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# Presidential Documents

**Title 3—**

**The President**

**Proclamation 9242 of March 24, 2015**

## Greek Independence Day: A National Day of Celebration of Greek and American Democracy, 2015

**By the President of the United States of America**

**A Proclamation**

Since the dawn of our Nation, the United States and Greece have shared a bond forged through common struggle and deeply rooted in mutual beliefs. Greek principles guided our Founders as they declared America's independence, and nearly half a century later, as Greek revolutionaries fought to throw off the yoke of an empire, they renewed the creed that unites free people everywhere: ordinary citizens can govern themselves. Today, we celebrate the Hellenic spirit that has inspired our two great nations — separated by an ocean but linked by a shared destiny written not for us, but by us.

It was the democratic example of ancient Greece from which the founding generation of Americans drew strength. In our Nation's earliest days, we sought wisdom from Greek history and philosophy, and we found hope within the pages of timeless Greek texts. Mindful of the lessons of the Hellenic story, courageous patriots undertook a bold experiment, securing the blessings of liberty and laying the foundation for more than two centuries of progress.

But even in the cradle of democracy, the promise of freedom was not preordained. More than 2,000 years after the values of self-determination first found expression in a small group of Hellenic city-states, the Greek people stood up against tyranny and sacrificed to restore democracy to its birthplace. They met brutal hardship with unbreakable character, drew inspiration from America's revolution, and never lost faith in the ideals Greece has always represented.

As Americans and Greeks, we are heirs to a long legacy of hard-won freedom and justice — values which we must not only preserve, but renew and refresh in our own time. Generations of Greek Americans have enriched the United States and strengthened our communities. Their heritage and vibrant culture are reflected in our story of achievement and constant striving; their voices are among the chorus of citizens who have driven this country inexorably forward. Today, as Greece works to lay a foundation for long-term prosperity, our Nation continues to support our friend and NATO ally and to help the Greek people reach for the future so many have sought — one where all women and men are free to pursue their dreams, realize their potential, and secure a brighter tomorrow for their children.

Together, we continue the righteous task of perfecting our two nations. On the 194th anniversary of Greek independence, let us celebrate the enduring ties between our peoples and stand with those around the world who long for liberty and the chance to join in the noble work of building a democracy.

NOW, THEREFORE, I, BARACK OBAMA, President of the United States of America, by virtue of the authority vested in me by the Constitution and the laws of the United States, do hereby proclaim March 25, 2015, as Greek Independence Day: A National Day of Celebration of Greek and

American Democracy. I call upon the people of the United States to observe this day with appropriate ceremonies and activities.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-fourth day of March, in the year of our Lord two thousand fifteen, and of the Independence of the United States of America the two hundred and thirty-ninth.

[FR Doc. 2015–07242
Filed 3–26–15; 8:45 am]
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# Rules and Regulations

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

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## NUCLEAR REGULATORY COMMISSION

### 10 CFR Part 72

**[NRC–2014–0058]**

**RIN 3150–AJ39**

### NAC International MAGNASTOR® System, Certificate of Compliance No. 1031, Amendment No. 4

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** Direct final rule; confirmation of effective date.

**SUMMARY:** The U.S. Nuclear Regulatory Commission (NRC) is confirming the effective date of April 14, 2015, for the direct final rule that was published in the **Federal Register** on January 29, 2015. This direct final rule amended the NRC's spent fuel storage regulations by revising the NAC International MAGNASTOR® System listing within the ''List of approved spent fuel storage casks'' to include Amendment No. 4 to Certificate of Compliance (CoC) No. 1031.

**DATES:** The effective date of April 14, 2015, is confirmed for the direct final rule published January 29, 2015 (80 FR 4757).

**ADDRESSES:** Please refer to Docket ID NRC–2014–0058 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–2014–0058. Address questions about NRC dockets to Carol Gallagher; telephone: 301–415–3463; email: *Carol.Gallagher@nrc.gov.* For technical questions, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.
- NRC's Agencywide Documents Access and Management System (ADAMS): You may obtain publicly-available documents online in the ADAMS Public Documents collection at *http://www.nrc.gov/reading-rm/adams.html.* To begin the search, select ''*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.*
- NRC's PDR: You may examine and purchase copies of public documents at the NRC's PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

**FOR FURTHER INFORMATION CONTACT:** Robert D. MacDougall, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington DC 20555–0001; telephone: 301–415–5175, email: *Robert.MacDougall@nrc.gov.*

**SUPPLEMENTARY INFORMATION:** On January 29, 2015 (80 FR 4757), the NRC published a direct final rule amending its regulations in § 72.214 of Title 10 of the *Code of Federal Regulations* by revising the NAC International MAGNASTOR® System listing within the ''List of approved spent fuel storage casks'' to include Amendment No. 4 to CoC No. 1031. Amendment No. 4 changes a limiting condition for operation in the technical specifications for transportable storage canister vacuum drying and helium backfill times, and corrects a typographical error. The NRC's approval of Amendment No. 4 does not authorize transportation.

In the direct final rule, the NRC stated that if no significant adverse comments were received, the direct final rule would become effective on April 14, 2015. The NRC did not receive any comments on the direct final rule. Therefore, this direct final rule will become effective as scheduled.

Dated at Rockville, Maryland, this 23rd day of March, 2015.

