal (76 FR 72508) that have not changed and are not addressed in this supplemental proposal. Comments received on the 2011 proposal along with comments received on this supplemental proposal will be addressed in the EPA's Response to Comment document and final rule preamble for the Ferroalloys Production source category.

VII. Submitting Data Corrections

The site-specific emissions profiles used in the source category risk and demographic analyses and instructions are available for download on the RTR Web page at: *http://www.epa.gov/ttn/atw/rrisk/rtrpg.html.* The data files include detailed information for each HAP emissions release point for the facilities in the source category.

If you believe that the data are not representative or are inaccurate, please identify the data in question, provide your reason for concern and provide any ''improved'' data that you have, if available. When you submit data, we request that you provide documentation of the basis for the revised values to support your suggested changes. To submit comments on the data downloaded from the RTR page, complete the following steps:

1. Within this downloaded file, enter suggested revisions to the data fields appropriate for that information.

2. Fill in the commenter information fields for each suggested revision (*i.e.,* commenter name, commenter organization, commenter email address, commenter phone number and revision comments).

3. Gather documentation for any suggested emissions revisions (*e.g.,* performance test reports, material balance calculations, etc.).

4. Send the entire downloaded file with suggested revisions in Microsoft® Access format and all accompanying documentation to Docket ID Number EPA–HQ–OAR–*** (through one of the methods described in the **ADDRESSES** section of this preamble).

5. If you are providing comments on a single facility or multiple facilities, you need only submit one file for all facilities. The file should contain all suggested changes for all sources at that facility. We request that all data revision comments be submitted in the form of updated Microsoft® Excel files that are generated by the Microsoft® Access file. These files are provided on the RTR Web page at: *http://www.epa.gov/ttn/atw/rrisk/rtrpg.html.*

VIII. Statutory and Executive Order Reviews

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

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is a significant regulatory action because it raises novel legal and policy issues. Accordingly, the EPA submitted this action to the Office of Management and Budget (OMB) for review under Executive Orders 12866 and 13563 (76 FR 3821, January 21, 2011) and any changes made in response to OMB recommendations have been documented in the docket for this action.

B. Paperwork Reduction Act

The information collection requirements in this supplemental proposed rule have been submitted for approval to the Office of Management and Budget (OMB) under the *Paperwork Reduction Act,* 44 U.S.C. 3501, *et seq.* The Information Collection Request (ICR) document prepared by the EPA has been assigned EPA ICR number 2448.01.

We are proposing changes to the paperwork requirements to the ferroalloys production source category that were proposed in 2011. In the 2011 proposal, we proposed paperwork requirements in the form of increased frequency and number of pollutants tested for stack testing as described in § 63.1625(c) and tighter parameter monitoring requirements to demonstrate continuous compliance as described in § 63.1625(c)(4) and § 63.1626. We are not proposing changes to these requirements. However, in this supplemental proposal we are proposing more frequent opacity monitoring requirements compared to the 2011 proposal and are removing the shop building process fugitives monitoring requirements (to demonstrate negative pressure) that we proposed in 2011.

In addition, in the 2011 proposal, we included an estimate of the burden associated with the affirmative defense in the ICR. However, as explained above, in this supplemental proposal we are withdrawing our proposal to include an affirmative defense and the burden estimate has been revised accordingly.

We estimate two regulated entities are currently subject to subpart XXX and will be subject to this action. The annual monitoring, reporting and recordkeeping burden for this collection (averaged over the first 3 years after the effective date of the standards) as a result of the supplemental proposal revised amendments to subpart XXX (Ferroalloys Production) is estimated to be $643,845 per year. This includes 496 labor hours per year at a total labor cost of $44,366 per year and total non-labor capital and operation and maintenance costs, of $599,479 per year. This estimate includes performance tests, notifications, reporting and recordkeeping associated with the new requirements for ferroalloys production operations. The total burden for the federal government (averaged over the first 3 years after the effective date of the standard) is estimated to be 48 hours per year at a total labor cost of $2,177 per year. Burden is defined at 5 CFR 1320.3(b).

An agency may not conduct or sponsor and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for the EPA's regulations in 40 CFR are listed in 40 CFR part 9.

To comment on the Agency's need for this information, the accuracy of the provided burden estimates and any suggested methods for minimizing respondent burden, the EPA has established a public docket for this rule, which includes this ICR, under Docket ID number Docket ID Number EPA–HQ–OAR–2010–0895. Submit any comments related to the ICR to the EPA and OMB. See **ADDRESSES** section at the beginning of this notice for where to submit comments to the EPA. Send comments to OMB at the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street NW., Washington, DC 20503,

Attention: Desk Office for the EPA. Since OMB is required to make a decision concerning the ICR between 30 and 60 days after October 6, 2014, a comment to OMB is best assured of having its full effect if OMB receives it by November 5, 2014. The final rule will respond to any OMB or public comments on the information collection requirements contained in this proposal.

C. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) generally requires an agency to prepare a regulatory flexibility analysis of any 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 final rule on small entities, small entity is defined as: (1) a small business as defined by the Small Business Administration's (SBA) regulations at 13 CFR 121.201; (2) a small governmental jurisdiction that is a government of a city, county, town, school district or special district with a population of less than 50,000; and (3) a small organization that is any not-for-profit enterprise that is independently owned and operated and is not dominant in its field. For this source category, which has the NAICS code 331110 (*i.e.,* Electrometallurgical ferroalloy product manufacturing), the SBA small business size standard is 1,000 employees according to the SBA small business standards definitions.

After considering the economic impacts of today's action on small entities, I certify that this action will not have a significant economic impact on a substantial number of small entities. Neither of the companies affected by this rule is considered to be a small entity per the definition provided in this section.

D. Unfunded Mandates Reform Act

This action does not contain a federal mandate under the provisions of Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), 2 U.S.C. 1531–1538 for state, local, or tribal governments, or the private sector. The action would not result in expenditures of $100 million or more for state, local and tribal governments, in aggregate, or the private sector in any 1 year. This final action imposes no enforceable duties on any state, local, or tribal governments, or the private sector. Thus, this action is not subject to the requirements of sections 202 or 205 of the UMRA.

This rule is also not subject to the requirements of section 203 of UMRA because it contains no regulatory requirements that might significantly or uniquely affect small governments as it contains no requirements that apply to such governments nor does it impose 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. None of the facilities subject to this action are owned or operated by state governments and, because no new requirements are being promulgated, nothing in this action will supersede state regulations. Thus, Executive Order 13132 does not apply to this action.

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). Thus, Executive Order 13175 does not apply to this action. The EPA specifically solicited comment on this action from tribal officials in the 2011 proposal and none were received during the comment period for that proposal.

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

This action is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997) because the Agency does not believe the environmental health risks or safety risks addressed by this action present a disproportionate risk to children. The report, *Analysis of Socio-Economic Factors for Populations Living Near Ferroalloys Facilities,* shows that, prior to the implementation of the provisions included in the proposal and this supplemental proposal, on a nationwide basis, there are approximately 31,000 people exposed to a cancer risk at or above 1-in-1 million and approximately 1,500 people exposed to a chronic noncancer TOSHI greater than 1 due to emissions from the source category. The percentages for all demographic groups, including children 18 years and younger, are similar to or lower than their respective nationwide percentages. Further, implementation of the provisions included in this action is expected to significantly reduce the number of at-risk people due to HAP emissions from these sources (from up to 31,000 to about 6,600), providing significant benefit to all the demographic groups in the at-risk population.

This rule is expected to reduce environmental impacts for everyone, including children. This action establishes emissions limits at the levels based on MACT, as required by the CAA. Based on our analysis, we believe that this rule does not have a disproportionate impact on children.

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

This action is not a ''significant energy action'' as defined under Executive Order 13211, because it is not likely to have a significant adverse effect on the supply, distribution or use of energy. This action will not create any new requirements that affect the energy supply, distribution or use sectors.

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. VCS 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 supplemental proposal involves technical standards. The EPA has decided to use EPA Methods 1, 2, 3A, 3B, 4, 5, 5D, 9, 10, 26A, 29, 30B, 316, CARB 429, SW–846 Method 3052, SW–846 Method 7471b and EPA water Method 1631E of 40 CFR Part 60, Appendix A. No applicable VCS were identified for EPA Methods 30B, 5D, 316, 1631E and CARB 429, SW–846 Method 3052 and SW–846 Method 7471b.

Two VCS were identified acceptable alternatives to the EPA test methods for the purposes of this rule. The VCS standard ANSI/ASME PTC 19–10–1981—Part 10, ''Flue and Exhaust Gas Analyses'' is an acceptable alternative to Method 3B. The VCS ASTM D7520–09, ''Standard Test Method for Determining the Opacity of a Plume in the Outdoor

Ambient Atmosphere'' is an acceptable alternative to Method 9 under specified conditions. The Agency identified 18 VCS as being potentially applicable to these methods cited in this rule. However, the EPA determined that the 18 candidate VCS would not be practical due to lack of equivalency, documentation, validation data and other important technical and policy considerations. The 18 VCS and other information and conclusions, including the search and review results, are in the docket for this rule.

Under §§ 63.7(f) and 63.8(f) of Subpart A of the General Provisions, a source may apply to the EPA for permission to use alternative test methods or alternative monitoring requirements in place of any required testing methods, performance specifications, or procedures in the proposed rule.

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 the current health risks posed by emissions from this source category are unacceptable. There are up to 31,000 people nationwide that are currently subject to health risks which may not be considered negligible (*i.e.,* cancer risks greater than 1-in-1 million or chronic noncancer TOSHI greater than 1) due to emissions from this source category. The demographic makeup of this ''at-risk'' population is similar to the national distribution for all demographic groups. The proposed supplemental requirements along with other proposed requirements (76 FR 72508) will reduce the number of people in this at-risk group, from up to 31,000, to about 6,600 people. Based on this analysis, the EPA has determined that the proposed supplemental requirements will not have disproportionately high and adverse human health or environmental effects on minority or low-income populations because it increases the level of environmental protection for all affected populations.

List of Subjects in 40 CFR Part 63

Air pollution control, Environmental protection, Hazardous substances, Incorporation by reference, Reporting and recordkeeping requirements.

Dated: September 4, 2014.

Gina McCarthy,

Administrator.

For the reasons stated in the preamble, part 63 of title 40, chapter I, of the Code of Federal Regulations is proposed to be amended as follows:

PART 63—[AMENDED]

■ 1. The authority citation for part 63 continues to read as follows:

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

■ 2. Section 63.14 is amended by:
■ a. Adding paragraph (b)(84);
■ b. Revising paragraph (i)(1);
■ c. Revising paragraph (p)(6) and adding paragraphs (p)(21) and (p)(22); and
■ d. By adding paragraph (s).

§ 63.14 Incorporations by reference.

(b) * * *

(84) ASTM D7520–09, ''Standard Test Method for Determining the Opacity in a Plume in an Outdoor Ambient Atmosphere,'' IBR approved for §§ 63.1625(b) and 63.1657(b).

* * * * *

(i) * * *

(1) ANSI/ASME PTC 19.10–1981, Flue and Exhaust Gas Analyses [Part 10, Instruments and Apparatus], issued August 31, 1981 IBR approved for §§ 63.309(k), 63. 772(e), 63.772(h), 63.865(b), 63.1282(d) and (g), 63.1625(b), 63.3166(a), 63.3360(e), 63.3545(a), 63.3555(a), 63.4166(a), 63.4362(a), 63.4766(a), 63.4965(a), 63.5160(d), 63.9307(c), 63.9323(a), 63.11148(e), 63.11155(e), 63.11162(f), 63.11163(g), 63.11410(j), 63.11551(a), 63.11646(a), 63.11945, table 5 to subpart DDDDD of this part, table 4 to subpart JJJJJ of this part, Table 5 of subpart UUUUU of this part and table 1 to subpart ZZZZZ of this part.

* * * * *

(p) * * *

(6) SW–846–7471B, Mercury in Solid Or Semisolid Waste (Manual Cold-Vapor Technique), Revision 2, February 2007, in EPA Publication No. SW–846, Test Methods for Evaluating Solid Waste, Physical/Chemical Methods, Third Edition, IBR approved for § 63.1625(b), table 6 to subpart DDDDD of this part and table 5 to subpart JJJJJJ of this part.

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(21) SW–846–Method 3052, Microwave Assisted Acid Digestion Of Siliceous and Organically Based Matrices, Revision 0, December 1996, in EPA Publication No. SW–846, Test Methods for Evaluating Solid Waste, Physical/Chemical Methods, Third Edition, IBR approved for § 63.1625(b).

(22) Method 1631, Revision E: Mercury in Water by Oxidation, Purge and Trap and Cold Vapor Atomic Fluorescence Spectrometry, August 2002 located at: *http://water.epa.gov/scitech/methods/cwa/metals/mercury/upload/2007_07_10_methods_method_mercury_1631.pdf,* IBR approved for § 63.1625(b).

* * * * *

(s) The following material is available from the California Air Resources Board (CARB), 1102 Q Street, Sacramento, California 95814, (*http://www.arb.ca.gov/testmeth/*).

(1) Method 429, Determination of Polycyclic Aromatic Hydrocarbon (PAH) Emissions from Stationary Sources, Adopted September 1989, Amended July 1997, IBR approved for § 63.1625(b).

(2) [Reserved]

Subpart XXX—[Amended]

■ 3. Section 63.1620 is added to read as follows:

§ 63.1620 Am I subject to this subpart?

(a) You are subject to this subpart if you own or operate a new or existing ferromanganese and/or silicomanganese production facility that is a major source or is co-located at a major source of hazardous air pollutant emissions.

(b) You are subject to this subpart if you own or operate any of the following equipment as part of a ferromanganese or silicomanganese production facility:

(1) Open, semi-sealed, or sealed submerged arc furnace,

(2) Casting operations,

(3) Metal oxygen refining (MOR) process,

(4) Crushing and screening operations,

(5) Outdoor fugitive dust sources.

(c) A new affected source is any of the sources listed in paragraph (b) of this section for which construction or reconstruction commenced after [DATE OF FINAL RULE PUBLICATION IN THE FEDERAL REGISTER].

(d) Table 1 of this subpart specifies the provisions of subpart A of this part that apply to owners and operators of ferromanganese and silicomanganese production facilities subject to this subpart.

(e) If you are subject to the provisions of this subpart, you are also subject to title V permitting requirements under 40 CFR parts 70 or 71, as applicable.

(f) Emission standards in this subpart apply at all times.

■ 4. Section 63.1621 is added to read as follows:

§ 63.1621 What are my compliance dates?

(a) Existing affected sources must be in compliance with the provisions specified in §§ 63.1620 through 63.1629 no later than [DATE 2 YEARS AFTER EFFECTIVE DATE OF FINAL RULE].

(b) Affected sources in existence prior to [DATE OF FINAL RULE PUBLICATION IN THE FEDERAL REGISTER] must be in compliance with the provisions specified in §§ 63.1650 through 63.1661 by November 21, 2001 and until [DATE 2 YEARS AFTER EFFECTIVE DATE OF FINAL RULE]. As of [DATE 2 YEARS AFTER EFFECTIVE DATE OF FINAL RULE], the provisions of §§ 63.1650 through 63.1661 cease to apply to affected sources in existence prior to [DATE OF FINAL RULE PUBLICATION IN THE FEDERAL REGISTER]. The provisions of §§ 63.1650 through 63.1661 remain enforceable at a source for its activities prior to [DATE 2 YEARS AFTER EFFECTIVE DATE OF FINAL RULE].

(c) If you own or operate a new affected source that commences construction or reconstruction after [DATE OF FINAL RULE PUBLICATION IN THE FEDERAL REGISTER], you must comply with the requirements of this subpart by [DATE OF EFFECTIVE DATE OF FINAL RULE], or upon startup of operations, whichever is later.

■ 5. Section 63.1622 is added to read as follows:

§ 63.1622 What definitions apply to this subpart?

Terms in this subpart are defined in the Clean Air Act (Act), in subpart A of this part, or in this section as follows:

Bag leak detection system means a system that is capable of continuously monitoring particulate matter (dust) loadings in the exhaust of a baghouse in order to detect bag leaks and other upset conditions. A bag leak detection system includes, but is not limited to, an instrument that operates on triboelectric, light scattering, light transmittance, or other effect to continuously monitor relative particulate matter loadings.

Capture system means the collection of components used to capture the gases and fumes released from one or more emissions points and then convey the captured gas stream to a control device or to the atmosphere. A capture system may include, but is not limited to, the following components as applicable to a given capture system design: duct intake devices, hoods, enclosures, ductwork, dampers, manifolds, plenums, fans and roofline ventilation systems.

Casting means the period of time from when molten ferroalloy is removed from the tapping station until pouring into casting molds or beds is completed. This includes the following operations: pouring alloy from one ladle to another, slag separation, slag removal and ladle transfer by crane, truck, or other conveyance.

Crushing and screening equipment means the crushers, grinders, mills, screens and conveying systems used to crush, size and prepare for packing manganese-containing materials, including raw materials, intermediate products and final products.

Electric arc furnace means any furnace where electrical energy is converted to heat energy by transmission of current between electrodes partially submerged in the furnace charge.

Furnace process cycle means the period in which the furnace is tapped to the time in which the furnace is tapped again and includes periods of charging, smelting, tapping, casting and ladle raking. For multiple furnaces operating within a single shop building, furnace process cycle means a period sufficient to capture a full cycle of charging, smelting, tapping, casting and ladle raking for each furnace within the shop building.

Ladle treatment means a post-tapping process including metal and alloy additions where chemistry adjustments are made in the ladle after furnace smelting to achieve a specified product.

Local ventilation means hoods and ductwork designed to capture process fugitive emissions close to the area where the emissions are generated (*e.g.,* tap hoods).

Metal oxygen refining (MOR) process means the reduction of the carbon content of ferromanganese through the use of oxygen.

Outdoor fugitive dust source means a stationary source from which hazardous air pollutant-bearing particles are discharged to the atmosphere due to wind or mechanical inducement such as vehicle traffic. Fugitive dust sources include plant roadways, yard areas and outdoor material storage and transfer operations.

Plant roadway means any area at a ferromanganese and silicomanganese production facility that is subject to plant mobile equipment, such as forklifts, front end loaders, or trucks, carrying manganese-bearing materials. Excluded from this definition are employee and visitor parking areas, provided they are not subject to traffic by plant mobile equipment.

Process fugitive emissions source means a source of hazardous air pollutant emissions that is associated with a ferromanganese or silicomanganese production facility and is not a fugitive dust source. Process fugitive sources include emissions that escape capture from the electric arc furnace, tapping operations, casting operations, ladle treatment, MOR or crushing and screening equipment.

Roofline ventilation system means an exhaust system designed to evacuate process fugitive emissions that collect in the roofline area to a control device.

Shop building means the building which houses one or more electric arc furnaces or other processes that generate process fugitive emissions.

Shutdown means the cessation of operation of an affected source for any purpose.

Startup means the setting in operation of an affected source for any purpose.

Tapping emissions means the gases and emissions associated with removal of product from the electric arc furnace under normal operating conditions, such as removal of metal under normal pressure and movement by gravity down the spout into the ladle and filling the ladle.

Tapping period means the time from when a tap hole is opened until the time a tap hole is closed.

■ 6. Section 63.1623 is added to read as follows:

§ 63.1623 What are the emissions standards for new, reconstructed and existing facilities?

(a) *Electric arc furnaces.* You must install, operate and maintain an effective capture system that collects the emissions from each electric arc furnace operation (including charging, melting and tapping operations and emissions from any vent stacks) and conveys the collected emissions to a control device for the removal of the pollutants specified in the emissions standards specified in paragraphs (a)(1) through (a)(5) of this section.

(1) *Particulate matter emissions.* (i) You must not discharge exhaust gases from each electric arc furnace operation containing particulate matter in excess of 4.0 milligrams per dry standard cubic meter (mg/dscm) into the atmosphere from any new or reconstructed electric arc furnace.

(ii) You must not discharge exhaust gases from each electric arc furnace operation containing particulate matter in excess of 25 mg/dscm into the atmosphere from any existing electric arc furnace.

(2) *Mercury emissions.* (i) You must not discharge exhaust gases from each

electric arc furnace operation containing mercury emissions in excess of 17 μg/dscm into the atmosphere from any new or reconstructed electric arc furnace when producing ferromanganese.

(ii) You must not discharge exhaust gases from each electric arc furnace operation containing mercury emissions in excess of 170 μg/dscm into the atmosphere from any existing electric arc furnace when producing ferromanganese.

(iii) You must not discharge exhaust gases from each electric arc furnace operation containing mercury emissions in excess of 4.0 μg/dscm into the atmosphere from any new or reconstructed electric arc furnace when producing silicomanganese.

(iv) You must not discharge exhaust gases from each electric arc furnace operation containing mercury emissions in excess of 12 μg/dscm into the atmosphere from any existing electric arc furnace when producing silicomanganese.

(3) *Polycyclic aromatic hydrocarbon emissions.* (i) You must not discharge exhaust gases from each electric arc furnace operation containing polycyclic aromatic hydrocarbon emissions in excess of 1,400 μg/dscm into the atmosphere from any existing electric arc furnace when producing ferromanganese.

(ii) You must not discharge exhaust gases from each electric arc furnace operation containing polycyclic aromatic hydrocarbon emissions in excess of 880 μg/dscm into the atmosphere from any new or reconstructed electric arc furnace when producing ferromanganese.

(iii) You must not discharge exhaust gases from each electric arc furnace operation containing polycyclic aromatic hydrocarbon emissions in excess of 120 μg/dscm into the atmosphere from any existing electric arc furnace when producing silicomanganese.

(iv) You must not discharge exhaust gases from each electric arc furnace operation containing polycyclic aromatic hydrocarbon emissions in excess of 72 μg/dscm into the atmosphere from any new or reconstructed electric arc furnace when producing silicomanganese.

(4) *Hydrochloric acid emissions.* (i) You must not discharge exhaust gases from each electric arc furnace operation containing hydrochloric acid emissions in excess of 180 μg/dscm into the atmosphere from any new or reconstructed electric arc furnace.

(ii) You must not discharge exhaust gases from each electric arc furnace operation containing hydrochloric acid emissions in excess of 1,100 μg/dscm into the atmosphere from any existing electric arc furnace.

(5) *Formaldehyde emissions.* You must not discharge exhaust gases from each electric arc furnace operation containing formaldehyde emissions in excess of 201 μg/dscm into the atmosphere from any new, reconstructed or existing electric arc furnace.

(b) *Process fugitive emissions.* (1) You must install, operate and maintain a capture system that is designed to collect 95 percent or more of the emissions from the process fugitive emissions sources and convey the collected emissions to a control device that is demonstrated to meet the applicable emission limit specified in paragraph (a)(1) of this section.

(2) The determination of 95-percent overall capture must be demonstrated as required by § 63.1624(a).

(3) You must not cause the emissions exiting from a shop building, to exceed an average of 8 percent opacity.

(i) The opacity readings from the shop building must be taken every 15 seconds during the observed furnace process cycle and the 15 second readings averaged to determine if the 8 percent opacity requirement has been met.

(ii) If the average opacity reading from the shop building is greater than 8 percent opacity during an observed furnace process cycle, an additional two more furnace process cycles must be observed within 7 days and the average opacity during the entire observation periods must be less than 8 percent opacity.

(iii) At no time during operation may the average of any two consecutive 6-minute blocks be greater than 20 percent opacity.

(c) *Local ventilation emissions.* If you operate local ventilation to capture tapping, casting, or ladle treatment emissions and direct them to a control device other than one associated with the electric arc furnace, you must not discharge into the atmosphere any captured emissions containing particulate matter in excess of 4.0 mg/dscm.

(d) *MOR process.* You must not discharge into the atmosphere from any new, reconstructed or existing MOR process exhaust gases containing particulate matter in excess of 3.9 mg/dscm.

(e) *Crushing and screening equipment.* You must not discharge into the atmosphere from any new, reconstructed, or existing piece of equipment associated with crushing and screening exhaust gases containing particulate matter in excess of 13 mg/dscm.

(f) At all times, you must operate and maintain any affected source, including associated air pollution control equipment and monitoring equipment, in a manner consistent with safety and good air pollution control practices for minimizing emissions. Determination of whether such operation and maintenance procedures are being used will be based on information available to the Administrator that may include, but is not limited to, monitoring results, review of operation and maintenance procedures, review of operation and maintenance records and inspection of the source.

■ 7. Section 63.1624 is added to read as follows:

§ 63.1624 What are the operational and work practice standards for new, reconstructed and existing facilities?

(a) *Process fugitive emissions sources.* (1) You must prepare and at all times operate according to, a process fugitive emissions ventilation plan that documents the design and operations to achieve at least 95 percent overall capture of process fugitive emissions. The plan will be deemed to achieve this level of capture if it consists of the following elements:

(i) Documentation of engineered hoods and secondary fugitive capture systems designed according to the most recent, at the time of construction, ventilation design principles recommended by the American Conference of Governmental Industrial Hygienists (ACGIH). The process fugitive emissions capture systems must be designed to achieve sufficient air changes to evacuate the collection area frequently enough to ensure process fugitive emissions are effectively collected by the ventilation system and ducted to the control device(s). Include a schematic for each building indicating duct sizes and locations, hood sizes and locations, control device types, size and locations and exhaust locations. The design plan must address variables that affect capture efficiency such as operations that create cross-drafts and describe protocol or design characteristics to minimize such events. The design plan must identify the key operating parameters and measurement locations to ensure proper operation of the system and establish monitoring parameter values that reflect effective capture.

(ii) List of critical maintenance actions and the schedule to conduct them.

(2) You must submit a copy of the process fugitive emissions ventilation

plan to the designated permitting authority on or before the applicable compliance date for the affected source as specified in § 63.1621 in electronic format and whenever an update is made to the plan. The requirement for you to operate the facility according to the written process fugitives ventilation plan and specifications must be incorporated in the operating permit for the facility that is issued by the designated permitting authority under part 70 of this chapter.

(3) You must update the information required in paragraph (a)(1) and (a)(2) of this section every 5 years or whenever there is a significant change in variables that affect process fugitives ventilation design such as the addition of a new process.

(b) *Outdoor fugitive dust sources.* (1) You must prepare and at all times operate according to, an outdoor fugitive dust control plan that describes in detail the measures that will be put in place to control outdoor fugitive dust emissions from the individual fugitive dust sources at the facility.

(2) You must submit a copy of the outdoor fugitive dust control plan to the designated permitting authority on or before the applicable compliance date for the affected source as specified in § 63.1621. The requirement for you to operate the facility according to a written outdoor fugitive dust control plan must be incorporated in the operating permit for the facility that is issued by the designated permitting authority under part 70 of this chapter.

(3) You are permitted to use existing manuals that describe the measures in place to control outdoor fugitive dust sources required as part of a state implementation plan or other federally enforceable requirement for particulate matter to satisfy the requirements of paragraph (b)(1) of this section.

■ 8. Section 63.1625 is added to read as follows:

§ 63.1625 What are the performance test and compliance requirements for new, reconstructed and existing facilities?

(a) *Performance testing.* (1) All performance tests must be conducted according to the requirements in § 63.7 of subpart A.

(2) Each performance test in paragraphs (c)(1) and (c)(2) must consist of three separate and complete runs using the applicable test methods.

(3) Each run must be conducted under conditions that are representative of normal process operations.

(4) Performance tests conducted on air pollution control devices serving electric arc furnaces must be conducted such that at least one tapping period, or at least 20 minutes of a tapping period, whichever is less, is included in at least two of the three runs. The sampling time for each run must be at least as long as three times the average tapping period of the tested furnace, but no less than 60 minutes.

(5) You must conduct the performance tests specified in paragraph (c) of this section under such conditions as the Administrator specifies based on representative performance of the affected source for the period being tested. Upon request, you must make available to the Administrator such records as may be necessary to determine the conditions of performance tests.

(b) Test methods. The following test methods in appendices of part 60 or 63 of this chapter or as specified elsewhere must be used to determine compliance with the emission standards.

(1) Method 1 of Appendix A–1 of 40 CFR part 60 to select the sampling port location and the number of traverse points.

(2) Method 2 of Appendix A–1 of 40 CFR part 60 to determine the volumetric flow rate of the stack gas.

(3)(i) Method 3A or 3B of Appendix A–2 of 40 CFR part 60 (with integrated bag sampling) to determine the outlet stack and inlet oxygen and CO_2 content.

(ii) You must measure CO_2 concentrations at both the inlet and outlet of the positive pressure fabric filter in conjunction with the pollutant sampling in order to determine isokinetic sampling rates.

(iii) As an alternative to EPA Reference Method 3B, ASME PTC–19–10–1981–Part 10, ''Flue and Exhaust Gas Analyses'' may be used (incorporated by reference, see 40 CFR 63.14).

(4) Method 4 of Appendix A–3 of 40 CFR part 60 to determine the moisture content of the stack gas.

(5)(i) Method 5 of Appendix A–3 of 40 CFR part 60 to determine the particulate matter concentration of the stack gas for negative pressure baghouses and positive pressure baghouses with stacks.

(ii) Method 5D of Appendix A–3 of 40 CFR part 60 to determine particulate matter concentration and volumetric flow rate of the stack gas for positive pressure baghouses without stacks.

(iii) The sample volume for each run must be a minimum of 4.0 cubic meters (141.2 cubic feet). For Method 5 testing only, you may choose to collect less than 4.0 cubic meters per run provided that the filterable mass collected (*e.g.,* net filter mass plus mass of nozzle, probe and filter holder rinses) is equal to or greater than 10 mg. If the total mass collected for two of three of the runs is less than 10 mg, you must conduct at least one additional test run that produces at least 10 mg of filterable mass collected (*i.e.,* at a greater sample volume). Report the results of all test runs.

(6) Method 30B of Appendix A–8 of 40 CFR part 60 to measure mercury. Apply the minimum sample volume determination procedures as per the method.

(7)(i) Method 26A of Appendix A–8 of 40 CFR part 60 to determine outlet stack or inlet hydrochloric acid concentration.

(ii) Collect a minimum volume of 2 cubic meters.

(8)(i) Method 316 of Appendix A of 40 CFR part 63 to determine outlet stack or inlet formaldehyde.

(ii) Collect a minimum volume of 1.0 cubic meter.

(9) Method 9 of Appendix A–4 of 40 CFR part 60 to determine opacity. ASTM D7520–09, ''Standard Test Method for Determining the Opacity of a Plume in the Outdoor Ambient Atmosphere'' may be used (incorporated by reference, see 40 CFR 63.14) with the following conditions:

(i) During the digital camera opacity technique (DCOT) certification procedure outlined in Section 9.2 of ASTM D7520–09, you or the DCOT vendor must present the plumes in front of various backgrounds of color and contrast representing conditions anticipated during field use such as blue sky, trees and mixed backgrounds (clouds and/or a sparse tree stand).

(ii) You must also have standard operating procedures in place including daily or other frequency quality checks to ensure the equipment is within manufacturing specifications as outlined in Section 8.1 of ASTM D7520–09.

(iii) You must follow the recordkeeping procedures outlined in § 63.10(b)(1) for the DCOT certification, compliance report, data sheets and all raw unaltered JPEGs used for opacity and certification determination.

(iv) You or the DCOT vendor must have a minimum of four (4) independent technology users apply the software to determine the visible opacity of the 300 certification plumes. For each set of 25 plumes, the user may not exceed 20 percent opacity of any one reading and the average error must not exceed 7.5 percent opacity.

(v) Use of this approved alternative does not provide or imply a certification or validation of any vendor's hardware or software. The onus to maintain and verify the certification and/or training of the DCOT camera, software and operator in accordance with ASTM D7520–09 and these requirements is on the

facility, DCOT operator and DCOT vendor.

(10) Methods to determine the mercury content of manganese ore including a total metals digestion technique, SW–846 Method 3052 and a mercury specific analysis method, SW–846 Method 7471b (Cold Vapor AA) or Water Method 1631E (Cold Vapor Atomic Fluorescence).

(11) California Air Resources Board (CARB) Method 429, Determination of Polycyclic Aromatic Hydrocarbon (PAH) Emissions from Stationary Sources to determine total PAH emissions. The method is available from California Resources Board, 1102 Q Street, Sacramento, California 95814, (*http://www.arb.ca.gov/testmeth/vol3/M_429.pdf*).

(12) The owner or operator may use alternative measurement methods approved by the Administrator following the procedures described in § 63.7(f) of subpart A.

(c) *Compliance demonstration with the emission standards.*

(1) *Initial Performance Test.* You must conduct an initial performance test for air pollution control devices or vent stacks subject to § 63.1623(a), (b)(1) and (c) through (e) to demonstrate compliance with the applicable emission standards.

(2) *Periodic Performance Test.* (i) You must conduct annual particulate matter tests for wet scrubber air pollution control devices subject to § 63.1623(a)(1) to demonstrate compliance with the applicable emission standards.

(ii) You must conduct particulate matter tests every five years for fabric filter air pollution control devices subject to § 63.1623(a)(1) to demonstrate compliance with the applicable emission standards.

(iii) You must conduct annual mercury performance tests for wet scrubber and fabric filter air pollution control devices or vent stacks subject to § 63.1623 (a)(2) to demonstrate compliance with the applicable emission standards.

(iv) You must conduct ongoing performance tests every five years for air pollution control devices or vent stacks subject to § 63.1623(a)(3) through (a)(5), (b)(1) and (c) through (e) to demonstrate compliance with the applicable emission standards.

(3) Compliance is demonstrated for all sources performing emissions tests if the average concentration for the three runs comprising the performance test does not exceed the standard.

(4) *Operating Limits.* You must establish parameter operating limits according to paragraphs (c)(4)(i) through (c)(4)(iv) of this section. Unless otherwise specified, compliance with each established operating limit shall be demonstrated for each 24-hour operating day.

(i) For a wet particulate matter scrubber, you must establish the minimum liquid flow rate and pressure drop as your operating limits during the three-run performance test. If you use a wet particulate matter scrubber and you conduct separate performance tests for particulate matter, you must establish one set of minimum liquid flow rate and pressure drop operating limits. If you conduct multiple performance tests, you must set the minimum liquid flow rate and pressure drop operating limits at the highest minimum hourly average values established during the performance tests.

(ii) For a wet acid gas scrubber, you must establish the minimum liquid flow rate and pH, as your operating limits during the three-run performance test. If you use a wet acid gas scrubber and you conduct separate performance tests for hydrochloric acid, you must establish one set of minimum liquid flow rate and pH operating limits. If you conduct multiple performance tests, you must set the minimum liquid flow rate and pH operating limits at the highest minimum hourly average values established during the performance tests.

(iii) For emission sources with fabric filters that choose to demonstrate continuous compliance through bag leak detection systems you must install a bag leak detection system according to the requirements in § 63.1626(d) and you must set your operating limit such that the sum duration of bag leak detection system alarms does not exceed 5 percent of the process operating time during a 6-month period.

(iv) If you choose to demonstrate continuous compliance through a particulate matter CEMS, you must determine an operating limit (particulate matter concentration in mg/dscm) during performance testing for initial particulate matter compliance. The operating limit will be the average of the PM filterable results of the three Method 5 or Method 5D of Appendix A–3 of 40 CFR part 60 performance test runs. To determine continuous compliance, the hourly average PM concentrations will be averaged on a rolling 30 operating day basis. Each 30 operating day average would have to meet the PM operating limit.

(d) *Compliance demonstration with shop building opacity standards.* (1)(i) If you are subject to § 63.1623(b), you must conduct opacity observations of the shop building to demonstrate compliance with the applicable opacity standards according to § 63.6(h)(5), which addresses the conduct of opacity or visible emission observations.

(ii) You must conduct the opacity observations according to EPA Method 9 of 40 CFR part 60, Appendix A–4, for a period that includes at least one complete furnace process cycle for each furnace.

(iii) You must conduct the opacity observations at least once per week for each operating furnace.

(2) You must determine shop building opacity operating parameters based on either monitoring data collected during the compliance demonstration or established in an engineering assessment.

(i) If you choose to establish parameters based on the initial compliance demonstration, you must simultaneously monitor parameter values for one of the following: the capture system fan motor amperes and all capture system damper positions, the total volumetric flow rate to the air pollution control device and all capture system damper positions, or volumetric flow rate through each separately ducted hood that comprises the capture system. Subsequently you must monitor these parameters according to § 63.1626(h) and ensure they remain within 10 percent of the value recorded during the compliant opacity readings.

(ii) If you choose to establish parameters based on an engineering assessment, then a design analysis shall include, for example, specifications, drawings, schematics and ventilation system diagrams prepared by the owner or operator or capture or control system manufacturer or vendor that describes the shop building opacity system ventilation design based on acceptable engineering texts. The design analysis shall address vent stream characteristics and ventilation system design operating parameters such as fan amps, damper position, flow rate and/or other specified parameters.

(iii) You may petition the Administrator to reestablish these parameter ranges whenever you can demonstrate to the Administrator's satisfaction that the electric arc furnace operating conditions upon which the parameter ranges were previously established are no longer applicable. The values of these parameter ranges determined during the most recent demonstration of compliance must be maintained at the appropriate level for each applicable period.

(3) You will demonstrate continuing compliance with the opacity standards by following the monitoring requirements specified in § 63.1626(g) and the reporting and recordkeeping

requirements specified in § 63.1628(b)(5).

(e) *Compliance demonstration with the operational and work practice standards*—(1) *Process fugitive emissions sources.* You will demonstrate compliance by developing and maintaining a process fugitives ventilation plan, by reporting any deviations from the plan and by taking necessary corrective actions to correct deviations or deficiencies.

(2) *Outdoor fugitive dust sources.* You will demonstrate compliance by developing and maintaining an outdoor fugitive dust control plan, by reporting any deviations from the plan and by taking necessary corrective actions to correct deviations or deficiencies.

(3) *Baghouses equipped with bag leak detection systems.* You will demonstrate compliance with the bag leak detection system requirements by developing analysis and supporting documentation demonstrating conformance with EPA guidance and specifications for bag leak detection systems in § 60.57c(h).

■ 9. Section 63.1626 is added to read as follows:

§ 63.1626 What monitoring requirements must I meet?

(a) *Baghouse Monitoring.* You must prepare and at all times operate according to, a standard operating procedures manual that describes in detail procedures for inspection, maintenance and bag leak detection and corrective action plans for all baghouses (fabric filters or cartridge filters) that are used to control process vents, process fugitive, or outdoor fugitive dust emissions from any source subject to the emissions standards in § 63.1623.

(b) You must submit the standard operating procedures manual for baghouses required by paragraph (a) of this section to the Administrator or delegated authority for review and approval.

(c) Unless the baghouse is equipped with a bag leak detection system, the procedures that you specify in the standard operating procedures manual for inspections and routine maintenance must, at a minimum, include the requirements of paragraphs (c)(1) and (c)(2) of this section.

(1) You must observe the baghouse outlet on a daily basis for the presence of any visible emissions.

(2) In addition to the daily visible emissions observation, you must conduct the following activities:

(i) Weekly confirmation that dust is being removed from hoppers through visual inspection, or equivalent means of ensuring the proper functioning of removal mechanisms.

(ii) Daily check of compressed air supply for pulse-jet baghouses.

(iii) An appropriate methodology for monitoring cleaning cycles to ensure proper operation.

(iv) Monthly check of bag cleaning mechanisms for proper functioning through visual inspection or equivalent means.

(v) Quarterly visual check of bag tension on reverse air and shaker-type baghouses to ensure that the bags are not kinked (kneed or bent) or lying on their sides. Such checks are not required for shaker-type baghouses using self-tensioning (spring loaded) devices.

(vi) Quarterly confirmation of the physical integrity of the baghouse structure through visual inspection of the baghouse interior for air leaks.

(vii) Semiannual inspection of fans for wear, material buildup and corrosion through visual inspection, vibration detectors, or equivalent means.

(d) *Bag leak detection system.* (1) For each baghouse used to control emissions from an electric arc furnace, you must install, operate and maintain a bag leak detection system according to paragraphs (d)(2) through (d)(4) of this section, unless a system meeting the requirements of paragraph (q) of this section, for a CEMS and continuous emissions rate monitoring system, is installed for monitoring the concentration of particulate matter. You may choose to install, operate and maintain a bag leak detection system for any other baghouse in operation at the facility according to paragraphs (d)(2) through (d)(4) of this section.

(2) The procedures you specified in the standard operating procedures manual for baghouse maintenance must include, at a minimum, a preventative maintenance schedule that is consistent with the baghouse manufacturer's instructions for routine and long-term maintenance.

(3) Each bag leak detection system must meet the specifications and requirements in paragraphs (d)(3)(i) through (d)(3)(viii) of this section.

(i) The bag leak detection system must be certified by the manufacturer to be capable of detecting PM emissions at concentrations of 1.0 milligram per dry standard cubic meter (0.00044 grains per actual cubic foot) or less.

(ii) The bag leak detection system sensor must provide output of relative PM loadings.

(iii) The bag leak detection system must be equipped with an alarm system that will alarm when an increase in relative particulate loadings is detected over a preset level.

(iv) You must install and operate the bag leak detection system in a manner consistent with the guidance provided in ''Office of Air Quality Planning and Standards (OAQPS) Fabric Filter Bag Leak Detection Guidance'' EPA–454/R–98–015, September 1997 (incorporated by reference) and the manufacturer's written specifications and recommendations for installation, operation and adjustment of the system.

(v) The initial adjustment of the system must, at a minimum, consist of establishing the baseline output by adjusting the sensitivity (range) and the averaging period of the device and establishing the alarm set points and the alarm delay time.

(vi) Following initial adjustment, you must not adjust the sensitivity or range, averaging period, alarm set points, or alarm delay time, except as detailed in the approved standard operating procedures manual required under paragraph (a) of this section. You cannot increase the sensitivity by more than 100 percent or decrease the sensitivity by more than 50 percent over a 365-day period unless such adjustment follows a complete baghouse inspection that demonstrates that the baghouse is in good operating condition.

(vii) You must install the bag leak detector downstream of the baghouse.

(viii) Where multiple detectors are required, the system's instrumentation and alarm may be shared among detectors.

(4) You must include in the standard operating procedures manual required by paragraph (a) of this section a corrective action plan that specifies the procedures to be followed in the case of a bag leak detection system alarm. The corrective action plan must include, at a minimum, the procedures that you will use to determine and record the time and cause of the alarm as well as the corrective actions taken to minimize emissions as specified in paragraphs (d)(4)(i) and (d)(4)(ii) of this section.

(i) The procedures used to determine the cause of the alarm must be initiated within 30 minutes of the alarm.

(ii) The cause of the alarm must be alleviated by taking the necessary corrective action(s) that may include, but not be limited to, those listed in paragraphs (d)(4)(i)(A) through (d)(4)(i)(F) of this section.

(A) Inspecting the baghouse for air leaks, torn or broken filter elements, or any other malfunction that may cause an increase in emissions.

(B) Sealing off defective bags or filter media.

(C) Replacing defective bags or filter media, or otherwise repairing the control device.

(D) Sealing off a defective baghouse compartment.

(E) Cleaning the bag leak detection system probe, or otherwise repairing the bag leak detection system.

(F) Shutting down the process producing the particulate emissions.

(e) If you use a wet particulate matter scrubber, you must collect the pressure drop and liquid flow rate monitoring system data according to § 63.1628, reduce the data to 24-hour block averages and maintain the 24-hour average pressure drop and liquid flow-rate at or above the operating limits established during the performance test according to § 63.1625(c)(4)(i).

(f) If you use curtains or partitions to prevent process fugitive emissions from escaping the area around the process fugitive emission source or other parts of the building, you must perform quarterly inspections of the physical condition of these curtains or partitions to determine if there are any tears or openings.

(g) *Shop building opacity.* In order to demonstrate continuous compliance with the opacity standards in § 63.1623, you must comply with the requirements § 63.1625(d)(1) and one of the monitoring options in paragraphs (g)(1) or (g)(2) of this section. The selected option must be consistent with that selected during the initial performance test described in § 63.1625(d)(2). Alternatively, you may use the provisions of § 63.8(f) to request approval to use an alternative monitoring method.

(1) If you choose to establish operating parameters during the compliance test as specified in § 63.1625(d)(2)(i), you must meet one of the following requirements.

(i) Check and record the control system fan motor amperes and capture system damper positions once per shift.

(ii) Install, calibrate and maintain a monitoring device that continuously records the volumetric flow rate through each separately ducted hood.

(iii) Install, calibrate and maintain a monitoring device that continuously records the volumetric flow rate at the inlet of the air pollution control device and check and record the capture system damper positions once per shift.

(2) If you choose to establish operating parameters during the compliance test as specified in § 63.1625(d)(2)(ii), you must monitor the selected parameter(s) on a frequency specified in the assessment and according to a method specified in the engineering assessment

(3) All flow rate monitoring devices must meet the following requirements:

(i) Be installed in an appropriate location in the exhaust duct such that reproducible flow rate monitoring will result.

(ii) Have an accuracy ±10 percent over its normal operating range and be calibrated according to the manufacturer's instructions.

(4) The Administrator may require you to demonstrate the accuracy of the monitoring device(s) relative to Methods 1 and 2 of Appendix A–1 of part 60 of this chapter.

(5) Failure to maintain the appropriate capture system parameters (e.g., fan motor amperes, flow rate and/or damper positions) establishes the need to initiate corrective action as soon as practicable after the monitoring excursion in order to minimize excess emissions.

(h) *Furnace Capture System.* You must perform quarterly (once every three months) inspections of the furnace fugitive capture system equipment to ensure that the hood locations have not been changed or obstructed because of contact with cranes or ladles, quarterly inspections of the physical condition of hoods and ductwork to the control device to determine if there are any openings or leaks in the ductwork, quarterly inspections of the hoods and ductwork to determine if there are any flow constrictions in ductwork due to dents or accumulated dust and quarterly examinations of the operational status of flow rate controllers (pressure sensors, dampers, damper switches, etc.) to ensure they are operating correctly. Any deficiencies must be recorded and proper maintenance and repairs performed.

(i) *Requirements for sources using CMS.* If you demonstrate compliance with any applicable emissions limit through use of a continuous monitoring system (CMS), where a CMS includes a continuous parameter monitoring system (CPMS) as well as a continuous emissions monitoring system (CEMS), you must develop a site-specific monitoring plan and submit this site-specific monitoring plan, if requested, at least 60 days before your initial performance evaluation (where applicable) of your CMS. Your site-specific monitoring plan must address the monitoring system design, data collection and the quality assurance and quality control elements outlined in this section and in § 63.8(d). You must install, operate and maintain each CMS according to the procedures in your approved site-specific monitoring plan. Using the process described in § 63.8(f)(4), you may request approval of monitoring system quality assurance and quality control procedures alternative to those specified in paragraphs (j)(1) through (j)(6) of this section in your site-specific monitoring plan.

(1) The performance criteria and design specifications for the monitoring system equipment, including the sample interface, detector signal analyzer and data acquisition and calculations;

(2) Sampling interface location such that the monitoring system will provide representative measurements;

(3) Equipment performance checks, system accuracy audits, or other audit procedures;

(4) Ongoing operation and maintenance procedures in accordance with the general requirements of § 63.8(c)(1) and (c)(3);

(5) Conditions that define a continuous monitoring system that is out of control consistent with § 63.8(c)(7)(i) and for responding to out of control periods consistent with § 63.8(c)(7)(ii) and (c)(8) or Appendix A to this subpart, as applicable; and

(6) Ongoing recordkeeping and reporting procedures in accordance with provisions in § 63.10(c), (e)(1) and (e)(2)(i) and Appendix A to this subpart, as applicable.

(j) If you have an operating limit that requires the use of a CPMS, you must install, operate and maintain each continuous parameter monitoring system according to the procedures in paragraphs (j)(1) through (j)(7) of this section.

(1) The continuous parameter monitoring system must complete a minimum of one cycle of operation for each successive 15-minute period. You must have a minimum of four successive cycles of operation to have a valid hour of data.

(2) Except for periods of monitoring system malfunctions, repairs associated with monitoring system malfunctions and required monitoring system quality assurance or quality control activities (including, as applicable, system accuracy audits and required zero and span adjustments), you must operate the CMS at all times the affected source is operating. A monitoring system malfunction is any sudden, infrequent, not reasonably preventable failure of the monitoring system to provide valid data. Monitoring system failures that are caused in part by poor maintenance or careless operation are not malfunctions. You are required to complete monitoring system repairs in response to monitoring system malfunctions and to return the monitoring system to operation as expeditiously as practicable.

(3) You may not use data recorded during monitoring system malfunctions, repairs associated with monitoring system malfunctions, or required

monitoring system quality assurance or control activities in calculations used to report emissions or operating levels. You must use all the data collected during all other required data collection periods in assessing the operation of the control device and associated control system.

(4) Except for periods of monitoring system malfunctions, repairs associated with monitoring system malfunctions and required quality monitoring system quality assurance or quality control activities (including, as applicable, system accuracy audits and required zero and span adjustments), failure to collect required data is a deviation of the monitoring requirements.

(5) You must conduct other CPMS equipment performance checks, system accuracy audits, or other audit procedures specified in your site-specific monitoring plan at least once every 12 months.

(6) You must conduct a performance evaluation of each CPMS in accordance with your site-specific monitoring plan.

(7) You must record the results of each inspection, calibration and validation check.

(k) *CPMS for measuring gaseous flow.* (1) Use a flow sensor with a measurement sensitivity of 5 percent of the flow rate or 10 cubic feet per minute, whichever is greater,

(2) Check all mechanical connections for leakage at least every month and

(3) Perform a visual inspection at least every 3 months of all components of the flow CPMS for physical and operational integrity and all electrical connections for oxidation and galvanic corrosion if your flow CPMS is not equipped with a redundant flow sensor.