For the Nuclear Regulatory Commission.

**Cindy Bladey,**

*Chief, Rules, Announcements, and Directives Branch, Division of Administrative Services, Office of Administration.*

[FR Doc. 2015–07002 Filed 3–26–15; 8:45 am]

**BILLING CODE 7590–01–P**

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

### 14 CFR Part 39

**[Docket No. FAA–2013–1032; Directorate Identifier 2012–NM–121–AD; Amendment 39–18122; AD 2015–06–04]**

**RIN 2120–AA64**

### Airworthiness Directives; Dassault Aviation Airplanes

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

**ACTION:** Final rule.

**SUMMARY:** We are superseding Airworthiness Directive (AD) 2011–13–07 for all Dassault Aviation Model FALCON 7X airplanes. AD 2011–13–07 requires revising the airplane flight manual (AFM) to include a procedure to power off a radio-altimeter or revert to the correct radio-altimeter output. This new AD requires revising the AFM to include a simpler procedure to revert to the correct radio-altimeter output. This AD was prompted by an analysis which showed that AFM procedures could be simplified. We are issuing this AD to ensure that the flightcrew has procedures in the event of a radio-altimeter lock-up, which inhibits the display of warnings along with certain abnormal conditions, during the switch into landing mode during altitude cruise. If not corrected, this could result in the flightcrew being unaware of possible system failures that require immediate action by the flightcrew, leading to possible loss of control of the airplane.

**DATES:** This AD becomes effective May 1, 2015.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of May 1, 2015.

**ADDRESSES:** You may examine the AD docket on the Internet at *http://www.regulations.gov/#!docketDetail;D=FAA-2013-1032;* or in person at the Docket Management Facility, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC.

For service information identified in this AD, contact Dassault Falcon Jet,

P.O. Box 2000, South Hackensack, NJ 07606; telephone 201–440–6700; Internet *http://www.dassaultfalcon.com.* You may view this referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221. It is also available on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2013–1032.

**FOR FURTHER INFORMATION CONTACT:** Tom Rodriguez, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue SW., Renton, WA 98057–3356; telephone 425–227–1137; fax 425–227–1149.

**SUPPLEMENTARY INFORMATION:**

## Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to supersede AD 2011–13–07, Amendment 39–16730 (76 FR 36283, June 22, 2011). AD 2011–13–07 applied to all Dassault Aviation Model FALCON 7X airplanes. The NPRM published in the **Federal Register** on December 26, 2013 (78 FR 78292). The NPRM was prompted by an analysis which showed that AFM procedures could be simplified. The NPRM proposed to continue to require revising the AFM to include a procedure to power off a radio-altimeter or revert to the correct radio-altimeter output. The NPRM also proposed to require revising the AFM to include a simpler procedure to revert to the correct radio-altimeter output.

The European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Union, has issued EASA Airworthiness Directive 2009–0208R2, dated May 22, 2012 (referred to after this as the Mandatory Continuing Airworthiness Information, or ''the MCAI''), to correct an unsafe condition on all Dassault Aviation Model FALCON 7X airplanes. The MCAI states:

> Several occurrences of untimely radio-altimeter lock-up have been reported, where the failed radio-altimeter (RA) indicated a negative distance to the ground despite the aircraft was flying at medium or high altitude.
>
> A locked RA #1 leads to untimely inhibition of warnings that could be displayed along with certain abnormal conditions while the avionic system switches into landing mode during altitude cruise.
>
> This condition, if not corrected, may cause the flight crew to be unaware of possible system failures that could require immediate actions, which could ultimately lead to loss of control of the aeroplane.
>
> To address this unsafe condition, Dassault Aviation developed an Airplane Flight Manual (AFM) operational procedure that, in case of RA #1 lock-up, allows the crew to restore the system warning performance by depowering the RA #1. EASA issued AD 2009–0208 [*http://ad.easa.europa.eu/ad/2009-0208R3*] to require application of that new abnormal procedure when RA #1 lock-up occurs. That EASA AD also prohibited dispatch of the aeroplane with any radio-altimeter inoperative.
>
> Since issuance of EASA AD 2009–0208, Dassault Aviation developed Easy avionics load 10 which is embodied through Dassault Aviation production modification M0566 or in-service through Service Bulletin (SB) Falcon 7X n°100. This modification provides new features to display a ''RA miscompare'' flag on both Primary Display Units (PDU) and allows a commanded system reversion to the correct RA output.
>
> Prompted by this modification, EASA issued AD 2009–0208R1 [ *http://ad.easa.europa.eu/ad/2009-0208R3*], to allow not deactivating RA #1 in case lock-up conditions occurred in flight, for aeroplanes on which M0566 or SB Falcon 7X n°100 was embodied.
>
> Since issuance of EASA AD 2009–0208R1, further analysis shows that, for aeroplanes with M0566 applied in production, or SB Falcon 7X N°100 applied in service, the RA#2 lock-up occurrence should be addressed through a commanded system reversion, now only contained in a simplified Falcon 7X AFM procedure 3–140–70A.
>
> For the reasons described above, this [EASA] AD revises EASA AD 2009–0208R1 to reduce the requirement to amend the AFM by deleting the reference to procedure 3–140–65B. In addition, Dassault Aviation have confirmed that all Falcon 7X have been or are being modified with Mod M0566 applied in production, or SB Falcon 7X n°100 applied in service. For this reason, paragraph (1) of this [EASA] AD has been deleted. Finally, many editorial changes have been made to align the writing of the AD with the current writing standards.