(l) *CPMS for measuring liquid flow.* (1) Use a flow sensor with a measurement sensitivity of 2 percent of the flow rate and

(2) Reduce swirling flow or abnormal velocity distributions due to upstream and downstream disturbances.

(m) *CPMS for measuring pressure.* (1) Minimize or eliminate pulsating pressure, vibration and internal and external corrosion and

(2) Use a gauge with a minimum tolerance of 1.27 centimeters of water or a transducer with a minimum tolerance of 1 percent of the pressure range.

(3) Perform checks at least once each process operating day to ensure pressure measurements are not obstructed (*e.g.,* check for pressure tap pluggage daily).

(n) *CPMS for measuring pH.* (1) Ensure the sample is properly mixed and representative of the fluid to be measured.

(2) Check the pH meter's calibration on at least two points every eight hours of process operation.

(o) *Particulate Matter CEMS.* If you are using a CEMS to measure particulate matter emissions to meet requirements of this subpart, you must install, certify, operate and maintain the particulate matter CEMS as specified in paragraphs (q)(1) through (q)(4) of this section.

(1) You must conduct a performance evaluation of the PM CEMS according to the applicable requirements of § 60.13 and Performance Specification 11 at 40 CFR part 60, Appendix B of this chapter.

(2) During each PM correlation testing run of the CEMS required by Performance Specification 11 at 40 CFR part 60, Appendix B of this chapter, PM and oxygen (or carbon dioxide) collect data concurrently (or within a 30-to 60-minute period) by both the CEMS and by conducting performance tests using Method 5 or 5D at 40 CFR part 60, Appendix A–3 or Method 17 at 40 CFR part 60, Appendix A–6 of this chapter.

(3) Perform quarterly accuracy determinations and daily calibration drift tests in accordance with Procedure 2 at 40 CFR part 60, Appendix F of this chapter. Relative Response Audits must be performed annually and Response Correlation Audits must be performed every three years.

(4) Within 60 days after the date of completing each CEMS relative accuracy test audit or performance test conducted to demonstrate compliance with this subpart, you must submit the relative accuracy test audit data and the results of the performance test in the as specified in § 63.1628(e).

■ 10. Section 63.1627 is added to read as follows:

§ 63.1627 What notification requirements must I meet?

(a) You must comply with all of the notification requirements of § 63.9 of subpart A, General Provisions. Electronic notifications are encouraged when possible.

(b)(1) You must submit the process fugitives ventilation plan required under § 63.1624(a), the outdoor fugitive dust control plan required under § 63.1624(b), the site-specific monitoring plan for CMS required under § 63.1626(i) and the standard operating procedures manual for baghouses required under § 63.1626(a) to the Administrator or delegated authority along with a notification that you are seeking review and approval of these plans and procedures. You must submit this notification no later than [DATE 1 YEAR AFTER EFFECTIVE DATE OF FINAL RULE]. For sources that commenced construction or reconstruction after [DATE OF EFFECTIVE DATE OF FINAL RULE], you must submit this notification no later than 180 days before startup of the constructed or reconstructed ferromanganese or silicomanganese production facility. For an affected source that has received a construction permit from the Administrator or delegated authority on or before [DATE OF EFFECTIVE DATE OF FINAL RULE], you must submit this notification no later than [DATE 1 YEAR AFTER EFFECTIVE DATE OF FINAL RULE].

(2) The plans and procedures documents submitted as required under paragraph (b)(1) of this section must be submitted to the Administrator in electronic format for review and approval of the initial submittal and whenever an update is made to the procedure.

■ 11. Section 63.1628 is added to read as follows:

§ 63.1628 What recordkeeping and reporting requirements must I meet?

(a) You must comply with all of the recordkeeping and reporting requirements specified in § 63.10 of the General Provisions that are referenced in Table 1 to this subpart.

(1) Records must be maintained in a form suitable and readily available for expeditious review, according to § 63.10(b)(1). However, electronic recordkeeping and reporting is encouraged and required for some records and reports.

(2) Records must be kept on site for at least two years after the date of occurrence, measurement, maintenance, corrective action, report, or record, according to § 63.10(b)(1).

(b) You must maintain, for a period of five years, records of the information listed in paragraphs (b)(1) through (b)(13) of this section.

(1) Electronic records of the bag leak detection system output.

(2) An identification of the date and time of all bag leak detection system alarms, the time that procedures to determine the cause of the alarm were initiated, the cause of the alarm, an explanation of the corrective actions taken and the date and time the cause of the alarm was corrected.

(3) All records of inspections and maintenance activities required under § 63.1626(a) as part of the practices described in the standard operating procedures manual for baghouses required under § 63.1626(c).

(4) Electronic records of the pressure drop and water flow rate values for wet scrubbers used to control particulate

matter emissions as required in § 63.1626(e), identification of periods when the 1-hour average pressure drop and water flow rate values below the established minimum established and an explanation of the corrective actions taken.

(5) Electronic records of the shop building capture system monitoring required under § 63.1626(g)(1) and (g)(2), as applicable, or identification of periods when the capture system parameters were not maintained and an explanation of the corrective actions taken.

(6) Records of the results of quarterly inspections of the furnace capture system required under § 63.1626(h).

(7) Electronic records of the continuous flow monitors or pressure monitors required under § 63.1626(j) and (k) and an identification of periods when the flow rate or pressure was not maintained as required in § 63.1626(e).

(8) Electronic records of the output of any CEMS installed to monitor particulate matter emissions meeting the requirements of § 63.1626(i)

(9) Records of the occurrence and duration of each startup and/or shutdown.

(10) Records of the occurrence and duration of each malfunction of operation (*i.e.,* process equipment) or the air pollution control equipment and monitoring equipment.

(11) Records that explain the periods when the procedures outlined in the process fugitives ventilation plan required under § 63.1624(a), the fugitives dust control plan required under § 63.1624(b), the site-specific monitoring plan for CMS required under § 63.1626(i) and the standard operating procedures manual for baghouses required under § 63.1626(a).

(c) You must comply with all of the reporting requirements specified in § 63.10 of the General Provisions that are referenced in Table 1 to this subpart.

(1) You must submit reports no less frequently than specified under § 63.10(e)(3) of the General Provisions.

(2) Once a source reports a violation of the standard or excess emissions, you must follow the reporting format required under § 63.10(e)(3) until a request to reduce reporting frequency is approved by the Administrator.

(d) In addition to the information required under the applicable sections of § 63.10, you must include in the reports required under paragraph (c) of this section the information specified in paragraphs (d)(1) through (d)(7) of this section.

(1) Reports that explain the periods when the procedures outlined in the process fugitives ventilation plan required under § 63.1624(a), the fugitives dust control plan required under § 63.1624(b), the site-specific monitoring plan for CMS required under § 63.1626(i) and the standard operating procedures manual for baghouses required under § 63.1626(a).

(2) Reports that identify the periods when the average hourly pressure drop or flow rate of venturi scrubbers used to control particulate emissions dropped below the levels established in § 63.1626(e) and an explanation of the corrective actions taken.

(3) *Bag leak detection system.* Reports including the following information:

(i) Records of all alarms.

(ii) Description of the actions taken following each bag leak detection system alarm.

(4) Reports of the shop building capture system monitoring required under § 63.1626(g)(1) and (g)(2), as applicable, identification of periods when the capture system parameters were not maintained and an explanation of the corrective actions taken.

(5) Reports of the results of quarterly inspections of the furnace capture system required under § 63.1626(h).

(6) Reports of the CPMS required under § 63.1626, an identification of periods when the monitored parameters were not maintained as required in § 63.1626 and corrective actions taken.

(7) If a malfunction occurred during the reporting period, the report must include the number, duration and a brief description for each type of malfunction that occurred during the reporting period and caused or may have caused any applicable emissions limitation to be exceeded. The report must also include a description of actions taken by an owner or operator during a malfunction of an affected source to minimize emissions in accordance with § 63.1623(f), including actions taken to correct a malfunction.

(e) Within 60 days after the date of completing each CEMS relative accuracy test audit or performance test conducted to demonstrate compliance with this subpart, you must submit the relative accuracy test audit data and the results of the performance test in the method specified by paragraphs (e)(1) through (e)(2) of this section. The results of the performance test must contain the information listed in paragraph (e)(2) of this section.

(1)(i) Within 60 days after the date of completing each performance test (as defined in § 63.2), you must submit the results of the performance tests, including any associated fuel analyses, required by this subpart according to the methods specified in paragraphs (e)(1)(i)(A) or (e)(1)(i)(B) of this section.

(A) For data collected using test methods supported by the EPA's Electronic Reporting Tool (ERT) as listed on the EPA's ERT Web site (*http://www.epa.gov/ttn/chief/ert/index.html*), you must submit the results of the performance test to the Compliance and Emissions Data Reporting Interface (CEDRI) that is accessed through the EPA's Central Data Exchange (CDX) (*http://cdx.epa.gov/epa_home.asp*), unless the Administrator approves another approach. Performance test data must be submitted in a file format generated through the use of the EPA's ERT. Owners or operators, who claim that some of the information being submitted for performance tests is confidential business information (CBI), must submit a complete file generated through the use of the EPA's ERT, including information claimed to be CBI, on a compact disk, flash drive, or other commonly used electronic storage media to the EPA. The electronic media must be clearly marked as CBI and mailed to U.S. EPA/OAQPS/CORE CBI Office, Attention: WebFIRE Administrator, MD C404–02, 4930 Old Page Rd., Durham, NC 27703. The same ERT file with the CBI omitted must be submitted to the EPA via CDX as described earlier in this paragraph.

(B) For any performance test conducted using test methods that are not supported by the EPA's ERT as listed on the EPA's ERT Web site, the owner or operator shall submit the results of the performance test to the Administrator at the appropriate address listed in § 63.13.

(ii) Within 60 days after the date of completing each CEMS performance evaluation (as defined in § 63.2), you must submit the results of the performance evaluation according to the method specified by either paragraph (b)(1) or (b)(2) of this section.

(A) For data collection of relative accuracy test audit (RATA) pollutants that are supported by the EPA's ERT as listed on the EPA's ERT Web site, you must submit the results of the performance evaluation to the CEDRI that is accessed through the EPA's CDX, unless the Administrator approves another approach. Performance evaluation data must be submitted in a file format generated through the use of the EPA's ERT. If you claim that some of the performance evaluation information being transmitted is CBI, you must submit a complete file generated through the use of the EPA's ERT, including information claimed to be CBI, on a compact disk or other commonly used electronic storage media (including, but not limited to,

flash drives) by registered letter to the EPA. The compact disk shall be clearly marked as CBI and mailed to U.S. EPA/OAQPS/CORE CBI Office, Attention: WebFIRE Administrator, MD C404–02, 4930 Old Page Rd., Durham, NC 27703. The same ERT file with the CBI omitted must be submitted to the EPA via CDX as described earlier in this paragraph.

(B) For any performance evaluations with RATA pollutants that are not supported by the EPA's ERT as listed on the EPA's ERT Web site, you shall submit the results of the performance evaluation to the Administrator at the appropriate address listed in § 63.13.

(2) The results of a performance test shall include the purpose of the test; a brief process description; a complete unit description, including a description of feed streams and control devices; sampling site description; pollutants measured; description of sampling and analysis procedures and any modifications to standard procedures; quality assurance procedures; record of operating conditions, including operating parameters for which limits are being set, during the test; record of preparation of standards; record of calibrations; raw data sheets for field sampling; raw data sheets for field and laboratory analyses; chain-of-custody documentation; explanation of laboratory data qualifiers; example calculations of all applicable stack gas parameters, emission rates, percent reduction rates and analytical results, as applicable; and any other information required by the test method, a relevant standard, or the Administrator.

■ 12. Section 63.1629 is added to read as follows:

§ 63.1629 Who implements and enforces this subpart?

(a) This subpart can be implemented and enforced by the U.S. EPA, or a delegated authority such as the applicable state, local, or tribal agency. If the U.S. EPA Administrator has delegated authority to a state, local, or tribal agency, then that agency, in addition to the U.S. EPA, has the authority to implement and enforce this subpart. Contact the applicable U.S. EPA Regional Office to find out if this subpart is delegated to a state, local, or tribal agency.

(b) In delegating implementation and enforcement authority of this subpart to a state, local, or tribal agency under subpart E of this part, the authorities contained in paragraph (c) of this section are retained by the Administrator of U.S. EPA and cannot be transferred to the state, local, or tribal agency.

(c) The authorities that cannot be delegated to state, local, or tribal agencies are as specified in paragraphs (c)(1) through (c)(4) of this section.

(1) Approval of alternatives to requirements in §§ 63.1620 and 63.1621 and 63.1623 and 63.1624.

(2) Approval of major alternatives to test methods under § 63.7(e)(2)(ii) and (f), as defined in § 63.90 and as required in this subpart.

(3) Approval of major alternatives to monitoring under § 63.8(f), as defined in § 63.90 and as required in this subpart.

(4) Approval of major alternatives to recordkeeping and reporting under § 63.10(f), as defined in § 63.90 and as required in this subpart.

■ 13. Section 63.1650 is amended by:

■ a. Revising paragraph (d);

■ b. Removing and reserving paragraph (e)(1); and

■ c. Revising paragraph (e)(2) to read as follows:

§ 63.1650 Applicability and Compliance Dates.

* * * * *

(d) Table 1 to this subpart specifies the provisions of subpart A of this part that apply to owners and operators of ferroalloy production facilities subject to this subpart.

(e) * * *

(1) [Reserved]

(2) Each owner or operator of a new or reconstructed affected source that commences construction or reconstruction after August 4, 1998 and before October 6, 2014, must comply with the requirements of this subpart by May 20, 1999 or upon startup of operations, whichever is later.

14. Section 63.1652 is amended by adding paragraph (f) to read as follows:

§ 63.1652 Emission standards.

* * * * *

(f) At all times, you must operate and maintain any affected source, including associated air pollution control equipment and monitoring equipment, in a manner consistent with safety and good air pollution control practices for minimizing emissions. Determination of whether such operation and maintenance procedures are being used will be based on information available to the Administrator that may include, but is not limited to, monitoring results, review of operation and maintenance procedures, review of operation and maintenance records and inspection of the source.

■ 15. Section 63.1656 is amended by:

■ a. Adding paragraph (a)(6);

■ b. Revising paragraph (b)(7);

■ c. Revising paragraph (e)(1); and

■ d. Removing and reserving paragraph (e)(2)(ii) to read as follows:

§ 63.1656 Performance testing, test methods and compliance demonstrations.

(a) * * *

(6) You must conduct the performance tests specified in paragraph (c) of this section under such conditions as the Administrator specifies based on representative performance of the affected source for the period being tested. Upon request, you must make available to the Administrator such records as may be necessary to determine the conditions of performance tests.

(b) * * *

(7) Method 9 of Appendix A–4 of 40 CFR part 60 to determine opacity. ASTM D7520–09, ''Standard Test Method for Determining the Opacity of a Plume in the Outdoor Ambient Atmosphere'' may be used (incorporated by reference, see 40 CFR 63.14) with the following conditions:

(i) During the digital camera opacity technique (DCOT) certification procedure outlined in Section 9.2 of ASTM D7520–09, the owner or operator or the DCOT vendor must present the plumes in front of various backgrounds of color and contrast representing conditions anticipated during field use such as blue sky, trees and mixed backgrounds (clouds and/or a sparse tree stand).

(ii) The owner or operator must also have standard operating procedures in place including daily or other frequency quality checks to ensure the equipment is within manufacturing specifications as outlined in Section 8.1 of ASTM D7520–09.

(iii) The owner or operator must follow the recordkeeping procedures outlined in § 63.10(b)(1) for the DCOT certification, compliance report, data sheets and all raw unaltered JPEGs used for opacity and certification determination.

(iv) The owner or operator or the DCOT vendor must have a minimum of four (4) independent technology users apply the software to determine the visible opacity of the 300 certification plumes. For each set of 25 plumes, the user may not exceed 15 percent opacity of any one reading and the average error must not exceed 7.5 percent opacity.

(v) Use of this approved alternative does not provide or imply a certification or validation of any vendor's hardware or software. The onus to maintain and verify the certification and/or training of the DCOT camera, software and operator in accordance with ASTM D7520–09 and these requirements is on the facility, DCOT operator and DCOT vendor.

* * * * *

(e) * * *

(1) *Fugitive dust sources.* Failure to have a fugitive dust control plan or failure to report deviations from the plan and take necessary corrective action would be a violation of the general duty to ensure that fugitive dust sources are operated and maintained in a manner consistent with good air pollution control practices for minimizing emissions per § 63.1652(f).

(2) * * *

(ii) [Reserved]

* * * * *

■ 16. Section 63.1657 is amended by:

■ a. Revising paragraph (a)(6);

■ b. Revising paragraph (b)(3); and

■ c. Revising paragraph (c)(7) to read as follows:

§ 63.1657 Monitoring requirements.

(a) * * *

(6) Failure to monitor or failure to take corrective action under the requirements of paragraph (a) of this section would be a violation of the general duty to operate in a manner consistent with good air pollution control practices that minimizes emissions per § 63.1652(f).

(b) * * *

(3) Failure to monitor or failure to take corrective action under the requirements of paragraph (b) of this section would be a violation of the general duty to operate in a manner consistent with good air pollution control practices that minimizes emissions per § 63.1652(f).

(c) * * *

(7) Failure to monitor or failure to take corrective action under the requirements of paragraph (c) of this section would be a violation of the general duty to operate in a manner consistent with good air pollution control practices that minimizes emissions per § 63.1652(f).

■ 17. Section 63.1659 is amended by revising paragraph (a)(4) to read as follows:

§ 63.1659 Reporting Requirements.

(a) * * *

(4) *Reporting malfunctions.* If a malfunction occurred during the reporting period, the report must include the number, duration and a brief description for each type of malfunction which occurred during the reporting period and which caused or may have caused any applicable emission limitation to be exceeded. The report must also include a description of actions taken by an owner or operator during a malfunction of an affected source to minimize emissions in accordance with § 63.1652(f), including actions taken to correct a malfunction.

* * * * *

■ 18. Section 63.1660 is amended by:

■ a. Revising paragraphs (a)(2)(i) and (a)(2)(ii); and

■ b. Removing and reserving paragraphs (a)(2)(iv) and (a)(2)(v) to read as follows:

§ 63.1660 Recordkeeping Requirements.

(a) * * *

(2) * * *

(i) Records of the occurrence and duration of each malfunction of operation (*i.e.,* process equipment) or the air pollution control equipment and monitoring equipment;

(ii) Records of actions taken during periods of malfunction to minimize emissions in accordance with § 63.1652(f), including corrective actions to restore malfunctioning process and air pollution control and monitoring equipment to its normal or usual manner of operation;

* * * * *

(iv) [Reserved]

(v) [Reserved]

* * * * *

■ 19. Add Table 1 to the end of subpart XXX to read as follows:

TABLE 1 TO SUBPART XXX OF PART 63—GENERAL PROVISIONS APPLICABILITY TO SUBPART XXX

Reference	Applies to subpart XXX	Comment
63.1	Yes	
63.2	Yes	
63.3	Yes	
63.4	Yes	
63.5	Yes	
63.6(a), (b), (c)	Yes	
63.6(d)	No	Section reserved.
63.6(e)(1)(i)	No	See 63.1623(g) and 63.1652(f) for general duty requirement.
63.6(e)(1)(ii)	No	
63.6(e)(1)(iii)	Yes	
63.6(e)(2)	No	Section reserved.
63.6(e)(3)	No	
63.6(f)(1)	No	
6.6(f)(2)–(f)(3)	Yes	
63.6(g)	Yes	
63.6(h)(1)	No	
63.6(h)(2)–(h)(9)	Yes	
63.6(i)	Yes	
63.6(j)	Yes	
§ 63.7(a)–(d)	Yes	
§ 63.7(e)(1)	No	See 63.1625(a)(5) and 63.1656(a)(6)
§ 63.7(e)(2)–(e)(4)	Yes	
63.7(f), (g), (h)	Yes	
63.8(a)–(b)	Yes	
63.8(c)(1)(i)	No	See 63.1623(g) and 63.1652(f) for general duty requirement.
63.8(c)(1)(ii)	Yes	
63.8(c)(1)(iii)	No	
63.8(c)(2)–(d)(2)	Yes	
63.8(d)(3)	Yes, except for last sentence.	SSM plans are not required.
63.8(e)–(g)	Yes	
63.9(a),(b),(c),(e),(g),(h)(1)through (3), (h)(5) and (6), (i) and (j).	Yes	
63.9(f)	Yes	

TABLE 1 TO SUBPART XXX OF PART 63—GENERAL PROVISIONS APPLICABILITY TO SUBPART XXX—Continued

Reference	Applies to subpart XXX	Comment
63.9(h)(4)	No	Reserved
63.10 (a)	Yes	
63.10 (b)(1)	Yes	
63.10(b)(2)(i)	No	
63.10(b)(2)(ii)	No	See 63.1628 and 63.1660 for recordkeeping of (1) occurrence and duration and (2) actions taken during malfunction.
63.10(b)(2)(iii)	Yes	
63.10(b)(2)(iv)–(b)(2)(v)	No	
63.10(b)(2)(vi)–(b)(2)(xiv)	Yes	
63.10)(b)(3)	Yes	
63.10(c)(1)–(9)	Yes	
63.10(c)(10)–(11)	No	See 63.1628 and 63.1660 for malfunction recordkeeping requirements.
63.10(c)(12)–(c)(14)	Yes	
63.10(c)(15)	No	
63.10(d)(1)–(4)	Yes	
63.10(d)(5)	No	See 63.1628(d)(8) and 63.1659(a)(4) for malfunction reporting requirements.
63.10(e)–((f)	Yes	
63.11	No	Flares will not be used to comply with the emission limits
63.12 to 63.15	Yes	

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Part III

Department of State

22 CFR Part 62

Exchange Visitor Program—General Provisions; Final Rule

DEPARTMENT OF STATE

22 CFR Part 62

[Public Notice: 8893]

RIN 1400–AC36

Exchange Visitor Program—General Provisions

ACTION: Final rule with request for comment.

AGENCY: Department of State.

SUMMARY: With this rulemaking, the Department of State is amending the general rules covering the Exchange Visitor Program that govern the designation of sponsors and the overall administration of the Program. This final rule encompasses technical changes to the general provisions and addresses public diplomacy and foreign policy concerns, including the Department's ability to monitor sponsors to protect the health, safety and welfare of foreign nationals who come to the United States as exchange visitors. The Department previously published a proposed rule, and, after analyzing the comments received, the Department is promulgating this final rule with request for comment and soliciting comments over a period of 60 days.

DATES: *Effective Date:* This rule is effective January 5, 2015.

Applicability date: The insurance amounts listed in 22 CFR 62.14(b)(1)–(4) and the provisions of 22 CFR 62.14(h) will be applicable on May 15, 2015.

Comment date: The Department will accept written comments for up to 60 days until December 5, 2014.

ADDRESSES: You may submit comments identified by any of the following methods:

- *Email: JExchanges@state.gov.* You must include the RIN (1400–AC36) in the subject line of your message.
- Persons with access to the Internet may also view this document and provide comments by going to the regulations.gov Web site and searching for RIN (1400–AC36, docket number DOS–2014–0018), at: *http://www.regulations.gov/.*

Mail (paper, disk, or CD–ROM submissions): U.S. Department of State, Office of Policy and Program Support, SA–5, Floor 5, 2200 C Street NW., Washington, DC 20522–0505.

FOR FURTHER INFORMATION CONTACT: Robin J. Lerner, Deputy Assistant Secretary for Private Sector Exchange, U.S. Department of State, SA–5, Floor 5, 2200 C Street NW., Washington, DC 20522; or email at *JExchanges@state.gov.*

SUPPLEMENTARY INFORMATION:

Executive Summary

This first comprehensive modification to Subpart A of 22 CFR Part 62 since 1993 makes five significant changes, as well as minor, technical changes intended to clarify the existing language. Specifically, this final rule amends Subpart A to provide more specific filing requirements for entities seeking to become designated sponsors and for sponsors seeking to renew their designations, including requiring proposed and current Responsible Officers and Alternate Responsible Officers to undergo criminal background checks. The final rule adopts a requirement that private sector sponsors submit management reviews in a format and on a schedule determined by the Department. It moves certain sections from Subpart F to Subpart A and enhances provisions governing the Student and Exchange Visitor Information System (SEVIS) database that sponsors use to track the whereabouts of exchange visitors. It also removes Appendices A–D, which have been replaced by information collections through Forms DS–3036, DS–3037 and DS–3097. In recognition of the increase in health and accident insurance costs since 1993, it also updates these requirements. The final rule also adds, deletes, and modifies definitions of terms used throughout the regulations. In addition, it adds language to make explicit the discretion of the Assistant Secretary for Educational and Cultural Affairs to waive or modify provisions of 22 CFR Part 62 (the regulations governing the Exchange Visitor Program), to the extent consistent with the authorities described in 22 CFR 62.1(a) and other applicable law, with respect to programs that are established pursuant to arrangements between the United States and foreign governments. The Department must provide notice concerning any such program for which provisions of Part 62 are waived or modified. Finally, it makes technical modifications to the text of the September 2009 proposed rule to ensure that the regulatory text is clear and correct.

The Department published the proposed rule on September 22, 2009 (RIN 1400–AC36; see 74 FR 48177), soliciting comments on proposed modifications to Subpart A. This final rule does not make certain changes that the Department had proposed in the September 2009 proposed rule. Specifically, it will not require applicants or current sponsors to secure and submit Dun & Bradstreet reports on themselves; applicants for sponsor designation will have site visits only at Department discretion; and sponsors need not collect and report Employment Authorization Document information for an accompanying spouse and dependents in SEVIS.

Having thoroughly reviewed the nearly 700 comments received in response to the proposed rule published in 2009 (see citation above), the Department hereby adopts sections of the proposed rule and amends or eliminates others in response to the comments submitted.

The next version of the SEVIS database, which has been in place since 2003, will have no immediate impact on this final rule, since its implementation date remains uncertain. The next version of SEVIS will focus upon increased functionality, national security, and improved usability. Prior to its implementation, the Department anticipates that the Department of Homeland Security will introduce any new requirements or procedures to the public through a proposed rule with a comment period. The Department of State also will reexamine its regulations prior to the implementation of any future system developments.

Analysis of Comments

The Department received 656 comments in response to the publication of the proposed rule. Of these, 494 comments (or 75% of the total comments received) were form letters or miscellaneous letters relating to the Camp Counselor and Summer Work Travel categories of the Exchange Visitor Program, as follows:

1. Form Letter—Camp Counselor and Camp Support 353
2. Form Letter—Summer Work Travel Employers 60
3. Form Letter—Former Summer Work Travel Participants 45
4. Miscellaneous Letters 36

The remaining 162 comments were general letters from sponsors, support groups, third parties, and concerned individuals. Based on the review of all comments, the Department has decided to adopt sections 62.2–62.16 of the proposed rule with modifications prompted by the comments received. Section 62.17—Fees and Charges, remains unchanged. Appendices A–D are removed to reflect changes in the regulations since 1993 and the implementation of information collections through Forms DS–3036, DS–3037, and DS–3097.

Section 62.2 Definitions

The proposed rule contained 45 definitions; this final rule contains 47.

When adding definitions for the Department-controlled forms, the Department had inadvertently excluded Form DS–3097 (Annual Report), which it now includes. Similarly, the Department is also adding a definition for the ''Office of Exchange Coordination and Compliance,'' the ''Office of Private Sector Exchange Administration,'' which, combined with the ''Office of Designation,'' currently comprise the Office of Private Sector Exchange. The Department also deletes the redundant definition for ''trainee,'' which is already covered in sections 62.4(c) and 62.22, and foreign medical graduate which is covered in section 62.27.

A total of 26 parties filed comments about the Subpart A definitions. Comments related to the three SEVIS-related definitions that have been added to the regulations (i.e., ''actual and current U.S. address,'' ''site of activity,'' and ''validation'') generally reflected appreciation for these definitions and sought guidance and information on the consequences of non-compliance. As with other regulations in Part 62, non-compliance could subject a sponsor to sanctions under 22 CFR 62.50(a). The first two definitions are critical as they relate to the physical location of a nonimmigrant participating in an exchange visitor program in the United States. Indeed, Title VI, Section 641 of Public Law 104–208, requires sponsors to ensure that the exchange visitor has arrived at his or her site of activity and to maintain current and accurate data in these SEVIS fields so that officials may locate nonimmigrants, if necessary, both during the day (i.e., at their sites of activity) and at night (i.e., at their actual and current U.S. addresses). Accordingly, correctly maintaining this information is a matter of national security. The function of validating a SEVIS record is also important, as it marks the beginning and end of a sponsor's obligation to monitor and provide other services (i.e., insurance coverage) to an exchange visitor and his or her accompanying spouse and dependents. One commenting party sought guidance and/or an explanation of the consequences of failing to validate the SEVIS record of an accompanying spouse or dependents, entering the United States on J–2 visas to accompany an exchange visitor here on a J–1 visa. In response to this comment, and because the validation of a primary J–1 visa holder's record automatically validates the associated J–2 visa holders' records, the Department is removing any reference to an accompanying spouse and dependents from this definition.

The Department received a total of 18 comments regarding the change of the term ''accredited educational institution'' to ''accredited academic institution.'' The majority of comments questioned the need for a change in terminology. The Department believes this change is necessary to reflect more accurately recent trends in the use of the term ''academic.'' In the proposed definition section (which also affects the definition of ''student'' in section 62.4), the Department clarifies that educational institutions that offer primarily vocational or technical courses of study are not considered academic. Accordingly, the Department substitutes the term ''academic'' for ''educational.''

One party commented about the confusion associated with the definition of ''country of nationality or last legal permanent residence,'' stating that the conjunction ''or'' used to link the two alternatives takes precedence and the language does not define the meaning of the term ''legal permanent residence.'' The program regulations have always referred to these two terms in tandem. The Department believes that the meaning of each phrase is clear and concise, and therefore makes no changes to the definition. Three commenting parties expressed concern that the terms(s) did not clearly subject an accompanying spouse and dependents travelling to the United States on J–2 visas to the two-year home country physical presence requirement (i.e., section 212(e) of the Immigration and Nationality Act) (INA)). Because the INA applies this requirement to ''person[s] admitted under section 101(a)(15)(J) . . . or acquiring such status after admission,'' it applies to J–2 visa holders as well, if the exchange visitor they accompany or join is subject to the requirement (See 22 CFR 41.62(c)(4)).

The Department received one comment regarding the proposed definition of ''exchange visitor'' as it refers to foreign nationals who are in the United States on J–1 visas. In particular, the commenting party took issue with the language because, as written, it does not include Canadian citizens who are allowed to participate on the Exchange Visitor Program without obtaining a J–1 visa. Also, the term does not include the accompanying spouse and dependents of an exchange visitor. In reviewing the comment, the Department has decided to modify the definition to clarify that the term also includes participants in the program who are not required to obtain J–1 visas. The Department, however, has purposefully excluded an exchange visitor's accompanying immediate family (i.e., accompanying spouse and dependents) from the definition because these regulations operate primarily for the benefit, and based upon the actions, of the individual participant in the Exchange Visitor Program. When necessary (e.g., section 62.14 (insurance)), the regulations specify their applicability to an exchange visitor's immediate family.

On a related matter, two parties commented that the title of the Form DS–2019—A Certificate of Eligibility for Exchange Visitor (J–1) Status excludes any reference to an accompanying spouse and dependents, even though it is the form necessary for family members (since the inception of SEVIS in 2003) to apply for J–2 visa status. The Department agrees and will explore the opportunity of replacing ''(J–1)'' with ''(J—Nonimmigrant)'' in the Form's title at the time of the Form's scheduled revision cycle.

Two parties commented on the definition of ''foreign medical graduate.'' They both appreciated the Department's decision to clarify the definition and requested that the definition be revised to locate the definition within section 62.27 (the only section of 22 CFR Part 62 that uses this term) and to clarify how it applies to non-clinical exchange programs. The Department acknowledges that the definition of this category of participation does not belong in section 62.2, and will define it when section 62.27 is revised in the future.

The Department received one comment related to the definition of the terms ''full course of study'' and ''prescribed course of study,'' suggesting that language in section 62.2 may be read to contain substantive regulatory provisions that may be better located in the relevant sections in Subpart B, rather than in the definitions section of section 62.2. The Department has considered the recommendations and makes no changes to these definitions, since it is of the view that definitions that pertain only to an individual program category should be included in sections of Subpart B that pertain to that individual category.

The Department received one comment concerning the definitions for the terms ''internship program'' and ''student internship program.'' Because of the confusion experienced in the exchange community about the similarity of these two terms, it was suggested that the Department further clarify these definitions by annotating the difference between the two types of

internship programs. The Department believes that the definitions of these two terms (and the language in Subpart B associated with these two categories) already provides ample clarity. Very simply, the definition of a ''student internship program'' specifies that the internship program must ''partially or fully fulfill a student's post-secondary academic degree requirements.'' This does not mean, however, that a current student could not participate in a regular internship program in pursuit of meeting academic requirements. In some situations, therefore, there would be no difference between the two programs, except that the sponsor in one instance would be an academic institution, and in the other, it would be a private business.

One comment was submitted suggesting that the term ''management audit'' be defined. The Department agrees and adds a definition of ''management review,'' the Department's preferred term, to section 62.2.

Five parties commented on the definition of ''third party.'' Among other things, commenting parties claim that the proposed language disregarded the sub-agent network that a sponsor's foreign entities (e.g., foreign partners or agents) may use as part of the recruiting process. They added that the language is unclear about what entities are and are not third parties, given the large number of contacts upon which exchange programs rely. The Department recognizes that sponsors contract with or otherwise engage third parties to provide ordinary services in the support of their business operations (e.g., cleaning, payroll processing, and utilities). The Department excludes these types of generic service providers from the definition of ''third party'' and includes only those that truly relate to the conduct of a sponsor's exchange visitor program.

As the Department updates the regulations governing specific categories of the Exchange Visitor Program (included in Subpart B), it may articulate further restrictions. In the interim, the Department clarifies, first, that it considers ''recruiting'' to be conduct of the sponsor's exchange visitor program. It also considers the functions of the local coordinators (or other similar field staff) to be conduct of the sponsor's exchange visitor program. Ordinary services in support of sponsors' business operations (cleaning, payroll processing, and utilities) are not considered conduct. Should there be circumstances that require additional clarification on a category-specific basis prior to the incorporation of these concepts into Subpart B, the Department will issue email guidance or guidance directives. Accordingly, the Department revises the definition of ''third party'' to avoid the unintended consequences recognized by the commenting parties.

The Department is updating the definitions to include language that explains the purposes of Forms DS–2019, DS–3036, DS–3037, and DS–7002. As discussed above, this final rule corrects the inadvertent exclusion of ''Form DS–3097,'' the existing Annual Report form, from the proposed rule. Similarly, the Department inadvertently excluded a definition for the ''Office of Exchange Coordination and Compliance,'' a part of the Office of Private Sector Exchange (formerly known as the Exchange Visitor Program Services). In addition, the Office of Private Sector Exchange has recently added the Office of Private Sector Exchange Administration to its organization. The two new offices, in addition to the existing Office of Designation, oversee the Exchange Visitor Program. This final rule defines these new offices within the Office of Private Sector Exchange.

Finally, in the NPRM, the definition for ''Citizen of the United States (entity)'' with respect to nonprofit organizations included, among other things, a requirement that the entity be ''qualified with the Internal Revenue Service as a tax-exempt organization pursuant to section 501(c)(3) of the Internal Revenue Code.'' In this rulemaking, this language has been removed, with the result that a nonprofit organization otherwise qualifying as a ''United States Person (legal entity)'' need not be a tax-exempt organization to participate in the Exchange Visitor Program. The Department realized that there might be taxable nonprofit organizations that might wish to participate in one of the Exchange Visitor Programs. Seeing no reason to retain this barrier to participation, the Department determined there was good cause to remove it in this rulemaking.

Section 62.3 Sponsor Eligibility

The proposed rule increased from one to three years the required minimum experience in international exchange that an entity seeking designation must show that it, or its proposed Responsible Officer, has. Five parties commented on this proposed new minimum experience requirement. One supported the increase in years of experience, three opined that the new requirement was excessive and restrictive for new programs, and one asked for clarification of whether the requirement was intended for existing exchange visitor programs as well. Recently, many entities staffed by individuals with minimal experience have applied for designation. These entities and individuals typically have worked with designated sponsors in some capacity or have conducted short-term exchanges, but lack the full scope of experience in all aspects of exchange activities, including the regulatory knowledge critical to administering a successful exchange program. Some exchange visitor categories involve more complex administration processes than others (e.g., the au pair and secondary school student categories, which require locating and screening host families and schools, hiring and managing local and regional staff, and close monitoring of placements). The Department believes that three years of experience is the minimum necessary to develop a strong foundation for the conduct of an exchange visitor program. Applicants may demonstrate their experience in international exchange by providing staff resumes, as well as information about the applicant entity's or individual's experience and involvement with other cultural exchange programs. The Department adopts the proposed regulatory change for entities applying for designation. The Department will not require sponsors who have been designated for fewer than three years to demonstrate now three years of experience.

The proposed rule included a new provision requiring that an entity applying for sponsor designation undergo a site visit as part of the designation process. Such site visits, conducted by the Department of State or a third party acting on its behalf, were intended to evaluate whether an applicant had sufficient facilities, staff, and infrastructure necessary to conduct a successful exchange visitor program. Ten parties submitted comments on this proposal. Seven parties supported these site visits and three parties opposed them. One of the opposing parties specifically stated that the site visits were unnecessary due to the potential costs. One party believed that site visits should be required of current sponsors as part of the redesignation process and in lieu of a management audit requirement. Another party opined that the requirement was burdensome and superfluous for longtime program sponsors and that site visits are too costly and disruptive of daily work schedules. Finally, one party, in response to the assertion that the cost of the site visits would be determined ''by the required bi-annual user fee study,''

stated that the designation and re-designation application fees were sufficiently high to cover the cost of such site visits.

The Supplementary Information section of the proposed rule also mentioned the on-site reviews of existing sponsors and that the Department currently conducts on-site reviews at its discretion. In response, parties commented that such a requirement would be both burdensome and superfluous for a longtime sponsor.

Although the Department considers pre-designation site visits for new applicants to be a useful means of evaluating the ability of potential sponsors to run good exchange programs, as a matter of priority the Department has elected not to require them at this time, but to retain the discretion to conduct them. The Department will continue its practice of conducting on-site reviews of current sponsors as a part of monitoring and compliance of sponsors.

Section 62.4 Categories of Participant Eligibility

Five parties submitted comments concerning four categories of participant eligibility, namely, Teacher, Research Scholar, Intern, and Trainee. The Department has addressed the comment about evaluation of a teacher's eligibility and experience in a separate rulemaking on section 62.24, which was published May 2, 2013. (RIN 1400–AC60; see 78 FR 25669).

Three parties asked the Department to reinsert the term ''teaching'' into the description of a Research Scholar. The Department agrees to correct this inadvertent exclusion.

One party opposed the addition of the term ''full-time'' to the description of an Intern's enrollment, stating that the current regulations do not stipulate this requirement and that adding ''full-time'' to the category definition will complicate the process unnecessarily. The Department disagrees with the commenter that the proposed language will complicate the rules. The Department adopts the proposed language, as it is a technical modification conforming to language in this section with the specific regulations currently governing the Trainee and Intern Program. See 22 CFR § 62.22(b)(2).

In addition, one party commented on the definition of the Trainee category, arguing that the definition of ''Trainee'' is inapplicable to corporate program sponsors whose employees primarily administer the training of the exchange visitor. In addition, the comment states, ''In such cases, the foreign national need not satisfy any educational or experience requirements to be classified as a J–1 Trainee. A corporate program sponsor 'primarily administers' training while its employee(s) act as trainer(s) for a minimum of 95% of the exchange visitor's training.'' In the Supplementary Information section of the Trainee and Intern Final Rule (RIN 1400–AC15; see 72 FR 33669, June 19, 2007), the Department explained that a foreign national may not participate in a trainee or intern exchange visitor program until he or she has acquired sufficient education or related work experience to benefit sufficiently from the valuable experiential learning opportunity that training programs and internships provide. The Department confirms the definition on the basis that an exchange visitor must meet the requisite education and work experience to be suitable for participation in a training program. Therefore, sponsors must make sure that the selection criteria for their exchange visitors indeed meet the regulatory requirements.

The Department has amended the definition of a teacher to reflect language in a proposed rule. (RIN 1400–AC60; see 78 FR 25669, dated May 2, 2013).

Section 62.5 Application Procedure

The Department received a total of 514 comments regarding the proposed collection of Business Information Reports from Dun & Bradstreet both for new applicants (proposed section 62.5(c)(6)) and for sponsors seeking redesignation (proposed sections 62.7(c)(1) and (2)). Only one commenting party supported this requirement, but, like many other parties, was concerned about the cost. Some suggested that this report requirement could cost several hundred dollars for a medium to large sponsor and would represent a significant new expense for every sponsor. Other parties noted that many camps have never registered for a Dun & Bradstreet Number because the registration has no business purpose. Accordingly, requiring camps to register and pay for credit reports would be an undue burden on the camp community. The Department reviewed the utility of the Dun & Bradstreet report for oversight purposes, and determined that it is outweighed by the potential financial and resource implications for applicants for designation or currently-designated sponsors. Hence, the Department is eliminating the Dun & Bradstreet report requirement.

The proposed rule identified as the appropriate individuals to sign certain documents (e.g., the certifications required by Forms DS–3036, as set forth in section 62.5(a)) a sponsor's ''Chief Executive Officer, President, or equivalent.'' One party seeks clarification as to which positions are considered ''equivalent'' in this respect. The Department amends the rule to reflect that an executive with legal authority to make commitments on behalf of the sponsor (as identified in the organization's governing documents) be the signatory of such documents.

Section 62.5(c)(9) of the proposed rule requires a sponsor's Chief Executive Officer, President, or equivalent to certify that the proposed Responsible Officer and all proposed Alternate Responsible Officers are United States persons (i.e., U.S. citizens or legal permanent residents), and that the sponsor has obtained criminal background reports on all such candidates and has determined their suitability for these positions. Section 62.5(c)(9) requires that a sponsor include in its complete application both SEVIS-generated Citizenship Certifications for the proposed Responsible Officer and proposed Alternate Officers as well as separate evidence (e.g., a copy of a passport or birth certificate, or green card) that they are U.S. citizens or legal permanent residents of the United States. One commenting party supported the U.S. citizenship requirement; another recommended that it apply only to new entities seeking designation; and a third opined that the executive certification, SEVIS certification, and separate evidence requirements were redundant. The Department disagrees that the certifications are redundant. There is only one certification of U.S. citizenship or legal permanent resident status required. The executive certification is required on the SEVIS-generated form to ensure that the criminal background check has been completed on the proposed Responsible Officer and all proposed Alternate Responsible Officers. Providing documented proof is already a required practice and does not pose any additional burdens on the sponsor. Therefore, the Department adopts the language of the proposed rule.

With respect to the overall application process, one party commented that the requirements for submission of applications for designation and redesignation should be differentiated by program types, since colleges and universities already have unique requirements they must meet. Another party suggested that the required information would place an unnecessary administrative burden on established, low-risk entities. The

Department has found that the specific information it requests is necessary to evaluate an applicant's initial or a sponsor's ongoing qualifications to participate in the Exchange Visitor Program, without regard to the program type or the entity's legal status. Accordingly, and to ensure equal treatment of all applicants, the Department adopts the language of the proposed rule.

A single party commented on the definitions of ''financed directly'' and ''financed indirectly,'' as set forth in the proposed rule, noting that current regulations do not require certain publicly held companies to disclose the names, addresses, and citizenship or legal permanent resident status of their Boards of Directors or the percentage of stock/shares held in order to demonstrate the entity's U.S. citizenship status. The Department determined that this comment appears to have been directed to the application process requirements and not the financial support associated with an exchange visitor. The Department clarifies that the proposed rule already exempts publicly held U.S. companies whose shares are traded on a U.S. stock exchange from this requirement.

In addition, the Department deletes Appendices A and B to Part 62 in light of the collection of information through Form DS–3036 (*Exchange Visitor Program Application*) (OMB collection 1405–0147).

Section 62.6 Designation

The Department received three comments regarding sponsor designation. Comments ranged from statements indicating that these requirements should be applicable only to new entities seeking designation to requests that the Department differentiate exchange visitor program requirements by category, because colleges and universities must meet other requirements in order to operate. Some comments also argued that the information being requested would place an unnecessary administrative burden on established, low-risk entities. The Department respectfully disagrees and finds that the requested documentation is necessary to complete a full review of all new applications for designation on a consistent basis over all categories. It would be tremendously complex to have the Designation requirements be varied over the 15 categories of the exchange visitor program.

One party commented on the proposed flexibility of the Department to redesignate a sponsor for one or two years, at its discretion, opining that all sponsors should be redesignated for two years. Four parties commented that the cycle should be set at the original five years. Under section 502(b) of Public Law 107–173, enacted May 14, 2002, the Department of State is to conduct a periodic review of sponsors of exchange visitors at least every two years. The legislation, however, does not prohibit the Department from reviewing a sponsor's qualifications more frequently. For example, experience has demonstrated that there are a number of sponsors having technical infractions that are of enough concern to cause the Department to withhold a longer period of designation until that sponsor has corrected these problems. The Department believes that it can work with such sponsors to assist them in improving their program operations in this area. The one-year redesignation informs a sponsor that it needs to correct any issues identified, but also creates a time period after which the Department will formally check the extent of the sponsor's improvement and determine whether it indeed qualifies for a two-year redesignation. Accordingly, the Department adopts the proposed one or two year redesignation cycle in order to provide it with the tools necessary to ensure that only qualified entities continue to operate as designated sponsors.

Section 62.7 Redesignation

The Department received a total of 24 comments regarding various aspects of the redesignation process (in addition to the 514 comments opposed to the collection of Dun & Bradstreet numbers in connection with designation and redesignation, discussed above). Four parties recommended that the redesignation cycle be changed to a five-year rather than two-year cycle. However, as noted above, there is a statutory requirement for a minimum biannual review cycle of all sponsors designated to conduct exchange visitor programs. For this reason, the Department will adopt the language of the proposed rule.

Nine parties complained about the ''excessive'' amount of documentation they must provide along with an application for redesignation. In particular, post-secondary academic institutions opined that providing the Department with information about their Boards of Trustees was superfluous, as such institutions were already subject to rigorous checks and other measures to ensure accountability. Indeed, with respect to a sponsor's eligibility, the Department is concerned not only that a sponsor have financial stability and resources, but also that control of its exchange visitor program not be ceded to people who do not meet the regulation's definition of a U.S. person. Accordingly, it is incumbent upon sponsors—even large universities—to report and update the citizenship or legal U.S. permanent residence status of the members of their governing boards and provide updated copies with an application for redesignation. The Department believes that this documentation is necessary to ensure that a sponsor seeking redesignation continues to meet all requirements of designation (e.g., status as a U.S. person, financial viability). A sponsor's circumstances may change over time, therefore making it necessary for sponsors to provide complete and current information during the redesignation process in order for the Department to make a meaningful assessment of a sponsor's continued qualifications for sponsorship. Although government agencies may not have all the documentation specified in this section, they too are required to submit all relevant documents. Accordingly, the Department adopts the language in the proposed rule.

As discussed above, the Department received a total of 514 comments regarding the proposal to collect a Dun & Bradstreet Report for both new applicants and for current sponsors seeking redesignation. After consideration, the Department has decided to eliminate this requirement.

Two parties recommended that the following language be reinserted into section 62.7: ''a sponsor seeking redesignation may continue to operate its program(s) until such time as the Department of State notifies it of a decision to amend or terminate its designation.'' The Department inadvertently deleted this language and has therefore reinserted it into this Final Rule.

Section 62.7(c)(2) of the proposed rule required that, as part of the redesignation process, sponsors provide the Department with a list of foreign and domestic third parties with whom they have written agreements. Three parties opposed this requirement, arguing that it was an excessive paperwork requirement. Keeping in mind the modification of the definition of third party (which now requires sponsors to enter into written agreements with entities that act on behalf of the sponsor in the conduct of the sponsor's exchange visitor program), the Department has decided to require all sponsors to maintain such lists, which the Department may then request as part of the redesignation process or as circumstances require. (Note that

sponsors in the Summer Work Travel category of the Exchange Visitor Program must submit the names of all foreign entities to the Department in accordance with 22 CFR 62.32(p)(2).)

Finally, the Department proposed requiring sponsors to confirm or reconfirm the suitability of proposed or current Responsible Officers and Alternate Responsible Officers, by requiring them to undergo criminal background checks. One party objected to requiring current Responsible Officers and Alternate Responsible Officers to repeat the process. The Department will require designated sponsors to obtain these reports every four years; sponsors that are redesignated for a single year, however, will be required to repeat the process for their next designation application.