You may examine the MCAI in the AD docket on the Internet at *http://www.regulations.gov/#!documentDetail;D=FAA-2013-1032-0002.*

## Comments

We gave the public the opportunity to participate in developing this AD. The following presents the comments received on the NPRM (78 FR 78292, December 26, 2013) and the FAA's response to each comment.

### Request To Remove Paragraph (g) of the Proposed AD (78 FR 78292, December 26, 2013)

Dassault requested that paragraph (g) of the proposed AD (78 FR 78292, December 26, 2013) be removed if it is meant to be a retained action. Dassault stated that paragraph (g) of the proposed AD addresses the lock-up of the radio-altimeter #1 and paragraph (h) of the proposed AD addresses the radio-altimeter miscompare condition. Dassault noted that any significant discrepancy, such as a lock-up condition, will raise a miscompare flag. Dassault also stated that since paragraph (h) of the proposed AD generalizes the issue to encompass both radio-altimeters, paragraph (g) becomes superfluous and procedure 3–140–65 (Figure 1 to paragraph (g) of the proposed AD) no longer exists.

We do not agree to remove paragraph (g) of this AD. Paragraph (g) of this AD is necessary to address the identified unsafe condition until the requirements of paragraph (h) of this AD are accomplished. Operators who complete the requirements of paragraph (h) of this AD do not need to complete the requirements of paragraph (g) of this AD. We have not revised this AD in this regard.

### Request To Revise a Figure To Allow Dispatch in Certain Configuration Conditions

Dassault requested that figure 2 of paragraph (h) of the proposed AD (78 FR 78292, December 26, 2013) be revised to allow dispatch with a failed radio-altimeter. Dassault noted that the FAA issued an alternative method of compliance (AMOC), which allows dispatch with one failed radio-altimeter if the airplane is equipped with the newer radio-altimeter having part number 066–01153–5001. Dassault proposed to limit the dispatch prohibition in figure 2 of paragraph (h) of the proposed AD only to those airplanes that are fitted with an older radio-altimeter design having part number 066–01153–4001, which it stated is more prone to lock-ups. Dassault reasoned that the change would bring consistency with the AMOC letter and eliminate a need for future AMOCs as the radio-altimeter design is revised.

We do not agree to revise figure 2 of paragraph (h) of this AD. This type of operational relief is only allowed through the master minimum equipment list (MMEL) which is not an aspect we provide in an AD. However, a global AMOC letter has been issued to allow dispatch of airplanes equipped with the newer radio-altimeter with part number 066–01153–5001 through the MMEL. As provided by paragraph (i)(1)(ii) of this AD, this AMOC is valid for all operators affected by this AD. Therefore, there is no need to revise this final rule to provide this relief.

**Request To Refer to a Later Revision of Service Information**

Dassault requested that the NPRM (78 FR 78292, December 26, 2013) be revised to refer to the latest revision of the Dassault Falcon 7X Airplane Flight Manual.

We agree. We have revised paragraph (h)(2) of this AD to refer to Dassault Falcon 7X Airplane Flight Manual, DGT105608, Revision 18, dated November 15, 2013, as an additional method of compliance.

**''Contacting the Manufacturer'' Paragraph in This AD**

Since late 2006, we have included a standard paragraph titled ''Airworthy Product'' in all MCAI ADs in which the FAA develops an AD based on a foreign authority's AD.

The MCAI or referenced service information in an FAA AD often directs the owner/operator to contact the manufacturer for corrective actions, such as a repair. Briefly, the Airworthy Product paragraph allowed owners/operators to use corrective actions provided by the manufacturer if those actions were FAA-approved. In addition, the paragraph stated that any actions approved by the State of Design Authority (or its delegated agent) are considered to be FAA-approved.

In the NPRM (78 FR 78292, December 26, 2013), we proposed to prevent the use of repairs that were not specifically developed to correct the unsafe condition, by requiring that the repair approval provided by the State of Design Authority or its delegated agent specifically refer to this FAA AD. This change was intended to clarify the method of compliance and to provide operators with better visibility of repairs that are specifically developed and approved to correct the unsafe condition. In addition, we proposed to change the phrase ''its delegated agent'' to include a design approval holder (DAH) with State of Design Authority design organization approval (DOA), as applicable, to refer to a DAH authorized to approve required repairs for the proposed AD.

No comments were provided to the NPRM (78 FR 78292, December 26, 2013) about these proposed changes. However, a comment was provided for an NPRM having Directorate Identifier 2012–NM–101–AD (78 FR 78285, December 26, 2013). The commenter stated the following: ''The proposed wording, being specific to repairs, eliminates the interpretation that Airbus messages are acceptable for approving minor deviations (corrective actions) needed during accomplishment of an AD mandated Airbus service bulletin.''