The Department anticipates that thorough criminal background reports will provide management decision makers with sufficient information to determine whether candidates for Responsible Officer and Alternate Responsible Officer positions—positions that work with a national security computer system—have criminal records or other blemishes on their pasts that may make them unsuitable for the proposed positions. Furthermore, the criminal background check requirement reflects the importance of such individuals in a sponsor's organization and their right of access to, and ability to manipulate data within, a controlled federal government database that tracks foreign nationals participating in the Exchange Visitor Program. In addition, protection of exchange visitor personal data is important to the health, safety, and welfare of program participants. Responsible Officers and Alternate Responsible Officers are the only individuals authorized to log onto SEVIS, issue and sign a Form DS–2019, the ''Certificate of Eligibility for Exchange Visitor (J-Nonimmigrant) Status,'' and otherwise update the system with timely and accurate information. Thus, it is of vital importance that all individuals with access to SEVIS be properly vetted. The Department will not require an additional background check for Responsible Officers and Alternate Responsible Officers who are working for a federal or state government entity and have already passed a government background check.

Nine out of 24 comments specifically addressed the paperwork, including proof of criminal background checks, which must be submitted as part of the redesignation application, deeming it excessive. Except on an ad hoc basis, the Department of State has decided not to require applicants or sponsors to submit the results of the criminal background checks. Rather, the Chief Executive Officer, President, or equivalent must submit a certification that the sponsor's Responsible Officer and Alternate Responsible Officer(s) have undergone criminal background checks within the last four years or when a new sponsor files a designation application. The proposed regulation did not set specific requirements for a sponsor to follow with respect to report format, screening company, or assessment of criminal background check reports. The Department does, however, require a sponsor to utilize the services of a bona fide background screener. Although the Department does not endorse any particular screener or screening organization, it identifies, for sponsors' convenience, an organization that can help identify potential background companies: The National Association of Professional Background Screeners (NAPBS). NAPBS has more than 500 members (a list of which is located at *www.NAPBS.com*), all of which are expected to adhere to the NAPBS code of conduct governing background investigations and confidentiality.

The Department emphasizes that obtaining a criminal background report does not in and of itself confirm an individual's suitability to act as a Responsible Officer or an Alternate Responsible Officer. A sponsor should consider the results of such a report, and other factors, in making a reasoned judgment about an individual's fitness to assume either of these two roles.

Section 62.8 General Program Requirements

Only one party commented on the general program requirements section. Specifically, the commenting party proposed that the minimum number of exchange visitors required for program designation be raised from five, as currently specified in section 62.8(a) of the proposed rule, to ten. The party also asked the Department to specify what constitutes the ''good cause'' that would permit an applicant to run an exchange program with fewer than five exchange visitors. The Department established a minimum number of exchange visitors based on the smallest program size it believes justifies the resources it must expend to evaluate a sponsor's redesignation application and monitor its program on an on-going basis. Increasing the minimum size would have no impact on any parties except those small programs themselves, and could potentially and unnecessarily remove niche sponsors from the program. Accordingly, the Department will not increase the minimum number. With respect to ''good cause,'' each situation is fact-specific, and, since the Department wishes to maintain maximum discretion, the Department has decided to delete the reference to ''good cause.'' With the exception of the removal of ''good cause,'' the Department adopts the current language of the proposed rule.

Section 62.9 General Obligations of Sponsors

The Department received a total of 56 comments regarding various general program obligations of sponsors. Many of the comments related to the appointment of Responsible Officers and Alternate Responsible Officers.

One party commented on the payment bond requirement in section 62.9(e)(3), suggesting that the regulations should both provide objective criteria regarding when and what kind of bond may be required, and should exempt programs that have proven their financial viability from the bond requirement. The Department notes that this provision is not new. Although the Department has not required a sponsor to secure a payment bond for many years, it recognizes that there may be a number of circumstances in which it might be necessary to do so. For example, the Department could have reason to believe that a sponsor does not have either the resources to support an existing exchange visitor population or the inclination to fulfill its monitoring and support obligations. Unfortunately, such circumstances might befall even a long-standing sponsor with an historical record of financial viability and program support. To provide another example, when the Department redesignates a sponsor for a single year, it may wish to require that sponsor to obtain a bond that provides sufficient funding to cover the cost of supporting the sponsor's current year exchange visitors and/or transferring the next year's exchange visitors to other sponsors. Were the sponsor's performance not to improve and were the Department to initiate a suspension or other serious sanction against the sponsor, a payment bond could help ensure that there would be sufficient funding available to take care of potentially stranded exchange visitors. The Department, therefore, must retain the flexibility to require all sponsors to secure payment bonds at the Department's discretion.

Three parties addressed the provision in section 62.9(f)(2) that requires a sponsor to ensure that its employees, officers, agents, independent

contractors, third parties, volunteers, or other individuals associated with the administration of its exchange visitor program are adequately qualified and trained and comply with the Exchange Visitor Program regulations and immigration laws. One party stated that this regulation should be expanded to include foreign nationals who work as ''agents or representatives'' of sponsors. Although the Department believes that this language is already sufficiently broad to include any party that a sponsor engages to assist in its exchange visitor program oversight and operations, it modifies the language to change ''other individuals'' to any ''other individual or entity'' to avoid confusion about this broad sponsor obligation to ensure the regulatory awareness and compliance of entities it may engage to assist.

Two other parties opined that, in order to adequately train staff and others on working in the SEVIS system, sponsors must be permitted to employ more than ten Alternate Responsible Officers. It is not clear why individuals must have access to SEVIS in order to be capable of training others on Exchange Visitor Program regulations. Regardless, as it has noted above, the Department will accept requests for additional Alternate Responsible Officers on a case-by-case basis.

Eight parties opposed the proposed criminal background check requirement for Responsible Officers and Alternate Responsible Officers in proposed section 62.9(g)(1). Fifteen parties supported it, although of those, thirteen parties recommended that the background checks not be required annually and that Responsible Officers and Alternate Responsible Officers of currently designated sponsors be ''grandfathered'' in. The Department considered this recommendation and has decided that current Responsible Officers and Alternate Responsible Officers will need to obtain a background check before their sponsor organization is next redesignated after the promulgation of this final rule and maintain background check paperwork on Responsible and Alternate Responsible Officers that is no older than four years at any time. New sponsors seeking designation by the Department must conduct new background checks on their proposed Responsible Officers and Alternate Responsible Officers. Thus, in accordance with section 62.5(c)(8)(iii) below, an entity seeking designation must obtain criminal background reports on all proposed Responsible and Alternate Responsible Officers, certify that it has done so, and maintain records that are no older than four years at any time. In those few instances where the Department is concerned about a sponsor's regulatory inconsistencies related to their administration of the program and redesignates it for a single year, such sponsor would be required to obtain reports for that year.

One commenting party suggested that if a sponsor were merely required to maintain records of these criminal background checks and submit them to the Department only on request, it would undermine the rationale for requesting these checks because they would not be turned in. However, the Department intends for sponsors to use their own judgment and internal standards to assess the suitability of individuals for these jobs, based on whether a report revealed any information about a candidate's past that would disqualify him or her from assuming a position of trust and responsibility.

Nine out of ten parties commented that the proposed maximum of ten Alternate Responsible Officers specified in section 62.9(g)(1) is not large enough, and that larger sponsors with more exchange visitors should be permitted to have more than ten Alternate Responsible Officers. The Department will explore the idea of expanding the maximum number of Alternate Responsible Officers for sponsor organizations that request additional officers and demonstrate a need for them.

Two parties addressed the requirement in section 62.9(g)(2) that Responsible Officers and Alternate Responsible Officers be employees of the sponsors. One comment, from a Rotary organization, explained that Rotary uses only volunteers, not employees, as Responsible Officers and Alternate Responsible Officers. The other comment, from a large corporation, raised the concern that company lawyers and paralegals would no longer be permitted to serve as Alternate Responsible Officers under the new rules. The Department has reviewed this comment and has determined that it would prefer that Responsible Officers and Alternate Responsible Officers be employees of the sponsor organization. However, an applicant entity or a sponsor that wishes to nominate an individual who is not an employee as an Alternate Responsible Officer may make a request to the Department, which the Department may approve in its discretion. One important factor that may qualify a volunteer as an Alternate Responsible Officer might be that person's longstanding, close, and continuing relationship with the sponsor organization. Another factor might be that the volunteer works for a sponsor organization that has a predominantly volunteer exchange model.

Ten parties commented on the requirement in section 62.9(g)(3) that sponsors replace outgoing Responsible Officers and Alternate Responsible Officers within ten calendar days, suggesting that this requirement was unrealistic. Comments indicated, for example, that it takes a long time to hire new staff, making it not feasible to speedily replace personnel. The Department understands these concerns, but maintains the requirement. The Department is not suggesting that the sponsor organization hire a new employee in this timeframe, but that it designate and provide documentation for an existing staff member to be placed in the position on a temporary basis until a permanent replacement is hired. Ten days is the amount of time that the Department believes that a Responsible Officer/Alternate Responsible Officer work could go uncompleted; after this time period, someone must take on the Responsible Officer/Alternate Responsible Officer monitoring workload at the sponsor organization. The Department wishes to reiterate that a sponsor must have in place and maintain a Responsible Officer and a minimum of one Alternate Responsible Officer at all times. If the Responsible Officer leaves, the sponsor may wish to designate an existing Alternate Responsible Officer to that position on a temporary basis. If the only Alternate Responsible Officer leaves, the sponsor should select another existing employee or officer to be an Alternate Responsible Officer. The potential Responsible Officer/Alternate Responsible Officer needs to undergo the criminal background check and be trained in the system, unless it is a case of an Alternate Responsible Officer becoming the Responsible Officer temporarily. In either case, and regardless of the reason, when a Responsible Officer or Alternate Responsible Officer departs the organization, the sponsor must ensure that the departing person's access to SEVIS is terminated as quickly as possible, but in no event later than ten calendar days after departure. This action serves to limit unauthorized SEVIS access by a person who is no longer involved with the administration of a sponsor's exchange visitor program and, thereby, protects all involved parties, as well as U.S. national security. The Department reminds sponsors that they must make it their highest priority

to replace a departing Responsible Officer as quickly as possible as this role is critical to the stewardship of the sponsor's exchange visitor program.

In addition, the Department deletes the second sentence of section 62.9(a); the regulations governing the imposition of sanctions are set forth in 22 CFR 62.50. The Department also deletes Appendix C to Part 62 in light of the collection of information through Form DS–3037 (*Update of Information on a Sponsor's Exchange Visitor Program)* (OMB collection 1405–0147).

Section 62.10 Program Administration

Twenty-three parties commented on the proposed requirement in section 62.10(a)(2) that exchange visitors be proficient in the English language, ''as measured by an objective measurement.'' All but one of these parties recommended maintaining the current language (i.e., ''The exchange visitor possesses sufficient proficiency in the English language to participate in his or her program.'') One party recommended that the Department adopt the test set forth in the regulations for the Trainee and Intern categories (Section 62.22(d)(1)). The Department believes that not only is an exchange visitor's success in his or her particular program dependent upon sufficient English language capability, but good English communication skills are essential to ensure the health, safety, and welfare of exchange visitors. Moreover, the Department continues to find that too many exchange visitors lack sufficient English proficiency to perform their jobs or complete their academic programs; to navigate daily life in the United States; to read and comprehend program materials; to understand fully their responsibilities, rights, and protections; and to know how to obtain assistance, if necessary. Accordingly the Department adopts a modified version of the regulatory language governing the Trainee and Intern categories as the program-wide standard for determining the English language proficiency of exchange visitors. The Department reminds sponsors to retain evidence of how they measured applicants' English language proficiency so that it may be made available to the Department upon request.

The proposed rule moved sections 62.70(b) and (c) to sections 62.10(d)(3) and (4) and required that sponsors report in SEVIS any change in an exchange visitor's U.S. address, telephone number, email address, or primary site of activity within ten business days of being notified by the exchange visitor. Of the fifteen parties commenting on this proposed requirement, the majority opined that ten days are not sufficient time to update records, given the number of exchange visitors in programs and the other responsibilities of the Responsible Officer and Alternate Responsible Officers. Since the inception of SEVIS, sponsors were required to update SEVIS records within 21 days. Upon review of current SEVIS reporting requirements and the Department's legislative mandate to ensure that sponsors maintain SEVIS, the Department upholds the proposed language and requires sponsors to report in SEVIS within ten business days of notification by an exchange visitor of any change in address, telephone number or email address.

Thirty parties opposed the proposed requirement in section 62.10(d)(5) that sponsors report the actual and current U.S. address and email address for accompanying spouses and dependents. They argued that such a requirement would be unduly burdensome, that the information could be obtained from the Department of Homeland Security (DHS), and that the requirement should be postponed until the next version of SEVIS is operational, at which time exchange visitors can enter this information directly into SEVIS themselves. Similarly, 31 parties objected to the proposed requirement in section 62.10(d)(6) that sponsors report Employment Authorization Document (EAD) information in SEVIS for accompanying spouses and dependents. They argued that sponsors do not have this information, that this information is not part of the employment authorization process, or that, in any event, U.S. Customs and Border Protection should collect this information. To be ''accompanying,'' spouses and dependents—with few exceptions (e.g., dependents are in a boarding school)—should be living with the exchange visitors. The Department finds that collection of the accompanying spouse and dependents' email addresses is necessary for emergency contact information and upholds this requirement. The Department deletes proposed section 62.10(d)(6) regarding Employment Authorization Documents from this final rule; however, the Department will review the requirements of this proposed section at the time another version of SEVIS is implemented.

In order to protect the health, safety, and welfare of exchange visitors, language has been inserted into the regulation making it unlawful for sponsors or their foreign entities to retaliate against exchange visitors if they should make complaints about the program.

Section 62.11 Duties of Responsible Officers and Alternate Responsible Officers

Proposed section 62.11(a) would require Responsible Officers and Alternate Responsible Officers to be thoroughly familiar not only with the Exchange Visitor Program regulations and Department codes required for issuing Forms DS–2019, but also with ''all federal and state regulations pertaining to the administration of its exchange visitor program, including the Department of State's and Department of Homeland Security's policies, manuals, instructions, guidance and SEVIS operations relevant to the Exchange Visitor Program,'' as well as federal, state and local laws pertaining to employment, including the Fair Labor Standards Act, if the exchange category overseen has an employment component. Five commenting parties encouraged the Department to develop clear, up-to-date policy and interpretive guidance on all relevant laws and regulations, and to make such guidance easily available to program sponsors. In an attempt to capture relevant Department guidance, regulations, and other information, the Department launched a new Web site design last year, and all such information can now be accessed under one section, at *http://j1visa.state.gov/sponsors/current/regulations-compliance.* Sponsors nonetheless may need to research some federal, state, and local requirements that may impact their exchange visitor programs.

One commenting party expressed concern about proposed section 62.11(d), which directs sponsors to ensure that their spam filters do not block reception of SEVIS or communications from either the Department of State or the Department of Homeland Security. The party noted that it is not always possible to know if messages are being sent in the first place and suggested that multiple messages be sent, including a paper notice if there is no response from the sponsor. The proposed regulation is consistent with the requirement set forth in 8 CFR 214.3(e)(1) that governs electronic notices sent to Student and Exchange Visitor Program (SEVP) certified schools. Paper notices will be sent at Departmental discretion in certain circumstances, such as when sponsors have notified the Department that their electronic systems will have outages within a specific timeframe. Therefore, the Department adopts the language of the proposed rule.

Section 62.12 Control of Forms DS–2019

The proposal in section 62.12(b)(1)(i) stated that a sponsor must verify that each prospective exchange visitor is eligible, qualified and accepted into the sponsor's exchange visitor program. The parenthetical language implies that the sponsor has secured a placement, by obtaining a camp offer letter or a written secondary student school acceptance, before issuing a Form DS–2019. A total of 25 parties, mostly from the secondary school student and camp counselor communities, commented on this proposed change, only one of which supported it. A majority of those commenting expressed concern that if program pre-placement—e.g., a camp offer letter or a written secondary student school acceptance—were required for all exchange visitors, many exchange visitors would be unable to secure visas because the visa process is so slow during high volume seasons. The secondary school student regulations set forth under section 62.25, for example, permit sponsors to place students up to August 31 each academic year. Due to high volume of visas processed every summer, waiting until the end of August when a school placement is confirmed does not permit ample time for the visa to be processed and travel to the United States prior to the first day of school.

The Department believes that there are many advantages to its proposal. First, it would prevent sponsors from cancelling programs at the last minute due to their inability to secure program placements (and a prospective exchange visitor would know that there was no guarantee of a program until he or she received a Form DS–2019). It also would lessen the potential for applicants to obtain and use visas without ever intending to participate in the Exchange Visitor Program. Finally, it would require sponsors to secure placements earlier in the season than they usually do, allowing more time for planning and orientation than is now available.

Nevertheless, without further analysis, the Department cannot assess whether posts would be able to timely grant all the necessary visa interviews, in order to avoid unanticipated shrinkage in program sizes. In light of this, the Department is eliminating the proposed parenthetical language ''(e.g., has an offer letter from a camp, a written acceptance from a secondary school)'' from section 62.12(b)(1)(i). The Department acknowledges that, in certain categories sponsors are able to meet the regulations by accepting exchange visitors into their program without securing final placement prior to issuing a Form DS–2019. It is important to note that certain categories, such as Summer Work Travel, secondary school students, interns and trainees, have their own criteria regarding placements within the specific program provisions set forth in Subpart B.

Four parties opposed the new language in section 62.12(d)(1) regarding annual allotment of Forms DS–2019, arguing that a limited annual allotment might result in a sponsor not having enough forms to meet market demand. The Department notes that the process for submitting an annual request for the Department for allotment of Forms DS–2019 or the request for additional Forms DS–2019 (i.e., an expansion) is no different than the process that has been in place since the publication of the original 1993 regulations. The Department started ''allocating'' Forms DS–2019 before the advent of SEVIS. The transition to the electronic generation of such forms to be printed on a sponsor's printer, however, does not eliminate the need for the Department to determine how many forms a sponsor may have—and thus, how many exchange visitors a sponsor may bring to the United States each year. Indeed, the Department assesses each sponsor's financial and staffing resources in an effort to ensure that a sponsor does not sponsor more exchange visitors than it can adequately monitor and support. The Department, therefore, will issue Forms DS–2019 to sponsors based on the current need of the sponsor, how the Department views program expansion as a policy issue, and any upcoming expressed needs of sponsors in their implementation of the program.

The commenting parties noted that the program size expansion request procedures in section 62.12(d)(2) are unclear and require further clarification from the Department. The Department respectfully disagrees. The language in the proposed regulations parallels the language in section 2.4.2 of the *User Manual for Exchange Visitor Program Sponsor Users (RO/ARO) of SEVIS Version 6.10: Volume 1 Forms DS–3036 and DS–3037.* Sponsors have long been required to describe their source of planned program growth, staff increases, training capacity, current financial status, and provide other information on how they will handle program growth (*id.* at p. 46). Accordingly, the Department will adopt section 62.12(d) as proposed.

Thirteen commenting parties addressed the prohibition in section 62.12(e)(2) against forwarding, via fax or other electronic means, copies or PDFs of signed or unsigned Forms DS–2019 to any unauthorized party. The parties noted that, although they appreciate the importance of keeping copies of government documents secure, the prohibition as written in the proposed rule is too rigid. One party observed that the proposed regulation does not clearly indicate if there are any ''authorized parties'' other than the Department of State and the Department of Homeland Security and queried whether, for example, an exchange visitor whose DS–2019 is stolen is an ''authorized party'' for purposes of receiving a copy of his or her own scanned DS–2019. Another commenter noted that because the original DS–2019 must be signed by the sponsor in blue ink, a precaution that permits anyone viewing the DS–2019 to distinguish readily an original from a photocopy, there is no reason to restrict a sponsor's ability to transmit a fax or PDF to any entity other than the Department of State or the Department of Homeland Security. In light of current technologies that make it easy to create counterfeit copies of documents, the Department does not wish for there to be any electronic or paper replicas of Forms DS–2019 to be available to anyone, hence, the only authorized parties are the Departments of State and Homeland Security. It would be relatively simple to remove a black signature from a copy of a Form DS–2019 and replace it with an original blue ink signature. While sponsors are certainly authorized to maintain copies of these forms for their internal files and may be called on to provide such copies to a requesting Department, the only other ''versions'' of Forms DS–2019 should be the original documents maintained by the exchange visitors and their accompanying spouses and dependents. Accordingly, the Department will adopt the proposed regulation as drafted.

Three commenting parties opposed the requirement in section 62.12(e)(5) that a sponsor ask exchange visitor applicants to return unused Forms DS–2019. Two of the parties pointed out that SEVIS makes this requirement obsolete. The Department agrees—as long as sponsors promptly change the status of the SEVIS records associated with the unused Forms DS–2019 to ''invalid.'' Otherwise, individuals with unscrupulous intentions could use a Form DS–2019 to obtain a visa to illegally enter the United States. While the Department will withdraw the requirement set forth in section 62.12(e)(5), it reminds sponsors of the

critical importance of maintaining current and accurate SEVIS records.

In addition, the Department deletes section 62.12(b)(2)(iii); the regulations governing the imposition of sanctions are set forth in 22 CFR 62.50.

Section 62.13 Notification Requirements

The Department received a total of 18 comments regarding various aspects of the notification requirements section. One party stated that the wording of section 62.13(a)(1) mistakenly implies J–2 accompanying spouses and dependents will need to be validated separately from the J–1 exchange visitors they accompany or join, even though J–2s are automatically validated in SEVIS when J–1s are validated. Under the current SEVIS, a J–2's record is automatically changed from ''Initial'' to ''Active'' status upon the validation of the associated J–1 record. Accordingly, the Department modifies the language of section 62.13(a)(1) to clarify that separate validation is not necessary.

Seven parties commented on the requirement proposed at section 62.13(a)(4) that sponsors track and report early departures of accompanying spouses and dependents, stating that they had no system to track them, and that ''this requirement goes beyond regulatory requirements.'' The Department disagrees. There have been 30,000 J–2 visa holders that entered the United States on the Exchange Visitor Program since the program's inception. Sponsors of exchange visitors are equally responsible for tracking the whereabouts of accompanying spouses and dependents to whom they also issued Forms DS–2019. One commenting party, however, explains that there is no regulatory requirement for the J–1 exchange visitor to report to the sponsor the travel plans of his or her accompanying spouse and dependents. The Department reminds sponsors that it is incumbent upon them to draft and implement programmatic rules that allow them to satisfy the requirements in Part 62. In other words, a sponsor can easily make it a condition of bringing an accompanying spouse and dependents that the exchange visitor must report if and when they depart the United States prior to the exchange visitor. Accordingly, the Department retains the proposed language for section 62.13(a)(4).

Four parties submitted comments about the requirement proposed in section 62.13(b)(2) that a sponsor must update SEVIS to reflect any change to an exchange visitor's site of activity. This is not a new requirement: current section 62.70(a)(5) requires a sponsor to ''[u]tilize SEVIS to up-date information on any exchange visitor, spouse, or dependent child for whom a SEVIS record has been created.'' The purpose of the new language in section 62.13(b)(2) is to ensure that sponsors understand that an exchange visitor's site of activity is included in the SEVIS information that they are required to update.

As ''site of activity'' is a newly defined term, the Department understands that additional guidance is needed to inform sponsors how to accommodate certain situations. One university expressed concern at the burden of updating the (secondary) site of activity field for an exchange visitor who goes to another site ''for a few days at most'' to lecture or consult. Proposed regulations at section 62.13(b)(2) require a sponsor to update an exchange visitor's site of activity within ten days. Clearly, changes in activity locations that last only a few days would not need to be captured in SEVIS. Keeping in mind that a purpose of maintaining a current site of activity in SEVIS is to enable law enforcement to locate exchange visitors, in the above example, it is likely that someone at the professor's primary site of activity could provide law enforcement with the professor's itinerary. However, if an individual had both a permanent office and a lab site, it would be appropriate to enter as the primary address, the one at which the exchange visitor was primarily located, and to enter the other as secondary. The collection of this data will remain in the final rule.

When a nonimmigrant enters the United States and reports to his or her exchange visitor program sponsor, the sponsor must note this occurrence in SEVIS through the validation process, thereby demonstrating that the exchange visitor is currently present in the United States and is participating in his or her exchange visitor program identified on the Form DS–2019 used to enter the United States. For the purpose of this rulemaking, the 30-day requirement for validation remains unchanged, with the exception of those exchange visitors participating in a program of which the maximum duration of the program is less than 30 days. Section 62.8(b), regarding minimum duration of program, requires a sponsor, other than a federal government agency, to provide each exchange visitor, with the exception of Short-term Scholar, with a minimum period of participation in the United States of no less than three weeks. When an exchange program is less than three weeks, the requirement to validate the SEVIS record within 30 days of the Program Start Date does not work. Therefore, the SEVIS record with a program duration of less than 30 days must be validated before the Program End Date listed in SEVIS. Failure to validate a nonimmigrant's SEVIS record (e.g., before the Program End Date for program durations of less than 30 days or within 30 days of the Program Start Date for programs with a program duration of 30 days or greater) will result in the automatic change of the status of a SEVIS record to ''Invalid'' (when no Port of Entry information is contained on the SEVIS record) or ''No Show'' (when Port of Entry information is present on the SEVIS record). A record in ''Invalid'' status indicates that a foreign national did not use the associated Form DS–2019 to enter the United States. A record in ''No Show'' status indicates that the nonimmigrant entered the country, but failed to commence participation in the exchange visitor program for which he or she entered the United States. It is important to recognize that a SEVIS record in ''No Show'' status is a negative indicator that alerts the proper authorities that the individual failed to comply with the requirements of the Exchange Visitor Program regulations by entering the United States with no intention of reporting to his or her sponsor. Sponsors must use caution and timely validate SEVIS records or they could change to ''No Show'' status and unintentionally create a negative nonimmigrant history for the exchange visitor, thereby impacting his or her application for visas in the future.

Sponsors should realize that Invalid and No Show records will appear on the sponsor's Form DS–3097, Annual Report, and may be of concern to the Department's Office of Designation when processing Form DS–2019 allotment requests or applications for redesignation. Failure to validate SEVIS records also may impact a sponsor's allotment of available SEVIS records and the administrative actions that are required (by both the sponsor officials and the Department of State officials) to correct the SEVIS status of the records; and is evidence of a sponsor's failure to comply with program regulations.

Three parties commented on proposed section 62.13(a)(3), which provides that a sponsor must report in SEVIS any withdrawal from or early completion of an exchange visitor's program. One party suggested changing the functionality of SEVIS to allow a sponsor to enter a retroactive date in the ''Complete Program More than 30 days Before Program End Date'' field. The second party urged the Department to make reference to the impending

paperless environment so that ''SEVIS can be programmed to implement Exchange Visitor Program regulations, rather than expecting the regulations to be amended later in response to SEVIS programming.'' The third party, a sponsor in the research scholar category, suggested omitting this provision from the Final Rule, arguing that sponsors sometimes overestimate the amount of time a research project can take, making it more sensible retroactively to change the program end date rather than report that the program was completed early. The Department has carefully considered these comments, and will adopt the language of the proposed rule. The Department can anticipate neither the implementation date nor the final characteristics of a SEVIS update. Accordingly, it must adopt regulations that address the current state of technology and issue guidance and/or new regulations after the technologies change.

Current section 62.13(c)(8) requires sponsors to report the loss or theft of Forms DS–2019 to the Department by telephone. Two commenting parties asked the Department to reconsider this requirement and instead permit sponsors to report this information via email or in SEVIS. The Department agrees with this suggestion and, accordingly, will change section 62.13(c)(8) to permit such information to be reported by telephone or email.

Section 62.13(d), which has been changed to require sponsors to inform the Department of any serious problem or controversy on or before the next business day, inspired two comments. One party asked the Department to keep the language ''promptly'' rather than change the operative language to ''on or before the next business day.'' The Department believes that ''promptly'' was too vague a standard to guide sponsors in the event of a serious problem or controversy. Thus the Department will adopt the wording ''on or before the next business day.'' The other party asked that the Department more explicitly define or provide examples of what might constitute a ''serious problem or controversy.'' Examples of such instances are death or serious injury of an exchange visitor, sexual abuse, or any other event that could bring the Department or the Exchange Visitor Program into notoriety or disrepute.

In addition, the Department deletes section 62.13(b)(1)(iii); the regulations governing the imposition of sanctions are set forth in 22 CFR 62.50.

Section 62.14 Insurance Coverage

This rule increases by $50,000 the level of insurance coverage a sponsor must require its exchange visitors (and accompanying spouses and dependents) to maintain for the duration of their exchange visitor program participation, as reflected on their Forms DS–2019 (i.e., from the ''Program Begin Date'' through the ''Program End Date''). Many sponsors already require insurance policies for their exchange visitors at a higher level of coverage than the current regulations require. Although the regulations do not require ''entry to exit'' insurance coverage, the Department strongly encourages sponsors to offer this highly desirable coverage.

The Department received a total of 47 comments regarding the insurance provisions. Of those, 37 parties supported the increased amounts, nine parties opposed the proposed changes, and two parties neither agreed nor disagreed but made further inquiries about acceptable ratings. The majority of the comments recognized the need for an increase in the health insurance coverage amounts. However, some commenters indicated that the amount of coverage of $200,000 per accident or illness was too high and that $100,000 would be sufficient. The Department has further reviewed insurance levels and recommendations and agrees that $100,000 is an acceptable level of coverage per accident or illness. The Department also has adopted, as prompted by two of the comments, two additional insurance ratings: the ''A-'' rating by Fitch Ratings, Inc. and the ''A3'' rating by Moody's Investor Services. Thirteen of the commenting parties asked the Department to delay or provide a grace period for implementation of the new insurance requirements in order to give sponsors time to enter into new contracts with insurance carriers. The Department understands that current contracts must be fulfilled and that it will take some time to put new agreements in place. Therefore, the new insurance requirements will go into effect on January 1, 2015. Three comments suggested deletion of proposed section 62.14(j), which gives the Secretary of State the authority to update new mandatory minimum levels of insurance coverage. The comments argued that this power is too broad and that, in any event, changes to minimum insurance coverage requirements should go through the full regulatory review process. The Department agrees and has deleted this provision from section 62.14.

Section 62.15 Reporting Requirements

Sponsors must submit annual reports to the Department, to be generated through SEVIS. Such report must be filed on an academic (July 1–June 30), calendar (January 1–December 31), or fiscal (October 1–September 30) year basis, as directed by the Department. The annual report has recently been updated in SEVIS to reflect the changes made on the Department's Form DS–3097 (Annual Report). The statistical calculations for the number of exchange visitors each year is taken directly from SEVIS records. Sponsors may input answers to the narrative questions on Form DS–3097 in SEVIS; however, they must continue to print the form, sign the certification, and mail it to the Department until the implementation of the next version of SEVIS. In addition, the Department deletes Appendix D to Part 62 in light of the collection of information through Form DS–3097 (Annual Report Form) (OMB collection 1405–0151).

The Department received 11 comments regarding section 62.15(e)(2) of the proposed rule (now identified as section 62.15(a)(5)(ii) in this rulemaking), eight of which opposed the stipulation that only the Chief Financial Officer of an academic, medical, and private sector entity is authorized to sign its annual report. The annual report form already permits the Responsible Officer's signature; therefore, the Department revises section 62.15(a)(5)(ii) to permit an institution's Chief Executive Officer or Responsible Officer to sign the institution's annual report.

To strengthen program oversight, proposed section 62.15(e)(3) (now identified as section 62.15(b) in this rulemaking) requires management reviews, currently utilized in the Au Pair category, for Private Sector Program sponsors, which includes the categories of Trainees, Interns, Teachers, Secondary School Students, Camp Counselors, Au Pairs, Alien Physician, and Summer Work Travel. The Department received 59 comments on the proposed management audit requirement, 23 of which were in favor of the new requirement, 35 of which were opposed, and one of which requested clarification on the cost and a list of recommended auditors. Twenty-three comments recognized the value of a management audit yet still raised concerns about the financial impact of such audits on small entities, the financial impact on organizations that hold designations in multiple categories of exchange, and the requirement that audits be conducted annually.

A management review or audit, as it was previously referred to, is a review of a sponsor's internal controls. The management review identifies weaknesses in operating procedures in the conduct of an organization's business and in meeting regulatory requirements in the administration of its exchange visitor program or programs. Requiring a management review would give the Office of Exchange Coordination and Compliance an additional tool to assess the extent to which designated private sector exchange sponsors comply with the Exchange Visitor Program regulations. The Department will provide sponsors with a format and schedule of the management review timeframe. The Department intends to roll out the management reviews beginning with the secondary school student category. Initial management reviews will be due four months after the end of each category's annual cycle. Management reviews for the other categories will be implemented on different schedules in order to spread out the due dates over a two-year period. Sponsors that administer exchange programs funded fully by federal, state, or local governments (e.g., public school systems) are exempt from the management review requirement. These exchange programs are audited under other governmental requirements.

Sponsors are required to engage independent auditors to perform the management reviews, including reviewing internal operating procedures of the sponsor and the files of a statistically valid sampling of the sponsor's exchange visitors.

Three commenting parties set forth general concerns about proposed section 62.15(f) (now identified as section 62.15(a)(6) in this rulemaking), which requires sponsors to report a numerical count, by category, of all exchange visitors participating in the sponsor's program for the reporting year. Specifically, the comments called into question the accuracy of such data before any SEVIS revision were to go into effect. The Department and SEVIS have addressed these concerns since publication of the proposed rule. The new annual report form, Form DS–3097, was implemented in SEVIS in April 2011.

Five commenting parties also opposed the characterization, in the Supplementary Information section of the proposed rule, of certain exchange visitor program categories as ''high risk.'' These parties stated that, although the exchange community understands the special vigilance required for certain programs where the majority of exchange visitors are minors, the Department has publicly noted on several occasions that the overall number of problematic incidents is low. Using this language gives an inaccurate impression to the general public, policymakers, and U.S. embassy staff who may not be familiar with these programs. The Department agrees and eliminates from the Final Rule language describing certain Exchange Visitor Program categories as ''high risk.''

Section 62.16 Employment

As discussed above with respect to section 62.10, the Department has eliminated the requirement that sponsors collect Employment Authorization Document numbers for accompanying spouses and dependents. Accordingly, section 62.16(c) has also been amended to remove all reference to the collection of Employment Authorization Document numbers. Further, the language has been updated to reference the Department of Homeland Security and not the now defunct Immigration and Naturalization Services (INS).

Note: Current section 62.17—Fees and Charges remains unchanged.

Regulatory Analysis

Administrative Procedure Act

The Department of State is of the opinion that the Exchange Visitor Program is a foreign affairs function of the U.S. Government and that rules implementing this function are exempt from sections 553 (Rulemaking) and 554 (Adjudications) of the Administrative Procedure Act (APA). The U.S. Government, by policy and longstanding practice, oversees foreign nationals who come to the United States as participants in exchange visitor programs, either directly or through private sector program sponsors or grantees. When problems occur, the U.S. Government is often held accountable by foreign governments for the treatment of their nationals, regardless of who is responsible for the problems. The purpose of this final rule is to amend the general administrative provisions for the Exchange Visitor Program, and associated Appendices, in accordance with the Act and to take steps to protect the health, safety and welfare of foreign nationals entering the United States (often on programs funded by the U.S. Government) for a finite period of time and with a view that they will return to their countries of nationality upon completion of their programs. The Department of State represents that failure to take steps to protect the health, safety and welfare of these foreign nationals will have direct and substantial adverse effects on the foreign affairs of the United States. Although the Department is of the opinion that this rule is exempt from the rulemaking provisions of the APA, the Department previously published this rule as a notice of proposed rulemaking, with a 60-day provision for public comment; and it is now publishing this rule as a final rule with a 60-day provision for public comment. This is without prejudice to its determination that the Exchange Visitor Program is a foreign affairs function.

Small Business Regulatory Enforcement Fairness Act of 1996

This final rule is not a major rule as defined by 5 U.S.C. 804 for the purposes of Congressional review of agency rulemaking under the Small Business Regulatory Enforcement Fairness Act of 1996 (5 U.S.C. 801–808). This rule will not result in an annual effect on the economy of $100 million or more; a major increase in costs or prices; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based companies to compete with foreign-based companies in domestic and export markets.

Unfunded Mandates Reform Act of 1995

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

Executive Order 13175—Consultation and Coordination With Indian Tribal Governments

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

Regulatory Flexibility Act/Executive Order 13272

Since this final rule is exempt from 5 U.S.C. 553, and no other law requires the Department of State to give notice of proposed rulemaking, it is not subject to the Regulatory Flexibility Act (5 U.S.C. 601, *et seq.*) and Executive Order 13272, section 3(b). In its September 22, 2009 promulgation of the proposed rule, the

Department certified that the proposed changes to the regulations were not expected to have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act, 5 U.S.C. 601–612, and Executive Order 13272, section 3(b).

Numbers of Small Businesses

The Department notes that the final rule will affect the operations of the nearly 1,400 sponsors designated by the Department to conduct exchange programs. These 1,400 sponsors bring into the United States close to 300,000 new exchange visitors annually. The Department has not conducted a study of how many of its sponsors are small businesses. However, even if all of the 1,400 sponsors are stipulated to be small businesses, the proposed changes to the regulations would not be expected to have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act, 5 U.S.C. 601–612 and Executive Order 13272, section 3(b).

Small Business Compliance Costs

The Department has not specifically studied the effect of this regulation on small businesses. However, it estimates the cost of a management review, whose parameters the Department may define, to be around $10,000. There is a cost of around $3–5 per person for an instant electronic-type of background check or $15 per person cost for one where local documentation is reviewed electronically. These types of checks meet the standard outlined in the regulation. Health insurance should not cause an increase in sponsor costs, as most sponsors are already requiring insurance at the level noted in the rulemaking, if not higher. The vast majority of exchange visitors pay for their own insurance and buy from a variety of vendors with different costs that are affected by myriad factors.

The cost per small business is estimated at around $10,000 every two years for the management review. The cost, on average, is $48–$180 every four years for background checks based on an average of three to six ROs/AROs per sponsor.

The Office of Advocacy, Small Business Administration, submitted a public comment letter on this rule. The Office was concerned with the Department of State's use of the foreign affairs exemption, the use of the Interim Final Rule format, and the lack of small business data to justify this certification. After receiving and analyzing the aforementioned 656 comments and after consultation with the affected stakeholders, a number of changes were made to the proposed regulation. The Department removed the requirement for sponsors to collect a Dun & Bradstreet number on the organization and affiliated third parties, which would have been a cost to sponsors of several hundred dollars each. In addition, the expense of required pre-designation on-site reviews to sponsors was removed, which also would have cost sponsors several hundred dollars each.

After revising the proposed rule, the Department again reviewed the regulations being promulgated in this Final Rule in order to determine if they would potentially have a significant economic impact on any other small entities using the J-visa. Other than those comments received regarding management audits, no other commenters claimed that there would be a potential significant economic impact on small entities.

Accordingly, the Department has determined that the Final Rule is not expected to have an economic impact on a substantial number of small entities.

Executive Orders 12866 and 13563

The Department is of the opinion that the Exchange Visitor Program is a foreign affairs function of the U.S. Government and that rules governing the conduct of this function are exempt from the requirements of Executive Order 12866. However, the Department has nevertheless reviewed the final rule to ensure its consistency with the regulatory philosophy and principles set forth in those Executive Orders. The following number of sponsors and participants will be affected by regulatory changes (note that the total number of sponsors in the table adds up to more than 1,400, since many sponsors cover more than one category of exchange visitor):

Category	Number of sponsors	Number of participants (CY 2013)
Au Pair	15	14,625
Camp Counselor	24	18,889
College and University Student	816	45,738
Intern	77	21,879
Alien Physician	1	2,331
Professor & Research Scholar	975	31,842
International Visitor	7	5,715
Government Visitor	22	5,299
Secondary School Student	77	23,697
Short Term Scholar	834	19,572
Specialist	412	801
Summer Work Travel	46	86,518
Teacher	54	1,176
Trainee	85	9,111
Total		287,193

The Department acknowledges an increased paperwork burden on the 1,400 sponsors that participate in the exchange visitor program. The reasons for these requirements were explained above, and will be explained in detail when the respective information collections are updated. However, to summarize, these requirements will enhance the safety and security of the exchange visitor exchange visitors (some of whom are vulnerable minors) and will support interagency national security efforts by ensuring that reputable individuals have access to SEVIS. The increased costs, as explained in the preamble above, will involve the cost of criminal background checks for personnel assigned to each of the sponsors, which we estimate to be less than $10 per person, for an average

of three to six Responsible Officers and Alternate Responsible Officers per sponsor, as well as costs associated with performing a management review. The management reviews will be conducted by sponsors in each category on a rolling basis, starting with sponsors in the secondary school student category. The Department intends the cost of the review to be around $10,000 per sponsor per review period.

The general provisions section (Subpart A) has not been amended since March 19, 1993. Exchange programs conducted under the authorities of the Exchange Visitor Program promote mutual understanding by providing exchange visitors an understanding of and an appreciation for the similarities and differences between their own culture and that of the United States. Upon their return home, the exchange visitors enrich their communities with their fresh perspectives of U.S. culture and events. Although this is an intangible benefit, one that is not easily quantified, the Department finds that the benefits of this rulemaking outweigh its costs. The Department has reviewed this rulemaking in light of Executive Order 13563, and finds that it is consistent with the guidance therein.

Executive Order 12988

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

Executive Orders 12372 and 13132

This regulation will not have 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. Therefore, in accordance with section 6 of Executive Order 13132, it is determined that this rule does not have sufficient federalism implications to require consultations or warrant the preparation of a federalism summary impact statement. Executive Order 12372, regarding intergovernmental consultation on federal programs and activities, does not apply to this regulation.

Paperwork Reduction Act

The information collection requirements contained in this final rule are pursuant to the Paperwork Reduction Act, 44 U.S.C. Chapter 35 and OMB Control Number 1405–0147, Form DS–7000, which requires collection of additional information for the Exchange Visitor Program. (See 78 F.R. 38429, June 26, 2013).

List of Subjects in 22 CFR Part 62

Cultural exchange programs, Reporting and recordkeeping requirements.

Accordingly, 22 CFR Part 62 is amended as follows:

PART 62—EXCHANGE VISITOR PROGRAM

■ 1. The authority citation for Part 62 is revised to read as follows:

Authority: 22 U.S.C. 2651a; 8 U.S.C. 1101(a)(15)(J), 1182, 1184, 1258; 22 U.S.C. 1431 *et seq.;* 22 U.S.C. 2451 *et seq.;* P.L. 105–277, Div. G, 112 Stat. 2681 *et seq.;* Reorganization Plan No. 2 of 1977, 3 CFR, 1977 Comp. p. 200; E.O. 12048 of March 27, 1978; 3 CFR, 1978 Comp. p. 168; P.L. 104–208, Div. C, 110 Stat. 3009–546, as amended; P.L. 107–56, sec. 416, 115 Stat. 354; and P.L. 107–173, 116 Stat. 543.

Subpart A—General Provisions

■ 2. Sections 62.1 through 62.16 are revised to read as follows:

Sec.
62.1 Purpose.
62.2 Definitions.
62.3 Sponsor eligibility.
62.4 Categories of participant eligibility.
62.5 Designation application procedure.
62.6 Designation.
62.7 Redesignation.
62.8 General program requirements.
62.9 General obligations of sponsors.
62.10 Program administration.
62.11 Duties of Responsible Officers and Alternate Responsible Officers.
62.12 Control of Forms DS–2019.
62.13 Notification requirements.
62.14 Insurance.
62.15 Reporting requirements.
62.16 Employment.

§ 62.1 Purpose.

(a) The regulations set forth in this part implement the Mutual Educational and Cultural Exchange Act of 1961 (the ''Act''), as amended, Public Law 87–256, 22 U.S.C. 2451, *et seq.* (1988). The purpose of the Act is to increase mutual understanding between the people of the United States and the people of other countries by means of educational and cultural exchanges. Educational and cultural exchanges assist the Department of State in furthering the foreign policy objectives of the United States. These exchanges are defined by section 102 of the Act, 22 U.S.C. 2452, and section 101(a)(15)(J) of the Immigration and Nationality Act, as amended, 8 U.S.C. 1101(a)(15)(J).

(b) The Secretary of State of the Department of State facilitates activities specified in the Act, in part, by designating public and private entities to act as sponsors of the Exchange Visitor Program. Sponsors may act independently or with the assistance of third parties. The purpose of the Program is to provide foreign nationals with opportunities to participate in educational and cultural programs in the United States and return home to share their experiences, and to encourage Americans to participate in educational and cultural programs in other countries. Exchange visitors enter the United States on a J visa. The regulations set forth in this subpart are applicable to all sponsors.

(c) The Assistant Secretary for Educational and Cultural Affairs of the Department of State may, in his or her sole discretion and to the extent consistent with the authorities described in paragraph (a) of this section and other applicable law, waive or modify any provision of this Part with respect to programs that are established pursuant to memoranda of understanding, letters of intent or similar arrangements between the United States and foreign governments. When establishing such a program, the Department will publish a notice in the **Federal Register** describing the program and any resulting modifications to or waivers of provisions of this Part. If such an arrangement will not result in a waiver of or other modification to the provisions of this Part, then the Department need not publish a notice.

§ 62.2 Definitions.

The following definitions apply to this part:

Academic institution. Any publicly or privately operated primary, secondary, or post-secondary institution in the United States or abroad that offers primarily academic programs. For the purpose of these regulations, an institution that offers primarily vocational or technical programs is not an academic institution unless the specific program or programs in which the exchange visitor is to participate or has participated has been determined by the U.S. Department of State on an exceptional basis to be comparable to those offered in academic institutions.

Accompanying spouse and dependents. The alien spouse and/or minor unmarried child(ren), if any, of an exchange visitor who are accompanying or following to join the exchange visitor and who seek to enter or have entered the United States temporarily on non-immigrant J–2 visas or seek to acquire or have acquired such status after admission. For the purpose of these regulations, a minor is a person under the age of 21 years old.

Accredited academic institution. Any academic institution that is duly accredited by the appropriate academic accrediting authority of the U.S. jurisdiction in which such institution is located. In addition, all post-secondary institutions also must be accredited by a nationally recognized accrediting agency or association as recognized by the Secretary of Education.

Act. The Mutual Educational and Cultural Exchange Act of 1961, as amended.

Actual and current U.S. address. The physical, geographic location at which an exchange visitor and accompanying spouse and dependents reside while participating in an exchange program.

Alternate Responsible Officer. An employee or officer of a sponsor who has been nominated by the sponsor and approved by the Department of State to assist the Responsible Officer in carrying out the responsibilities outlined in § 62.11. An Alternate Responsible Officer must be a United States person.

Certificate of Good Standing. A document issued by a state Secretary of State, Secretary of Commonwealth, or other official in the state where the business entity is registered. A Certificate of Good Standing confirms that a corporation, partnership or other legal entity is in existence or authorized to transact business. A Certificate of Good Standing is also known as a Certificate of Authorization or a Certificate of Existence.

Clerical work. Routine administrative work generally performed in an office or office-like setting, such as data entry, filing, typing, mail sorting and distribution, and other general administrative or support tasks.

Consortium. A not-for-profit corporation, partnership, joint venture or other association formed by two or more accredited academic institutions for the purpose of sharing educational resources, conducting research, and/or developing new programs to enrich or expand the opportunities offered by its members. An academic institution in the United States that participates in a consortium is not barred from having separate exchange visitor program designations of its own.

Country of nationality or last legal permanent residence. Either the country of which the exchange visitor is a national at the time status as an exchange visitor is acquired or the last foreign country in which the visitor had a legal permanent residence before acquiring status as an exchange visitor.

Cross-cultural activity. An activity designed to promote exposure and interchange between exchange visitors and Americans so as to increase their mutual understanding of each other's society, culture, and institutions.

Department of State. The U.S. Department of State.

Designation. The written authorization issued by the Department of State to an exchange visitor program applicant to conduct an exchange visitor program as a sponsor. The term includes the written authorization issued to a current sponsor that applies to continue its designation (i.e., redesignation).

Employee. An individual who provides services or labor for an employer for wages or other remuneration. A third party, as defined in this section, or an independent contractor, as defined in 8 CFR 274a.1(j), is not an employee.

Exchange visitor. A foreign national who has been selected by a sponsor to participate in an exchange visitor program, and who is seeking to enter or has entered the United States temporarily on a non-immigrant J–1 visa or who has obtained J status in the United States based on a Form DS–2019 issued by the sponsor. The term does not include the accompanying spouse and dependents of the exchange visitor.

Exchange Visitor Program. The international exchange program administered by the Department of State to implement the Act by means of educational and cultural exchange programs. When ''exchange visitor program'' is set forth in lower case, it refers to the individual program of a sponsor that has been designated by the Department of State.

Exchange visitor's government. The government of the exchange visitor's country of nationality or last legal permanent residence.

Financed directly. Financed in whole or in part by the U.S. Government or the exchange visitor's government with funds contributed directly to the exchange visitor in connection with his or her participation in an exchange visitor program.

Form DS–2019, A Certificate of Eligibility for Exchange Visitor (J-Nonimmigrant) Status. A controlled document of the Department of State that a sponsor issues to a potential Exchange Visitor Program participant (J–1) and his or her accompanying spouse and dependents (J–2) as permitted by regulations. This form, together with other necessary Department of State documents, permits the named foreign national, if required, to schedule an interview at a U.S. embassy or consulate to seek to obtain a J visa to enter the United States as an Exchange Visitor Program participant or as an accompanying spouse and dependent.

Form DS–3036, Exchange Visitor Program Application. A controlled document of the Department of State that an organization uses to apply to become a designated sponsor of the Exchange Visitor Program and that a designated sponsor uses to request redesignation or amendment of an existing exchange visitor program.