This comment has made the FAA aware that some operators have misunderstood or misinterpreted the Airworthy Product paragraph to allow the owner/operator to use messages provided by the manufacturer as approval of deviations during the accomplishment of an AD-mandated action. The Airworthy Product paragraph does not approve messages or other information provided by the manufacturer for deviations to the requirements of the AD-mandated actions. The Airworthy Product paragraph only addresses the requirement to contact the manufacturer for corrective actions for the identified unsafe condition and does not cover deviations from other AD requirements. However, deviations to AD-required actions are addressed in 14 CFR 39.17, and anyone may request the approval for an alternative method of compliance to the AD-required actions using the procedures found in 14 CFR 39.19.

To address this misunderstanding and misinterpretation of the Airworthy Product paragraph, we have changed the paragraph and retitled it ''Contacting the Manufacturer.'' This paragraph now clarifies that for any requirement in this AD to obtain corrective actions from a manufacturer, the actions must be accomplished using a method approved by the FAA, the EASA, or Dassault Aviation's EASA Design Organization Approval (DOA).

The Contacting the Manufacturer paragraph also clarifies that, if approved by the DOA, the approval must include the DOA-authorized signature. The DOA signature indicates that the data and information contained in the document are EASA-approved, which is also FAA-approved. Messages and other information provided by the manufacturer that do not contain the DOA-authorized signature approval are not EASA-approved, unless EASA directly approves the manufacturer's message or other information.

This clarification does not remove flexibility previously afforded by the Airworthy Product paragraph. Consistent with long-standing FAA policy, such flexibility was never intended for required actions. This is also consistent with the recommendation of the Airworthiness Directive Implementation Aviation Rulemaking Committee to increase flexibility in complying with ADs by identifying those actions in manufacturers' service instructions that are ''Required for Compliance'' with ADs. We continue to work with manufacturers to implement this recommendation. But once we determine that an action is required, any deviation from the requirement must be approved as an alternative method of compliance.

Other commenters to the NPRM having Directorate Identifier 2012–NM–101–AD (78 FR 78285, December 26, 2013) pointed out that in many cases the foreign manufacturer's service bulletin and the foreign authority's MCAI might have been issued some time before the FAA AD. Therefore, the DOA might have provided U.S. operators with an approved repair, developed with full awareness of the unsafe condition, before the FAA AD is issued. Under these circumstances, to comply with the FAA AD, the operator would be required to go back to the manufacturer's DOA and obtain a new approval document, adding time and expense to the compliance process with no safety benefit.

Based on these comments, we removed the requirement that the DAH-provided repair specifically refer to this AD. Before adopting such a requirement, the FAA will coordinate with affected DAHs and verify they are prepared to implement means to ensure that their repair approvals consider the unsafe condition addressed in this AD. Any such requirements will be adopted through the normal AD rulemaking process, including notice-and-comment procedures, when appropriate.

We also have decided not to include a generic reference to either the ''delegated agent'' or ''DAH with State of Design Authority design organization approval,'' but instead we have provided the specific delegation approval granted by the State of Design Authority for the DAH.

**Related Service Information Under 1 CFR Part 51**

Dassault Aviation issued Procedure 3–140–70A, ''Avionics—Sensor miscompare (A/C with M566),'' Issue 2, of Section 3—Abnormal Procedures, of the Dassault Falcon 7X Airplane Flight Manual, DGT 105608, Revision 15, dated January 30, 2012; and Procedure 3–140–70A, ''Avionics—Sensor miscompare,'' Issue 4, of Section 3—Abnormal Procedures, of the Dassault Falcon 7X Airplane Flight Manual, DGT105608, Revision 18, dated November 15, 2013. The service information describes procedures to revert to the correct radio-altimeter output. This service information is reasonably available; see **ADDRESSES** for ways to access this service information.

**Conclusion**

We reviewed the available data, including the comments received, and determined that air safety and the

public interest require adopting this AD with the changes described previously and minor editorial changes. We have determined that these changes:

• Are consistent with the intent that was proposed in the NPRM (78 FR 78292, December 26, 2013) for correcting the unsafe condition; and

• Do not add any additional burden upon the public than was already proposed in the NPRM (78 FR 78292, December 26, 2013).

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

## Costs of Compliance

We estimate that this AD affects 35 airplanes of U.S. registry.

We estimate the following costs to comply with this AD:

ESTIMATED COSTS

| Action | Labor cost | Parts cost | Cost per product | Cost on U.S. operators |
|---|---|---|---|---|
| AFM revision [retained actions from AD 2011–13–07, Amendment 39–16730 (76 FR 36283, June 22, 2011)]. | 1 work-hour × $85 per hour = $85 | None | $85 | $2,975 |
| New AFM revision [new action] | 1 work-hour × $85 per hour = $85 | None | 85 | 2,975 |

## Authority for This Rulemaking

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

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

## Regulatory Findings

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

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

1. Is not a ''significant regulatory action'' under Executive Order 12866;

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

3. Will not affect intrastate aviation in Alaska; and

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

## Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov/#!docketDetail;D=FAA-2013-1032;* or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket Operations office (telephone 800–647–5527) is in the **ADDRESSES** section.

## List of Subjects in 14 CFR Part 39

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

## Adoption of the Amendment

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

## PART 39—AIRWORTHINESS DIRECTIVES

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

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

### § 39.13 [Amended]

■ 2. The FAA amends § 39.13 by removing Airworthiness Directive (AD) 2011–13–07, Amendment 39–16730 (76 FR 36283, June 22, 2011), and adding the following new AD:

**2015–06–04 Dassault Aviation:** Amendment 39–18122. Docket No. FAA–2013–0132; Directorate Identifier 2012–NM–121–AD.

**(a) Effective Date**

This AD becomes effective May 1, 2015.