Form DS–3037, Update of Information on a Sponsor's Exchange Visitor Program. A controlled document of the Department of State that a sponsor uses to update information on its exchange visitor programs in SEVIS.

Form DS–3097, Annual Report. A controlled document of the Department of State in which a sponsor reports program activity and evaluation on a yearly basis.

Form DS–7002, Training/Internship Placement Plan (T/IPP). A controlled document of the Department of State used in connection only with a Trainee or Intern under 22 CFR § 62.22, or a Student Intern under § 62.23 respectively, to outline an exchange visitor's program activities.

Full course of study. Full-time enrollment in an academic program of classroom participation and study and/or doctoral thesis research at an accredited academic institution as follows:

(1) Secondary school students must satisfy the attendance and course requirements of the state in which the school they attend is located; and

(2) College and university students must register for and complete a full course of study, as defined by the accredited academic institution in which the student is registered, unless exempted in accordance with § 62.23(e).

Graduate medical education or training. Participation in a program in which a foreign medical school graduate will receive graduate medical education or training, which generally consists of a residency or fellowship program involving health care services to patients, but does not include programs involving observation, consultation, teaching or research in which there is no or only incidental patient care. This program may consist of a medical specialty, a directly related medical subspecialty, or both.

Home-country physical presence requirement. The requirement that an exchange visitor, and any accompanying spouse and dependents, who are within the purview of section 212(e) of the Immigration and Nationality Act, as amended, or Public Law 94–484 (substantially quoted in 22 CFR 41.63), must reside and be physically present in

the country of nationality or last legal permanent residence for an aggregate of at least two years following departure from the United States before the exchange visitor is eligible to apply for an immigrant visa or permanent residence, a non-immigrant K visa as the fiancé(e) of a U.S. citizen, a non-immigrant H visa as a temporary worker or trainee, or a non-immigrant L visa as an intracompany transferee, or a non-immigrant H or L visa as the spouse or minor child of a person who has been granted status in H or L non-immigrant classification as a temporary worker or trainee or an intracompany transferee.

Host organization. A third party in the United States that conducts training and/or internship programs on behalf of a designated sponsor pursuant to an executed written agreement between the two parties.

Internship program. A structured and guided work-based learning program for an Intern as set forth in an individualized Training/Internship Placement Plan (Form DS–7002) that reinforces an intern's academic study; recognizes the need for work-based experience; provides on-the-job exposure to American techniques, methodologies, and technologies; and enhances the Intern's knowledge of American culture and society.

J visa. A non-immigrant visa issued pursuant to 8 U.S.C. 1101(a)(15)(J). A J–1 visa is issued to an exchange visitor. A J–2 visa is issued to the exchange visitor's accompanying spouse and dependents, if qualified under § 214b of the Immigration and Nationality Act, as amended.

Management review. A program-specific management audit in a format approved by the Department of State that is conducted by an independent auditor who is not an employee or third party contractor of the sponsor, to identify weaknesses in operating procedures in the conduct of an organization's business and in meeting regulatory requirements in the administration of a sponsor's exchange visitor program.

Office of Designation. The Department of State, Bureau of Educational and Cultural Affairs office assigned to administer designations of sponsors.

Office of Exchange Coordination and Compliance. The Department of State, Bureau of Educational and Cultural Affairs office assigned to oversee sponsor compliance with 22 CFR Part 62 and, as appropriate, impose sanctions.

Office of Private Sector Exchange Administration. The Department of State, Bureau of Educational and Cultural Affairs office assigned to monitor administration of each sponsor's exchange visitor program.

On-the-job training. An individual's observation of and participation in given tasks demonstrated by experienced workers for the purpose of acquiring competency in such tasks.

Prescribed course of study. A non-degree academic program with a specific educational objective. Such course of study may include intensive English language training, classroom instruction, research projects, and/or academic training to the extent permitted in § 62.23.

Reciprocity. The participation of a U.S. citizen or U.S. national in an educational and cultural program in a foreign country in exchange for the participation of a foreign national in the Exchange Visitor Program. Where used herein, ''reciprocity'' will be interpreted broadly; unless otherwise specified, reciprocity does not require a one-for-one exchange or that exchange visitors be engaged in the same activity.

Responsible Officer. An employee or officer of a sponsor who has been nominated by the sponsor, and approved by the Department of State, to carry out the duties outlined in § 62.11. A Responsible Officer must be a citizen of the United States or a lawful permanent resident of the United States.

Secretary of State. The Secretary of State or an employee of the U.S. Department of State acting under a delegation of authority from the Secretary of State.

SEVIS (Student and Exchange Visitor Information System). The statutorily mandated system designed to collect information on non-immigrant students (F and M visas), exchange visitors (J visas), and their spouses and dependents (F–2, M–2, and J–2 visas). SEVIS enables schools and program sponsors to transmit information and event notifications electronically, via the Internet, to the Department of Homeland Security and the Department of State throughout a student's or exchange visitor's stay in the United States.

Site of activity. The physical, geographic location(s) where an exchange visitor participates in his or her exchange program.

Sponsor. A legal entity designated by the Secretary of State to conduct an exchange visitor program.

Staffing/employment agency. A U.S. business that hires individuals for the express purpose of supplying workers to other businesses. Typically, the other businesses where workers are placed pay an hourly fee per employee to the staffing/employment agency, of which the worker receives a percentage.

Student internship program. A structured and guided work-based learning program for a post-secondary student intern as set forth in an individualized Training/Internship Placement Plan (Form DS–7002) that partially or fully fulfills a student's post-secondary academic degree requirements; recognizes the need for work-based experience; provides on-the-job exposure to American techniques, methodologies, and technologies; and enhances the student intern's knowledge of American culture and society.

Third party. A person or legal entity with whom a sponsor has executed a written agreement for the person or entity to act on behalf of a sponsor in the conduct of the sponsor's exchange visitor program. All entities that act on behalf of the sponsor in the conduct of the sponsor's exchange visitor program must execute written agreements with the sponsor that outline the full relationship between the entity and the sponsor on all matters involving the administration of the exchange visitor program. A sponsor's use of a third party does not relieve the sponsor of its obligations to comply, and to ensure third party compliance, with the provisions of this Part. Failure by any third party to comply with the regulations set forth in this Part or with any additional terms and conditions governing administration of the Exchange Visitor Program that the Department of State may from time to time impose will be imputed to the sponsor. Sponsors are required to ensure that third parties know and comply with all applicable provisions of these regulations.

Training program. A structured and guided work-based learning program for a trainee as set forth in an individualized Training/Internship Placement Plan (Form DS–7002), that develops new and advanced skills in a trainee's occupational field through exposure to American techniques, methodologies, and technologies; and enhances a trainee's understanding of American culture and society.

United States person (individual). A person who is born within or is a national of the United States or any of its territories or outlying possessions. A U.S. person is a citizen or an individual who has been lawfully admitted for permanent residence, within the meaning of section 101(a)(20) of the Immigration and Nationality Act (8 U.S.C. 1101).

United States Person (legal entity).

(1) A general or limited partnership created or organized under the laws of the United States, or of any state, the

District of Columbia, or any territory or outlying possession of the United States, of which a majority of the partners are United States persons:

(i) Which has its principal place of business in the United States; and

(ii) In instances where the partnership is additionally governed by a Board, the majority of whose officers are United States persons.

(2) A for-profit corporation, association, or other legal entity created or organized under the laws of the United States, or of any state, the District of Columbia, or a territory or outlying possession of the United States, whose principal place of business is located in the United States, and

(i) Whose shares or voting interests are publicly traded on a U.S. stock exchange; or

(ii) A majority of whose officers, a majority of whose shareholders, and a majority of whose members of its Board of Directors are United States persons and collectively hold a majority of the shares or stock (i.e., the *de jure* controlling interest); or

(3) A non-profit corporation, association, or other legal entity created or organized under the laws of the United States, or any state, the District of Columbia, or any territory or outlying possession of the United States; and

(i) Whose principal place of business is located in the United States; and

(ii) A majority of whose officers and a majority of whose members of its Board of Directors, Board of Trustees or other like body vested with its management are United States persons; or

(4) An accredited college, university, or other post-secondary academic institution in the United States created or organized under the laws of the United States, or of any state, county, municipality, or other political subdivision thereof, the District of Columbia, or of any territory or outlying possession of the United States; or

(5) An agency of the United States, or of any state or local government, the District of Columbia, or any territory or outlying possession of the United States.

Validation. The process by which a Responsible Officer or Alternate Responsible Officer updates the SEVIS record of an exchange visitor to show he or she has entered the United States, and that the exchange visitor reported to his or her sponsor and is participating in the exchange visitor program at the site of activity identified on his or her Form DS–2019.

§ 62.3 Sponsor eligibility.

(a) The following types of entities are eligible to apply for designation as a sponsor of an exchange visitor program:

(1) U.S. local, state, and federal government agencies to include the District of Columbia; and government agencies of any U.S. territories and outlying possessions;

(2) International agencies or organizations of which the United States is a member and that have an office in the United States; or

(3) Reputable organizations that are United States Persons.

(b) To be eligible for designation as a sponsor, an entity is required to:

(1) Demonstrate, to the Department of State's satisfaction, its ability to comply and remain in continual compliance with all applicable provisions of this part;

(2) Meet at all times its financial obligations and responsibilities attendant to successful sponsorship of its exchange visitor program; and

(3) Demonstrate that the organization or its proposed Responsible Officer has no fewer than three years' experience in international exchange.

§ 62.4 Categories of participant eligibility.

Sponsors select foreign nationals to participate in exchange visitor program(s) in the United States. Participation is limited to foreign nationals who meet the following criteria for each of the following categories:

(a) *Student.* A foreign national who is:

(1) Studying in the United States and:

(i) Pursuing a full course of study at a secondary accredited academic institution;

(ii) Pursuing a full course of study leading to or culminating in the award of a U.S. degree from a post-secondary accredited academic institution; or

(iii) Engaged full-time in a prescribed course of study of up to 24 months (non-degree) duration conducted by:

(A) A post-secondary accredited academic institution; or

(B) An institute approved by or acceptable to the post-secondary accredited academic institution, where the student is to be enrolled upon completion of the non-degree program;

(2) Engaged in academic training as permitted in § 62.23(f);

(3) Engaged in English language training at:

(i) A post-secondary accredited academic institution, or

(ii) An institute approved by or acceptable to the post-secondary accredited academic institution where the college or university student is to be enrolled upon completion of the language training; or

(4) Engaged full-time in a student internship program conducted by a post-secondary accredited academic institution.

(b) *Short-term scholar.* A foreign national who is a professor, research scholar, or person with similar education or accomplishments who enters the United States for a short-term visit for the purpose of lecturing, observing, consulting, training, or demonstrating special skills at research institutions, museums, libraries, post-secondary accredited academic institutions, or similar types of institutions.

(c) *Trainee.* A foreign national participating in a structured and guided work-based training program in his or her specific occupational field (in an occupational category for which a sponsor has obtained designation) who has either:

(1) A degree or professional certificate from a foreign ministerially-recognized post-secondary academic institution and at least one year of prior related work experience in his or her occupational field acquired outside the United States; or

(2) Five years of work experience in his or her occupational field acquired outside the United States.

(d) *Teacher.* A foreign national with the equivalent of a U.S. Bachelor's degree in either education or the subject matter (or related subjects) he or she intends to teach and a minimum of the equivalent of two years of post-degree full-time teaching experience, who is employed as a teacher at the time of application for the program, for the purpose of teaching full-time in a primary or secondary accredited academic institution.

(e) *Professor.* A foreign national whose primary purpose is teaching, lecturing, observing, or consulting at post-secondary accredited academic institutions, museums, libraries, or similar types of institutions. A professor also may conduct research where authorized by the sponsor.

(f) *Research scholar.* A foreign national whose primary purpose is conducting research, observing, or consulting in connection with a research project at research institutions, corporate research facilities, museums, libraries, post-secondary accredited academic institutions, or similar types of institutions. A research scholar also may teach or lecture where authorized by the sponsor.

(g) *Specialist.* A foreign national who is an expert in a field of specialized knowledge or skills who enters the United States for the purpose of

observing, consulting, or demonstrating special knowledge or skills.

(h) *Other person of similar description.* A foreign national of description similar to those set forth in paragraphs (a) through (g) of this section coming to the United States as a participant in an exchange visitor program designated by the Department of State under this category, for the purpose of teaching, instructing or lecturing, studying, observing, conducting research, consulting, demonstrating special skills, or receiving training. The programs designated by the Department of State in this category consist of:

(1) *Alien physician.* A foreign national who is a graduate of a school of medicine who comes to the United States under a program in which he or she will receive graduate medical education or training conducted by accredited U.S. schools of medicine or scientific institutions.

(2) *International visitor.* A foreign national who is a recognized or potential leader, selected by the Department of State for the purpose of consulting, observing, conducting research, training, or demonstrating special skills in the United States.

(3) *Government visitor.* A foreign national who is an influential or distinguished person, selected by a U.S. federal, state, or local government agency for the purpose of consulting, observing, training, or demonstrating special skills in the United States.

(4) *Camp counselor.* A foreign national selected to be a counselor in a summer camp in the United States (e.g., during the U.S. summer months).

(5) *Au pair.* A foreign national who comes to the United States for the purpose of residing with an American host family and participating directly in their home life, while providing limited childcare services, and fulfilling an educational requirement.

(6) *Summer Work and Travel.* A foreign national who is a bona fide foreign post-secondary student, who at the time of application is enrolled in and actively pursuing a degree or a full-time course of study at a foreign ministerially-recognized post-secondary academic institution and whose purpose is work and travel in the United States for up to four months during his or her break between academic years.

(7) *Intern. A* foreign national participating in a structured and guided work-based internship program in his or her specific academic field and who either:

(i) Is currently enrolled full-time in and actively pursuing studies at a foreign ministerially-recognized degree- or certificate-granting post-secondary academic institution outside the United States, or

(ii) Graduated from such an institution no more than 12 months prior to the exchange visitor program begin date reflected on Form DS–2019.

§ 62.5 Designation application procedure.

(a) An entity meeting the eligibility requirements set forth in § 62.3 may apply to the Department of State for designation as an Exchange Visitor Program sponsor. An applicant must first complete and submit Form DS–3036 in SEVIS. The complete application must consist of:

(1) A completed copy of Form DS–3036 signed by the applicant's Chief Executive Officer, President, or other executive with legal authority to make commitments on behalf of the sponsor (as identified in the organization's governing documents);

(2) Required supporting documentation and certifications as set forth in paragraph (c); and

(3) Confirmation of payment of the required non-refundable application fee through pay.gov as set forth in § 62.17.

(b) A complete application must set forth, in detail, the applicant's proposed exchange program activity and must demonstrate, to the Department of State's satisfaction, the applicant's ability to comply and remain in continual compliance with all the provisions of this part, and, in particular, to meet the sponsor eligibility requirements set forth in § 62.3 and the general obligations of sponsors set forth in § 62.9.

(c) An application must be accompanied by the following supporting documentation and certifications, as relevant:

(1) Evidence of sponsor eligibility as set forth in § 62.3(a), including evidence of legal status (e.g., charter, proof of incorporation, by laws, partnership agreement);

(2) Evidence of experience in operating a successful business, including a minimum of three years of experience in international exchange by the organization or by the proposed Responsible Officer;

(3) Evidence of the applicant's ability to meet at all times its financial obligations and responsibilities attendant to successful sponsorship of its exchange visitor program, and evidence that it can comply with § 62.9(e) and provide any supplemental or explanatory financial information the Department of State may request. In addition:

(i) An established entity must present a current audit report with audit notes prepared by an independent certified public accounting firm.

(ii) A newly formed entity must present a compilation (i.e., a balance sheet, statement of cash flows and all disclosures, revenues, expenditures, and notes to financial statements) prepared by an independent certified public accounting firm demonstrating that the entity has been capitalized with sufficient funds to cover general operating expenses and costs associated with an exchange program.

(4) A current Certificate of Good Standing (see § 62.2);

(5) An Employer Identification Number (EIN), which specifies the date of issuance;

(6) Evidence of current accreditation if the applicant is a secondary or post-secondary academic institution;

(7) Evidence of current licensure, if required by local, state, or federal law, to carry out the activity for which the applicant is seeking designation;

(8) A statement signed by the Chief Executive Officer, President, or other executive with legal authority to make commitments on behalf of the sponsor (as identified in the organization's governing documents), certifying that:

(i) The applicant is a United States Person as defined in § 62.2;

(ii) The proposed Responsible Officer and all proposed Alternate Responsible Officers are United States citizens or lawful permanent residents of the United States;

(iii) The sponsor has completed a criminal background check on the potential Responsible Officer and all Alternate Responsible Officers, and has determined their suitability for these positions; the criminal background checks must be no older than four years at any time for re-designated sponsors and must be newly conducted as part of the designation application for new sponsors and the redesignation application for sponsors designated for only one year; and

(iv) The Responsible Officer will be provided sufficient staff and resources to fulfill his or her duties and obligations on behalf of the applicant;

(9) A completed SEVIS-generated Citizenship Certification for the proposed Responsible Officer and all proposed Alternate Responsible Officer(s) along with evidence that they are citizens of the United States or lawful permanent residents (e.g., copy of passport, birth certificate, green card); and

(10) Such additional information or documentation that the Department of State may deem necessary to evaluate the application. In addition, the Department may decide, in its

discretion, to conduct a pre-designation site visit of a first-time applicant.

§ 62.6 Designation.

(a) Upon its favorable determination that an applicant meets all statutory and regulatory requirements, the Department of State may, in its sole discretion, designate the applicant as an Exchange Visitor Program sponsor.

(b) Initial designations are effective for one or two years at the sole discretion of the Department of State.

(c) Designation will confer upon a sponsor the authority to engage in one or more activities specified in § 62.4. A sponsor may engage only in the activity or activities specifically authorized in its written letter of designation.

(d) The Department of State may, in its sole discretion, require a sponsor to secure a payment bond in favor of the Department of State guaranteeing the sponsor's obligations hereunder.

(e) Designations are not transferable or assignable.

§ 62.7 Redesignation.

(a) Sponsors must file for redesignation no more than six months and no fewer than three months before the designation expiration date as set forth in the sponsor's letter of designation or its most recent letter of redesignation.

(b) A sponsor seeking redesignation as an Exchange Visitor Program sponsor must first complete and submit Form DS–3036 in SEVIS. The complete application must consist of:

(1) A completed copy of Form DS–3036, signed by the sponsor's Chief Financial Officer, President or other executive with legal authority to make commitments on behalf of the sponsor (as identified in the organization's governing documents);

(2) Required supporting documentation and certifications as set forth in paragraph (c); and

(3) Confirmation of payment of the required non-refundable application fee through pay.gov as set forth in § 62.17.

(c) The complete application must include the following supporting documentation and certifications:

(1) A copy of the most recent year-end financial statements;

(2) A copy of the most recent letter of accreditation if the sponsor is a secondary or post-secondary academic institution;

(3) A list of the names, addresses and citizenship or legal permanent resident status of the current members of its Board of Directors or the Board of Trustees or other like body, vested with the management of the organization or partnership, and/or the percentage of stocks/shares held, as applicable;

(4) For a non-profit organization, a signed copy of the sponsor's most recent Form 990 filed with the Internal Revenue Service;

(5) A statement signed by the Chief Executive Officer, President, or other executive with legal authority to make commitments on behalf of the sponsor (as identified in the organization's governing documents) certifying that the sponsor has completed timely criminal background checks since the date of the last designation or redesignation letter on the Responsible Officer and all Alternate Responsible Officers and has determined their suitability for these positions; and

(6) Such additional information or documentation that the Department of State may deem necessary to evaluate the application.

(d) Upon its favorable determination that a sponsor meets all statutory and regulatory requirements, the Department of State may, in its sole discretion, redesignate the organization as an Exchange Visitor Program sponsor for one or two years. A sponsor seeking re-designation may continue to operate its program(s) until such time as the Department of State notifies it of a decision to approve, amend or terminate its designation.

§ 62.8 General program requirements.

(a) *Size of program.* A sponsor, other than a federal government agency, must have no fewer than five actively participating exchange visitors during the annual reporting cycle (e.g., academic, calendar or fiscal year), as stated in its letter of designation or redesignation. The Department of State may, in its sole discretion, waive this requirement.

(b) *Minimum duration of program.* A sponsor, other than a federal government agency, must provide each exchange visitor, except those sponsored in the short-term scholar category, with a minimum period of participation in the United States of no less than three weeks.

(c) *Reciprocity.* In conducting its exchange visitor program, sponsors must make a good faith effort to develop and implement, to the fullest extent possible, reciprocal exchanges of persons.

(d) *Cross-cultural activities.* In addition to category specific requirements, sponsors must:

(1) Offer or make available to exchange visitors and the accompanying spouses and dependents, if any, a variety of appropriate cross-cultural activities. The extent and type of the cross-cultural activities will be determined by the needs and interests of the particular category of exchange visitor. Sponsors will be responsible for determining the appropriate types and numbers of such cross-cultural programs, unless otherwise specified by the Department. The Department of State encourages sponsors to give their exchange visitors the broadest exposure to American society, culture and institutions; and

(2) Encourage exchange visitors to participate voluntarily in activities that are for the purpose of sharing the language, culture, or history of their home country with Americans, provided such activities do not delay the completion of the exchange visitors' program.

§ 62.9 General obligations of sponsors.

(a) *Adherence to Department of State regulations.* Sponsors are required to adhere to all regulations set forth in this part.

(b) *Legal status.* A sponsor must maintain the legal status it had when it was designated. A sponsor's change in legal status (e.g., from partnership to corporation, non-profit to for-profit) requires the submission of a new application for designation of the successor legal entity within 45 days of the change in legal status.

(c) *Accreditation and licensure.* A sponsor must remain in compliance with all local, state, and federal laws, and professional requirements necessary to carry out the activities for which it is designated, including accreditation and licensure, if applicable.

(d) *Representations and disclosures.* Sponsors must:

(1) Provide accurate, complete, and timely information, to the extent lawfully permitted, to the Department of State and the Department of Homeland Security regarding their exchange visitor program(s), exchange visitors, and accompanying spouses and dependents (if any);

(2) Provide accurate information to the public when advertising their exchange visitor program(s) or responding to public inquiries;

(3) Provide accurate program information and materials to prospective exchange visitors, host organizations, and host employers, if applicable, at the time of recruitment and before exchange visitors enter into agreements and/or pay non-refundable fees. This information must clearly explain program activities and terms and conditions of program, including the terms and conditions of any employment activities (job duties, number of work hours, wages and compensation, and any typical deductions for housing and

transportation), have itemized list of all fees charged to the exchange visitor (i.e., fees paid to the sponsor or a third party, including the host employer), insurance costs, other typical costs, conditions, and restrictions of the exchange visitor program(s), and the type, duration, nature and importance of the cultural components of the program. Program recruitment information and materials also must make clear to prospective exchange visitors in the exchange categories with a work component that their stipend or wages might not cover all of their expenses and that they should bring additional personal funds.

(4) Not use the program number(s) assigned by the Department of State at the time of designation on any advertising materials or publications, including sponsor Web sites; and

(5) Not represent that its exchange visitor program is endorsed, sponsored, or supported by the Department of State or the U.S. Government, except for U.S. Government sponsors or exchange visitor programs financed directly by the U.S. Government to promote international educational exchanges. A sponsor may, however, represent that it is designated by the Department of State as a sponsor of an exchange visitor program.

(e) *Financial responsibility.* (1) Sponsors must maintain the financial capability to meet at all times their financial obligations and responsibilities attendant to successful sponsorship of their exchange visitor program.

(2) The Department of State may require non-government sponsors to provide evidence satisfactory to the Department of State that funds necessary to fulfill all obligations and responsibilities attendant to sponsorship of their exchange visitor programs are readily available and in the sponsor's control, including such supplementary or explanatory financial information as the Department of State may deem appropriate, such as, for example, audited financial statements.

(3) The Department of State may require a non-government sponsor to secure payment bonds in favor of the Department of State guaranteeing all financial obligations arising from its exchange visitor program when the Department has reasonable doubt about the sponsor's ability to meet its program and other financial obligations.

(f) *Staffing and support services.* Sponsors must ensure that:

(1) Adequate staffing and sufficient support services are provided to administer their exchange visitor program; and

(2) Their employees, officers, agents, third parties, volunteers or other individuals or entities associated with the administration of their exchange visitor program are adequately qualified, appropriately trained, and comply with the Exchange Visitor Program regulations and immigration laws pertaining to the administration of their exchange visitor program(s).

(g) *Appointment of Responsible Officers and Alternate Responsible Officers.* (1) Sponsors must appoint and maintain a Responsible Officer and between one and ten Alternate Responsible Officers to assist the Responsible Officer in performing the duties set forth in § 62.11. Upon written sponsor request, the Department of State may, in its sole discretion, permit a sponsor to appoint more than ten Alternate Responsible Officers. A sponsor redesignated for two years must ensure that the proposed Responsible Officer and Alternate Responsible Officer(s) have undergone a criminal background check within the past four years to determine their suitability for these positions. Responsible Officers and Alternate Responsible Officers must be U.S. persons.

(2) Responsible Officers and Alternate Responsible Officers must be employees or officers of the sponsor. Upon written sponsor request, the Department of State may, in its sole discretion, authorize the appointment of an individual who is not an employee or officer to serve as an Alternate Responsible Officer.

(3) In the event of the departure of a Responsible Officer or Alternate Responsible Officer, the sponsor must file a request in SEVIS for the approval of a replacement and forward the required documentation to the Department of State within ten calendar days from the date of the Responsible Officer's or Alternate Responsible Officer's departure.

(4) Requests to replace the Responsible Officer or add an Alternate Responsible Officer must be submitted in SEVIS, and a signed Form DS–3037 must be either mailed or emailed to the Department of State with the required completed Citizenship Certification, along with certification that the individual has undergone a criminal background check conducted at the time of such Certification.

(5) The Department of State reserves the right to deny the appointment of a Responsible Officer or an Alternate Responsible Officer.

§ 62.10 Program administration.

Sponsors are responsible for the effective administration of their exchange visitor program(s). These responsibilities include:

(a) *Selection of exchange visitors.* Sponsors must establish and utilize a method to screen and select prospective exchange visitors to ensure that they are eligible for program participation, and that:

(1) The program is suitable to the exchange visitor's background, needs, and experience; and

(2) The exchange visitor possesses sufficient proficiency in the English language, as determined by an objective measurement of English language proficiency, successfully to participate in his or her program and to function on a day-to-day basis. A sponsor must verify an applicant's English language proficiency through a recognized English language test, by signed documentation from an academic institution or English language school, or through a documented interview conducted by the sponsor either in-person or by videoconferencing, or by telephone if videoconferencing is not a viable option.

(b) *Pre-arrival information.* At the pre-arrival stage, sponsors must provide exchange visitors clear information and materials on, but not limited to, the following topics: Program activities, cultural goals and components of the program, employment information and terms and conditions of employment (including employer name and address, position duration, job duties, number of work hours, wages, other compensation and benefits, deductions from wages, including those taken for housing and transportation), insurance costs, and other conditions and restrictions of their exchange visitor. In addition, sponsors must provide clear information and materials on:

(1) The purpose of the Exchange Visitor Program;

(2) The home-country physical presence requirement;

(3) Travel to and entry into the United States (e.g., procedures to be followed by exchange visitors and accompanying spouses and dependents in paying SEVIS fees and obtaining visas for entry to the United States, including the information and documentation needed for the interview; travel arrangements to the United States, and what to expect at the port of entry, including the necessity of having and presenting travel documents at the port of entry);

(4) Housing, including specific information on what housing is provided by the program or otherwise available and the expected cost to the exchange visitor;

(5) An itemized list of all fees to be paid by a potential exchange visitor (i.e.,

fees paid to the sponsor or a third party);

(6) Description and amount of other costs that the exchange visitor will likely incur (e.g., insurance, living expenses, transportation expenses) while in the United States;

(7) Health care and insurance description, costs, and requirements for exchange visitors and their accompanying spouse and dependents, as applicable;

(8) Arrival notification requirements (e.g., procedures that exchange visitors, spouses and dependents are to follow upon entry into the United States in reporting their arrival to the sponsor and reporting to the location of their program); and

(9) Other information that will assist exchange visitors to prepare for their stay in the United States (e.g., how and when to apply for a social security number, if applicable; how to apply for a driver's license; how to open a bank account; employee rights and laws, including workman's compensation; and how to remain in lawful non-immigrant status.

(c) *Orientation.* A sponsor must offer and record participation in an appropriate orientation for all exchange visitors. Sponsors are encouraged to provide orientation for the exchange visitor's accompanying spouse and dependents, especially for those exchange visitors who are expected to be in the United States for more than one year. Orientation must include, but is not limited to, information concerning:

(1) Life and customs in the United States;

(2) Local community resources (e.g., public transportation, medical centers, schools, libraries, recreation centers, and banks), to the fullest extent possible;

(3) Available healthcare, emergency assistance, and health insurance coverage;

(4) A description of the exchange visitor program in which the exchange visitor is participating such as information on the length and location of the program; a summary of the significant components of the program; information on any payment (i.e., stipend or wage) an exchange visitor will receive; and deductions from wages, including for housing and transportation;

(5) Sponsor rules that exchange visitors are required to follow while participating in their exchange visitor program;

(6) Name and address of the sponsor and the name, email address, and telephone number of the Responsible Officer and Alternate Responsible Officer(s);

(7) The Office of Designation's address, telephone number, facsimile number, Web site and email address, and a copy of the Exchange Visitor Program brochure or other Department of State materials as appropriate or required;

(8) Wilberforce Pamphlet on the Rights and Protections for Temporary Workers; and

(9) The requirement that an exchange visitor must report to the sponsor or sponsor designee within ten calendar days any changes in his or her telephone number, email address, actual and current U.S. address (i.e., physical residence), and site of activity (if the exchange visitor is permitted to make such change without prior sponsor authorization).

(d) *Monitoring of exchange visitors.* Exchange visitors' participation in their exchange program must be monitored by employees of the sponsor. Monitoring activities must not include any retaliation or discrimination against exchange visitors who make adverse comments related to the program. No sponsor or employee of a sponsor may threaten program termination, remove from the program, ban from the program, adversely annotate an exchange visitor's SEVIS record, or otherwise retaliate against an exchange visitor solely because he/she has filed a complaint; instituted or caused to be instituted any proceeding; testified or is about to testify; consulted with an advocacy organization, community organization, legal assistance program or attorney about a grievance or other work-related legal matter; or exercised or asserted on behalf of himself/herself any right or protection. Sponsors must:

(1) Ensure that the activities in which exchange visitors are engaged are consistent with the category and activity listed on their Forms DS–2019;

(2) Monitor the physical location (site of activity), and the progress and welfare of exchange visitors to the extent appropriate for the category;

(3) Require that exchange visitors report to the sponsor within ten calendar days any changes in their telephone numbers, email addresses, actual and current U.S. addresses (i.e., physical residence), and site(s) of activity (if the exchange visitor is permitted to make such change without prior sponsor authorization);

(4) Report in SEVIS within ten business days of notification by an exchange visitor any change in the exchange visitor's actual and current U.S. address, telephone number, email address, and/or primary site of activity; and

(5) Report the email address for each accompanying spouse and dependent.

(e) *Requests by the Department of State.* Sponsors must, to the extent lawfully permitted, furnish the Department of State within the Department-requested timeframe all information, reports, documents, books, files, and other records or information requested by the Department of State on all matters related to their exchange visitor program. Sponsors must include sponsor's program number on all responses.

(f) *Inquiries and investigations.* Sponsors must cooperate with any inquiry or investigation that may be undertaken by the Department of State or the Department of Homeland Security.

(g) *Retention of records.* Sponsors must retain all records related to their exchange visitor program and exchange visitors (to include accompanying spouse and dependents, if any) for a minimum of three years following the completion of each exchange visitor program.

§ 62.11 Duties of Responsible Officers and Alternate Responsible Officers.

Responsible Officers must train and supervise Alternate Responsible Officers and ensure that these officials are in compliance with the Exchange Visitor Program regulations. Responsible Officers and Alternate Responsible Officers must:

(a) Be thoroughly familiar with the Exchange Visitor Program regulations, relevant immigration laws, and all federal and state regulations and laws pertaining to the administration of their exchange visitor program(s), including the Department of State's and the Department of Homeland Security's policies, manuals, instructions, and guidance on SEVIS and all other operations relevant to the Exchange Visitor Program; if Responsible Officers and Alternate Responsible Officers work with programs with an employment component, they also must have a detailed knowledge of federal, state, and local laws pertaining to employment, including the Fair Labor Standards Act;

(b) Monitor that the exchange visitor obtains sufficient advice and assistance to facilitate the successful completion of his or her exchange visitor program;

(c) Conduct all official communications relating to their sponsor's exchange visitor program with the Department of State and the Department of Homeland Security. A sponsor must include its exchange visitor program number on all

correspondence submitted to the Department of State and to the Department of Homeland Security;

(d) Monitor to ensure that that sponsor spam filters do not block receipt of SEVIS or Department of State and Department of Homeland Security notices; and

(e) Control and issue Forms DS–2019 as set forth in § 62.12.

§ 62.12 Control of Forms DS–2019.

(a) *Issuance of Forms DS–2019.* Sponsors must:

(1) Grant access only to Responsible Officers and Alternate Responsible Officers and ensure that they have access to and use SEVIS to update required information;

(2) Ensure that Responsible Officers and Alternate Responsible Officers input into SEVIS accurate, current, and updated information in accordance with these regulations; and

(3) Issue Forms DS–2019 only for the following authorized purposes:

(i) To facilitate the initial entry of the exchange visitor and accompanying spouse and dependents, if any, into the United States;

(ii) To extend the duration of participation of an exchange visitor, when permitted by the regulations and authorized by the Department of State;

(iii) To facilitate program transfers, when permitted by the regulations and/or authorized in writing by the Department of State;

(iv) To replace lost, stolen, or damaged Forms DS–2019;

(v) To facilitate the re-entry into the United States of an exchange visitor and accompanying spouse and dependents, if any, who travel outside the United States during the exchange visitor's program;

(vi) To facilitate a change of category, when requested in SEVIS and authorized by the Department of State;

(vii) To update information when significant changes take place in regard to the exchange visitor's program (e.g., a substantial change in funding, a change in the primary site of activity or a change in actual and current U.S. address);

(viii) To facilitate the correction of a minor or technical infraction; or

(ix) To facilitate a ''reinstatement'' or a ''reinstatement update SEVIS status'' when permitted by the Department of State.

(b) *Verification.* (1) Prior to issuing Forms DS–2019, sponsors must verify that each prospective exchange visitor:

(i) Is eligible and qualified for, and accepted into, the program in which he or she will participate;

(ii) Possesses adequate financial resources to participate in and complete his or her exchange visitor program; and

(iii) Possesses adequate financial resources to support an accompanying spouse and dependents, if any.

(2) Sponsors must ensure that:

(i) Only Responsible Officers or Alternate Responsible Officers who are physically present in the United States or in a U.S. territory may print and sign Forms DS–2019; and

(ii) Only the Responsible Officer or the Alternate Responsible Officer, whose name is printed on the Form DS–2019, is permitted to sign the document. The Form DS–2019 must be signed in blue ink to denote that it is the original document.

(c) *Distribution of Forms DS–2019.* Sponsors must ensure that completed Forms DS–2019 are distributed directly to the exchange visitor and accompanying spouse and dependents, if any, or to an individual designated by the exchange visitor only via the sponsor's employees, officers, or third parties in the administration of its exchange visitor program.

(d) *Allotment requests.* (1) Annual Form DS–2019 allotment. Sponsors must submit an electronic request via SEVIS to the Department of State for an annual allotment of Forms DS–2019 based on the annual reporting cycle (e.g., academic, calendar or fiscal year) stated in their letter of designation or redesignation. Sponsors should allow up to four weeks for the processing of allotment requests. The Department of State has the sole discretion to determine the number of Forms DS–2019 to be issued to a sponsor.

(2) Expansion of Program. A request for program expansion must include information such as, but not limited to, the source of program growth, staff increases, confirmation of adequately trained employees, noted programmatic successes, current financial information, additional overseas affiliates, additional third party entities, explanations of how the sponsor will accommodate the anticipated program growth, and any other information requested by the Department. The Department of State will take into consideration the current size of a sponsor's program and the projected expansion of the program in the coming 12 months and may consult with the Responsible Officer and/or Alternate Responsible Officer prior to determining the number of Forms DS–2019 to issue to a sponsor.

(e) *Safeguards and controls.* (1) Responsible Officers and Alternate Responsible Officers must secure their SEVIS logon Identification Numbers (IDs) and passwords at all times (i.e., not share IDs and passwords with any other person or permit access to and use of SEVIS by any other person).

(2) Sponsors, their employees, officers, agents, or other third parties acting on behalf of the sponsor, may not forward to any unauthorized party (via facsimile or other electronic means) copies or Portable Document Formats (PDFs) of signed or unsigned Forms DS–2019. However, sponsors must forward such copies and/or PDFs to the Department of State or the Department of Homeland Security upon request.

(3) Sponsors must use the reprint function in SEVIS in the event the exchange visitor's Form DS–2019 has been lost or stolen.

(4) Sponsors must destroy any damaged and/or unusable Form DS–2019 on the sponsor's premises after making a record of such forms (e.g., forms with errors or forms damaged by a printer).

§ 62.13 Notification requirements.

(a) *Valid program status of exchange visitor.* Sponsors must notify the Department of State via SEVIS of the following:

(1) Validation of program participation. Sponsors must promptly validate an exchange visitor's participation in their program. This will change the status of the exchange visitor's SEVIS record from ''Initial'' to ''Active.'' SEVIS records with program durations (e.g., the period between the ''Program Begin Date'' and ''Program End Date'') of 30 days or more must be validated within 30 days following the ''Program Begin Date'' identified in SEVIS. SEVIS records with program durations that are less than 30 days must be validated prior to the ''Program End Date'' reflected in SEVIS. As part of the validation process, sponsors may amend the program begin date and must update the SEVIS record to reflect the actual and current U.S. address and site of activity in SEVIS. The status of SEVIS records that are not validated according to this schedule will automatically change to ''Invalid'' or ''No Show''. Accompanying spouses and dependents' SEVIS records are automatically validated upon validation of the exchange visitors' SEVIS records.

(2) Failure of an exchange visitor to begin program. Sponsors must report in SEVIS, no later than 30 calendar days after the ''Program Begin Date'' listed in SEVIS, the failure of an exchange visitor to report to his or her sponsor upon entry in the United States (i.e., failure of exchange visitor to begin an exchange visitor program as scheduled). This will change the status of the exchange

visitor's SEVIS record from ''Initial'' to ''No Show.''

(3) End of an exchange visitor's program. Sponsors must report in SEVIS any withdrawal from or early completion of an exchange visitor's program that occurs prior to the ''Program End Date'' listed in SEVIS on the exchange visitor's Form DS–2019. Sponsors must not alter the ''Program End Date'' field, but should enter the date of program completion in the ''Effective Date of Completion'' field. This will change the status of the exchange visitor's SEVIS record from ''Active'' to ''Inactive.'' Such notification in SEVIS ends a sponsor's programmatic obligations to the exchange visitor and/or his or her accompanying spouse and dependents.

(4) Accompanying spouse and dependent records. Sponsors must report in SEVIS if accompanying spouses and/or dependents depart from the United States prior to the exchange visitors' departure dates.

(5) Termination of an exchange visitor's program. Sponsors must promptly report in SEVIS the involuntary termination of an exchange visitor's program. Sponsors must not alter the ''Program End Date'' field, but should enter the date of program termination in the ''Effective Date of Termination'' field. This will change the status of the SEVIS record from ''Active'' to ''Terminated''. Such notification in SEVIS ends a sponsor's programmatic obligation to the exchange visitor and his or her accompanying spouse and dependents, if any, and prevents the sponsor from thereafter extending the exchange visitor's duration of participation, transferring the exchange visitor to another program, or changing the exchange visitor's category. Sponsors must not terminate the program of an exchange visitor who voluntarily ends his or her program.

(b) *Change of circumstance of an exchange visitor.* Sponsors must promptly notify the Department of State via SEVIS of any of the following circumstances:

(1) Change in the actual and current U.S. address. Sponsors must ensure that the actual and current U.S. addresses of an exchange visitor are reported in SEVIS:

(i) Sponsors must report the U.S. mailing address (i.e., provide a P.O. Box number) in SEVIS in those limited cases where mail cannot be delivered to the exchange visitor's actual and current U.S. address (e.g., the exchange visitor resides in a campus setting); and

(ii) If a U.S. mailing address is reported to SEVIS, sponsors must also maintain records in SEVIS of actual and current U.S. addresses (e.g., dormitory, building and room number) for such exchange visitors.

(2) Change in site of activity. Sponsors must report in SEVIS any change to an exchange visitor's site of activity by entering the new site within ten business days of notification of such a change where sponsor rules or regulations permit such a change. Sponsors must promptly enter any change in the site of activity in those instances where the sponsor is responsible for the placement. Sponsors must identify the ''primary'' site of activity of an exchange visitor if multiple sites of activity are reported in SEVIS.

(c) *Change in sponsor's circumstance.* Sponsors must report within ten business days in SEVIS or directly to the Department of State, if appropriate, any material changes to their exchange visitor program as follows:

(1) Change of business and/or mailing address, telephone number, facsimile number, or email address;

(2) Change in the composition of the sponsor organization that affects its status as a United States Person as defined in § 62.2, which includes a new Employment Identification Number (EIN);

(3) Change of Responsible Officer or Alternate Responsible Officer;

(4) Major change of ownership or control of the sponsor's organization as defined in § 62.60(e);

(5) Change of the sponsor's principal place of business to a location outside the United States;

(6) Change in financial circumstances that may render the sponsor unable to comply with its obligations as set forth in § 62.9(e);

(7) Loss of licensure or accreditation;

(8) Loss or theft of Forms DS–2019, in which case a sponsor must notify the Department of State promptly by telephone or email of the SEVIS identification numbers of such Forms DS–2019 that have been lost or stolen;

(9) A decision by the sponsor to voluntarily cancel (withdraw) its exchange visitor program designation; or

(10) Any other material facts or events that may have an impact on the sponsor's ability to properly administer or conduct its exchange visitor program.

(d) *Serious problem or controversy.* Sponsors must inform the Department of State on or before the next business day by telephone (confirmed promptly in writing by facsimile or email) of any investigations of an exchange visitor's site of activity or serious problem or controversy that could be expected to bring the Department of State, the Exchange Visitor Program, or the sponsor's exchange visitor program into notoriety or disrepute, including any potential litigation related to a sponsor's exchange visitor program, in which the sponsor or an exchange visitor may be a named party.

§ 62.14 Insurance.

(a) Sponsors must require that all exchange visitors have insurance in effect that covers the exchange visitors for sickness or accidents during the period of time that they participate in the sponsor's exchange visitor program. In addition, sponsors must require that accompanying spouses and dependents of exchange visitors have insurance for sickness and accidents. Sponsors must inform all exchange visitors that they, and any accompanying spouse and dependent(s), also may be subject to the requirements of the Affordable Care Act.

(b) The period of required coverage is the actual duration of the exchange visitor's participation in the sponsor's exchange visitor program as recorded in SEVIS in the ''Program Begin Date,'' and as applicable, the ''Program End Date,'' ''Effective Program End Date,'' or ''Effective Date of Termination'' fields. Sponsors are not authorized to charge fees to their sponsored exchange visitors for the provision of insurance coverage beyond any demonstrable and justifiable staff time. Sponsors are not required to, but may, offer supplemental ''entry to exit'' coverage (i.e., coverage from the time the exchange visitor departs his or her home country until he or she returns). If the sponsor provides health insurance, or arranges for health insurance to be offered the exchange visitor, via payroll deduction at the host organization, the exchange visitor must voluntarily authorize this action in writing and also be given the opportunity to make other arrangements to obtain insurance. These authorizations must be kept on file by the sponsor. Minimum coverage must provide:

(1) Medical benefits of at least $100,000 per accident or illness;

(2) Repatriation of remains in the amount of $25,000;

(3) Expenses associated with the medical evacuation of exchange visitors to his or her home country in the amount of $50,000; and

(4) Deductibles not to exceed $500 per accident or illness.

(c) Insurance policies secured to fulfill the requirements of this section:

(1) May require a waiting period for pre-existing conditions that is reasonable as determined by current industry standards;

(2) May include provisions for co-insurance under the terms of which the exchange visitor may be required to pay up to 25% of the covered benefits per accident or illness; and

(3) Must not unreasonably exclude coverage for perils inherent to the activities of the exchange program in which the exchange visitor participates.

(d) Any policy, plan, or contract secured to fill the above requirements must, at a minimum, be:

(1) Underwritten by an insurance corporation having an A.M. Best rating of ''A−'' or above; a McGraw Hill Financial/Standard & Poor's Claims-paying Ability rating of ''A−'' or above; a Weiss Research, Inc. rating of ''B+'' or above; a Fitch Ratings, Inc. rating of ''A−'' or above; a Moody's Investor Services rating of ''A3'' or above; or such other rating as the Department of State may from time to time specify; or

(2) Backed by the full faith and credit of the government of the exchange visitor's home country; or

(3) Part of a health benefits program offered on a group basis to employees or enrolled students by a designated sponsor; or

(4) Offered through or underwritten by a federally qualified Health Maintenance Organization or eligible Competitive Medical Plan as determined by the Centers for Medicare and Medicaid Services of the U.S. Department of Health and Human Services.

(e) Federal, state or local government agencies; state colleges and universities; and public community colleges may, if permitted by law, self-insure any or all of the above-required insurance coverage.

(f) At the request of a non-governmental sponsor of an exchange visitor program, and upon a showing that such sponsor has funds readily available and under its control sufficient to meet the requirements of this section, the Department of State may permit the sponsor to self-insure or to accept full financial responsibility for such requirements.

(g) The Department of State may, in its sole discretion, condition its approval of self-insurance or the acceptance of full financial responsibility by the non-governmental sponsor by requiring such sponsor to secure a payment bond in favor of the Department of State guaranteeing the sponsor's obligations hereunder.

(h) Accompanying spouses and dependents are required to be covered by insurance in the amounts set forth in paragraph (b) of this section. Sponsors must inform exchange visitors of this requirement, in writing, in advance of the exchange visitor's arrival in the United States.

(i) Exchange visitors who willfully fail to maintain the insurance coverage set forth above while a participant in an exchange visitor program or who make material misrepresentations to the sponsor concerning such coverage will be deemed to be in violation of these regulations and will be subject to termination as an exchange visitor.

(j) Sponsors must terminate an exchange visitor's participation in their program if the sponsor determines that the exchange visitor or any accompanying spouse or dependent willfully fails to remain in compliance with this section.

§ 62.15 Reporting requirements.

(a) Sponsors must submit annual reports to the Department of State that are generated through SEVIS on Form DS–3097. Such reports must be filed on an academic, calendar, or fiscal year basis, as directed by the Department of State in the sponsor's letter of designation or redesignation, and must contain the following:

(1) *Program report and evaluation.* A summary of the activities in which exchange visitors were engaged, including an evaluation of program effectiveness, program difficulties, and number of staff used in the administration of the exchange visitor program;

(2) *Reciprocity.* A description of the nature and extent of reciprocity occurring in the sponsor's exchange visitor program during the reporting year;

(3) *Cross-cultural activities.* A description of the cross-cultural activities the sponsor provided for its exchange visitors during the reporting year;

(4) *Proof of insurance.* Certification of compliance with insurance coverage requirements set forth in § 62.14;

(5) *Certification.* The following certification:

''I certify that the information in this report is complete and correct to the best of my knowledge and belief; and, that the above named program sponsor has complied with all health and accident insurance requirements for exchange visitors and their accompanying spouses and dependents (22 CFR 62.14).''

(i) For exchange visitor programs classified as ''Government Programs,'' this certification will be signed by the Responsible Officer.

(ii) For exchange visitor programs classified as P–1 or P–2 ''Academic Programs'' this certification will be signed by the institution's Chief Executive Officer or Responsible Officer.

(iii) For exchange visitor programs classified as P–3 and P–4 ''Private Sector Programs,'' this certification will be signed by the organization's Chief Executive Officer or Responsible Officer.

(6) *Program participation.* A numerical count of all exchange visitors participating in the sponsor's program for the reporting year (i.e., by category, form usage, active status at one point during the annual cycle, and by other status).

(b) Sponsors of P–3 and P–4 ''Private Sector'' programs must file a program specific management review (in a format and on a schedule approved by the Department of State).

§ 62.16 Employment.

(a) An exchange visitor may receive compensation from the sponsor or the sponsor's appropriate designee, such as the host organization, when employment activities are part of the exchange visitor's program.

(b) An exchange visitor who engages in unauthorized employment shall be deemed to be in violation of his or her program status and is subject to termination as a participant in an exchange visitor program.

(c) The acceptance of employment by the accompanying spouse and dependents of an exchange visitor is governed by Department of Homeland Security regulations.

Subpart F—[Removed and Reserved]

■ 3. Subpart F, consisting of §§ 62.70 through 62.79, is removed and reserved.

Appendices A, B, C and D to Part 62 [Removed and Reserved]

■ 4. Appendices A, B, C and D to Part 62 are removed and reserved.

Dated: September 25, 2014.

Robin J. Lerner,

Deputy Assistant Secretary for Private Sector Exchange, Bureau of Educational and Cultural Affairs.

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