**(b) Affected ADs**

This AD replaces AD 2011–13–07, Amendment 39–16730 (76 FR 36283, June 22, 2011).

**(c) Applicability**

This AD applies to Dassault Aviation Model FALCON 7X airplanes, certificated in any category, all serial numbers.

**(d) Subject**

Air Transport Association (ATA) of America Code 34, Navigation.

**(e) Reason**

This AD was prompted by reports of untimely radio-altimeter lock-ups, where the failed radio-altimeter indicated a negative distance to the ground when the airplane was flying at medium or high altitude. We are issuing this AD to ensure that the flightcrew has procedures in the event of a radio-altimeter lock-up, which inhibits the display of warnings along with certain abnormal conditions, during the switch into landing mode during altitude cruise. If not corrected, this could result in the flightcrew being unaware of possible system failures that require immediate action by the flightcrew, leading to possible loss of control of the airplane.

**(f) Compliance**

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

**(g) Retained Airplane Flight Manual (AFM) Revision**

This paragraph restates the requirements of paragraph (h) of AD 2011–13–07, Amendment 39–16730 (76 FR 36283, June 22, 2011), with editorial changes. For airplanes on which M0566 or Dassault Service Bulletin Falcon 7X–100 has been accomplished: Within 14 days after July 27, 2011 (the effective date of AD 2011–13–07), revise the Limitations Section of the Dassault Falcon 7X AFM to include the statement in figure 1 to this paragraph. This may be done by inserting a copy of this AD in the AFM.

When a statement identical to that in figure 1 to this paragraph has been included in the general revisions of the AFM, the general revisions may be inserted into the AFM, and the copy of this AD may be removed from the AFM. Accomplishing the revision required by paragraph (h) of this AD terminates the requirements of this paragraph, and after the revision required by paragraph (h) of this AD has been done, before further flight, remove the revision required by this paragraph.

FIGURE 1 TO PARAGRAPH (g) OF THIS AD—RETAINED AFM LANGUAGE

| |
|---|
| If radio-altimeter #1 lock-up conditions occur in flight, revert to the correct radio-altimeter output, in accordance with the instructions of Falcon 7X AFM procedure 3–140–65B and 3–140–70A. |
| Dispatch of the airplane with any radio-altimeter inoperative is prohibited. |

**(h) New Requirement of This AD: Revision of the AFM**

For airplanes on which M0566 or Dassault Service Bulletin Falcon 7X–100 has been accomplished: Within 30 days after the effective date of this AD, do the actions specified in paragraphs (h)(1) and (h)(2) of this AD.

(1) Revise the Limitations Section of the Dassault Falcon 7X AFM to include the statement in figure 2 to this paragraph. This may be done by inserting a copy of this AD in the AFM. Doing this revision terminates the requirements of paragraph (g) of this AD and the revision required by paragraph (g) of this AD must be removed. When a statement identical to that in figure 2 to this paragraph has been included in the general revisions of the AFM, the general revisions may be inserted into the AFM, and the copy of this AD may be removed from the AFM.

FIGURE 2 TO PARAGRAPH (h)(1) OF THIS AD—NEW AFM LANGUAGE

| |
|---|
| If radio-altimeter miscompare indication occurs in flight, revert to the correct radio-altimeter output, in accordance with the instructions of Falcon 7X AFM procedure 3–140–70A. |
| Dispatch of the airplane with any radio-altimeter inoperative is prohibited. |

(2) Revise the Abnormal Procedures section to include Procedure 3–140–70A, ''Avionics—Sensor miscompare (A/C with M566),'' Issue 2, of Section 3—Abnormal Procedures, of the Dassault Falcon 7X Airplane Flight Manual, DGT 105608, Revision 15, dated January 30, 2012; or Procedure 3–140–70A, ''Avionics—Sensor miscompare,'' Issue 4, of Section 3—Abnormal Procedures, of the Dassault Falcon 7X Airplane Flight Manual, DGT105608, Revision 18, dated November 15, 2013; into the AFM.

**(i) Other FAA AD Provisions**

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the International Branch, send it to ATTN: Tom Rodriguez, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue SW., Renton, WA 98057–3356; telephone 425–227–1137; fax 425–227–1149. Information may be emailed to: *9-ANM-116-AMOC-REQUESTS@faa.gov.*

(i) Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office. The AMOC approval letter must specifically reference this AD.

(ii) AMOCs approved previously in accordance with AD 2011–13–07, Amendment 39–16730 (76 FR 36283, June 22, 2011), are approved as alternative methods of compliance with this AD.

(2) *Contacting the Manufacturer:* As of the effective date of this AD, for any requirement in this AD to obtain corrective actions from a manufacturer, the action must be accomplished using a method approved by the Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA; or the European Aviation Safety Agency (EASA); or Dassault Aviation's EASA Design Organization Approval (DOA). If approved by the DOA, the approval must include the DOA-authorized signature.

**(j) Related Information**

Refer to Mandatory Continuing Airworthiness Information (MCAI) EASA Airworthiness Directive 2009–0208R2, dated May 22, 2012, for related information. You may examine the MCAI in the AD docket on the Internet at *http://www.regulations.gov/#!documentDetail;D=FAA-2013-1032-0002.*

**(k) Material Incorporated by Reference**

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

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

(i) Procedure 3–140–70A, ''Avionics—Sensor miscompare (A/C with M566),'' Issue 2, of Section 3—Abnormal Procedures, of the Dassault Falcon 7X Airplane Flight Manual, DGT 105608, Revision 15, dated January 30, 2012.

(ii) Procedure 3–140–70A, ''Avionics—Sensor miscompare,'' Issue 4, of Section 3—Abnormal Procedures, of the Dassault Falcon 7X Airplane Flight Manual, DGT105608, Revision 18, dated November 15, 2013.

(3) For service information identified in this AD, contact Dassault Falcon Jet, P.O. Box 2000, South Hackensack, NJ 07606; telephone 201–440–6700; Internet *http://www.dassaultfalcon.com.*

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

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

Issued in Renton, Washington, on March 13, 2015.

**Jeffrey E. Duven,**

*Manager, Transport Airplane Directorate, Aircraft Certification Service.*

[FR Doc. 2015–06615 Filed 3–26–15; 8:45 am]

BILLING CODE 4910–13–P

## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

## 14 CFR Part 39

**[Docket No. FAA–2014–0229; Directorate Identifier 2013–NM–186–AD; Amendment 39–18123; AD 2015–06–05]**

**RIN 2120–AA64**

## Airworthiness Directives; Airbus Airplanes

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

**ACTION:** Final rule.

**SUMMARY:** We are adopting a new airworthiness directive (AD) for all Airbus Model A300 and A310 series airplanes, and certain Model A300 B4–600, B4–600R, and F4–600R series airplanes, and Model A300 C4–605R Variant F airplanes (collectively called Model A300–600 series airplanes). This AD was prompted by a review of certain repairs, which revealed that the structural integrity of the airplane could be negatively affected if those repairs are not re-worked. This AD requires an inspection to identify certain repairs, and corrective action if necessary. We are issuing this AD to detect and correct certain repairs on the floor cross beams flange. If those repairs are not reworked, the structural integrity of the airplane could be negatively affected.

**DATES:** This AD becomes effective May 1, 2015.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in this AD as of May 1, 2015.

**ADDRESSES:** You may examine the AD docket on the Internet at *http://www.regulations.gov/#!docketDetail;D=FAA-2014-0229;* or in person at the Docket Management

Facility, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC.

For service information identified in this AD, contact Airbus SAS, Airworthiness Office—EAW, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France; telephone +33 5 61 93 36 96; fax +33 5 61 93 44 51; email *account.airworth-eas@airbus.com;* Internet *http://www.airbus.com.* You may view this referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221. It is also available on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2014–0229.

**FOR FURTHER INFORMATION CONTACT:** Dan Rodina, Aerospace Engineer, ANM–116, International Branch, Transport Airplane Directorate, FAA, 1601 Lind Avenue SW., Renton, WA 98507–3356; telephone 425–227–2125; fax 425–227–1149.

**SUPPLEMENTARY INFORMATION:**

## Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to all Airbus Model A300 and A310 series airplanes, and certain Model A300 B4–600, B4–600R, and F4–600R series airplanes, and Model A300 C4–605R Variant F airplanes (collectively called Model A300–600 series airplanes). The NPRM published in the **Federal Register** on April 16, 2014 (79 FR 21413).

The European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Union, has issued EASA Airworthiness Directive 2013–0220, dated September 18, 2013 (referred to after this as the Mandatory Continuing Airworthiness Information, or ''the MCAI''), to correct an unsafe condition for all Airbus Model A300 and A310 series airplanes, and certain Model A300 B4–600, B4–600R, and F4–600R series airplanes, and Model A300 C4–605R Variant F airplanes (collectively called Model A300–600 series airplanes). The MCAI states:

> In the frame of the Extended Service Goal (ESG) activity, all existing Structural Repair Manual (SRM) repairs were reviewed.
>
> This analysis, which consisted in new static and fatigue calculations, revealed that some repairs were no longer applicable to some specific areas.
>
> These repairs, if not reworked, could affect the structural integrity of the aeroplane. To address the repairs on the floor cross beams flange, Airbus issued Alert Operator Transmission (AOT) A300–53A0392, AOT A300–53A6171 and AOT A310–53A2135.
>
> To address this unsafe condition, and further to the implementation of the Aging Aircraft Safety Rule (AASR), this [EASA] Airworthiness Directive requires a [general visual] inspection of the floor cross beams flange at frame (FR)11 and FR12A to identify SRM repairs and, depending on findings, accomplishment of corrective action [reworking the SRM repairs].

You may examine the MCAI in the AD docket on the Internet at *http://www.regulations.gov/#!documentDetail;D=FAA-2014-0229-0002.*

## Comments

We gave the public the opportunity to participate in developing this AD. The following presents the comments received on the NPRM (79 FR 21413, April 16, 2014) and the FAA's response to each comment.

### Request To Change the Compliance Time Expression From Months to Flight Cycles

United Parcel Service (UPS) requested that the compliance time proposed in the NPRM (79 FR 21413, April 16, 2014) for doing the general visual inspection be changed from a compliance time based on months to a compliance time based on the accumulation of flight cycles since certain structural repair manual (SRM) repairs were incorporated on an airplane. UPS stated that all documentation related to the NPRM indicated that the reported damage is fatigue-related; therefore the inspection compliance time should reflect a typical fatigue-related issue, which is expressed in flight cycles. UPS explained that it did not provide a proposed compliance time because it did not have data and suggested that the original equipment manufacturer (OEM) could establish compliance times for the instructions for continued airworthiness based on the data used in the SRM repair evaluation to determine extended service goals.

We do not agree to change the compliance time expression from months to accumulated flight cycles since certain SRM repairs were done. The OEM does not have documentation for all the SRM repairs accomplished on each airplane, thus it is unable to establish compliance times because of the incomplete data. The FAA and EASA have determined that a 30-month compliance time is sufficient to accomplish the inspection and all applicable corrective actions. No change has been made to this AD regarding this issue. However, under the provisions of paragraph (i) of this AD, we may approve requests for adjustments to the compliance time if data are submitted to substantiate that such an adjustment would provide an acceptable level of safety.

### Request To Omit References to the AD in Repair Approvals

UPS requested that paragraphs (h) and (i)(2) of the NPRM (79 FR 21413, April 16, 2014) be revised to omit the statement ''[F]or a repair method to be approved, the repair approval must specifically refer to this AD.'' UPS stated that the FAA included this sentence in the NPRM because there is a ''potential'' for operators to do repairs that do not adequately address the unsafe condition. UPS commented that adding a reference to the applicable AD on repair documentation does not address the root cause of repair documentation availability. Previously approved repairs for an AD should have been vetted as part of the corrective action and AD development process. However, if a repair is not identified during that process, the operator is still responsible for adhering to the Airworthy Product provision in an AD. The Airworthy Product provision, in conjunction with FAA Advisory Circular 120–77, ''Maintenance and Alteration Data,'' dated October 7, 2002 (*http://rgl.faa.gov/Regulatory_and_Guidance_Library/rgAdvisoryCircular.nsf/0/199e798c7ee4347786256c4d004ae5dc/$FILE/AC%20120-77.pdf*), provides sufficient guidance and clarification for repairs accomplished during compliance with the requirements of an AD.

We concur with the commenter's request to remove from this AD the requirement that repair approvals specifically refer to this AD. Since late 2006, we have included a standard paragraph titled ''Airworthy Product'' in all MCAI ADs in which the FAA develops an AD based on a foreign authority's AD. The MCAI or referenced service information in an FAA AD often directs the owner/operator to contact the manufacturer for corrective actions, such as a repair. Briefly, the Airworthy Product paragraph allowed owners/operators to use corrective actions provided by the manufacturer if those actions were FAA approved. In addition, the paragraph stated that any actions approved by the State of Design Authority (or its delegated agent) are considered to be FAA approved.

In the NPRM (79 FR 21413, April 16, 2014), we proposed to prevent the use

of repairs that were not specifically developed to correct the unsafe condition by requiring that the repair approval provided by the State of Design Authority or its delegated agent specifically refer to this FAA AD. This change was intended to clarify the method of compliance and to provide operators with better visibility of repairs that are specifically developed and approved to correct the unsafe condition. In addition, we proposed to change the phrase ''its delegated agent'' to include ''the Design Approval Holder (DAH) with a State of Design Authority's design organization approval (DOA)'' to refer to a DAH authorized to approve required repairs for the AD.

Comments were provided to another NPRM (Directorate Identifier 2012–NM–101–AD (79 FR 21413, April 16, 2014)) about these proposed changes. UPS commented on that NPRM as follows: ''The proposed wording, being specific to repairs, eliminates the interpretation that Airbus messages are acceptable for approving minor deviations (corrective actions) needed during accomplishment of an AD mandated Airbus service bulletin.''

That comment has made the FAA aware that some operators have misunderstood or misinterpreted the Airworthy Product paragraph to allow the owner/operator to use messages provided by the manufacturer as approval of deviations during the accomplishment of an AD-mandated action. The Airworthy Product paragraph does not approve messages or other information provided by the manufacturer for deviations to the requirements of the AD-mandated actions. The Airworthy Product paragraph only addresses the requirement to contact the manufacturer for corrective actions for the identified unsafe condition and does not cover deviations from other AD requirements. However, deviations to AD-required actions are addressed in 14 CFR 39.17, and anyone may request approval of an alternative method of compliance to the AD-required actions using the procedures found in 14 CFR 39.19.

To address this misunderstanding and misinterpretation of the Airworthy Product paragraph, we have changed that paragraph and retitled it ''Contacting the Manufacturer.'' This paragraph now clarifies that for any requirement in this AD to obtain corrective actions from a manufacturer, the actions must be accomplished using a method approved by the FAA, or the European Aviation Safety Agency (EASA), or Airbus's EASA Design Organization Approval (DOA).

The Contacting the Manufacturer paragraph also clarifies that, if approved by the DOA, the approval must include the DOA-authorized signature. The DOA signature indicates that the data and information contained in the document are EASA approved, which is also FAA approved. Messages and other information provided by the manufacturer that do not contain the DOA-authorized signature approval are not EASA approved, unless EASA directly approves the manufacturer's message or other information.

This clarification does not remove flexibility afforded previously by the Airworthy Product paragraph. Consistent with long-standing FAA policy, such flexibility was never intended for required actions. This is also consistent with the recommendation of the AD Implementation Aviation Rulemaking Committee to increase flexibility in complying with ADs by identifying those actions in manufacturers' service instructions that are ''Required for Compliance'' with ADs. We continue to work with manufacturers to implement this recommendation. But once we determine that an action is required, any deviation from the requirement must be approved as an alternative method of compliance.

Other commenters pointed out that in many cases the foreign manufacturer's service bulletin and the foreign authority's MCAI may have been issued some time before the FAA AD. Therefore, the DOA may have provided U.S. operators with an approved repair, developed with full awareness of the unsafe condition, before the FAA AD is issued. Under these circumstances, to comply with the FAA AD, the operator would be required to go back to the manufacturer's DOA and obtain a new approval document, adding time and expense to the compliance process with no safety benefit.

Based on these comments, we removed the requirement from this AD that the DAH-provided repair specifically refer to this AD. Before adopting such a requirement in the future, the FAA will coordinate with affected DAHs and verify they are prepared to implement means to ensure that their repair approvals consider the unsafe condition addressed in an AD. Any such requirements will be adopted through the normal AD rulemaking process, including notice-and-comment procedures, when appropriate.

We have also decided not to include a generic reference to either the ''delegated agent'' or the ''DAH with State of Design Authority design organization approval,'' but instead we will provide the specific delegation approval granted by the State of Design Authority for the DAH.

**Additional Changes to This AD**

In this AD, we have corrected a formatting error in the subparagraphs of paragraph (g)(1) of the NPRM (79 FR 21413, April 16, 2014). The subparagraphs were incorrectly identified as (g)(1)(a), (g)(1)(b), and (g)(1)(c), and should have been identified as paragraphs (g)(1)(i), (g)(1)(ii), and (g)(1)(iii) of this AD.

**Conclusion**

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

- Are consistent with the intent that was proposed in the NPRM (79 FR 21413, April 16, 2014) for correcting the unsafe condition; and
- Do not add any additional burden upon the public than was already proposed in the NPRM (79 FR 21413, April 16, 2014).

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

**Related Service Information Under 1 CFR Part 51**

Airbus has issued the following service information, which describes procedures for doing general visual inspections of the floor cross beams flange at certain frames and contacting the manufacturer for corrective actions:

- Airbus All Operator Telex A300–53A0392, dated March 14, 2012 (for Model A300 series airplanes);
- Airbus All Operator Telex A300–53A617, dated March 14, 2012 (for Model A300 B4–601, B4–603, B4–620, and B4–622 airplanes; Model A300 B4–605R and B4–622R airplanes; Model A300 F4–605R and F4–622R airplanes; and Model A300 C4–605R Variant F airplanes); and
- Airbus All Operator Telex A310–53A2135, dated March 14, 2012 (for Model A310 series airplanes).

This service information is reasonably available; see **ADDRESSES** for ways to access this service information.

**Costs of Compliance**

We estimate that this AD affects 177 airplanes of U.S. registry.

We also estimate that it would take about 1 work-hour per product to comply with the basic requirements of this AD. The average labor rate is $85

per work-hour. Based on these figures, we estimate the cost of this AD on U.S. operators to be $15,045, or $85 per product.

We have received no definitive data that would enable us to provide cost estimates for the on-condition actions specified in this AD.

## Authority for This Rulemaking

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

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

## Regulatory Findings

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

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

1. Is not a ''significant regulatory action'' under Executive Order 12866;
2. Is not a ''significant rule'' under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979);
3. Will not affect intrastate aviation in Alaska; and
4. Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

## Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov/#!docketDetail;D=FAA-2014-0229;* or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket Operations office (telephone 800–647–5527) is in the **ADDRESSES** section.

## List of Subjects in 14 CFR Part 39

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

## Adoption of the Amendment

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

## PART 39—AIRWORTHINESS DIRECTIVES

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

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

### § 39.13 [Amended]

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

**2015–06–05 Airbus:** Amendment 39–18123. Docket No. FAA–2014–0229; Directorate Identifier 2013–NM–186–AD.

**(a) Effective Date**

This AD becomes effective May 1, 2015.

**(b) Affected ADs**

None.

**(c) Applicability**

This AD applies to the Airbus airplanes identified in paragraphs (c)(1), (c)(2), and (c)(3) of this AD, certificated in any category.

(1) Model A300 B2–1A, B2–1C, B2K–3C, B2–203, B4–2C, B4–103, and B4–203 airplanes, all manufacturer serial numbers.

(2) Model A300 B4–601, B4–603, B4–620, and B4–622 airplanes; Model A300 B4–605R and B4–622R airplanes; Model A300 F4–605R and F4–622R airplanes; and Model A300 C4–605R Variant F airplanes; all manufacturer serial numbers, except those on which Airbus Modification 12699 has been embodied in production.

(3) Model A310–203, –204, –221, –222, –304, –322, –324, and –325 airplanes, all manufacturer serial numbers.

**(d) Subject**

Air Transport Association (ATA) of America Code 53, Fuselage.

**(e) Reason**

This AD was prompted by a review of certain repairs, which revealed that the structural integrity of the airplane could be negatively affected if those repairs are not reworked. We are issuing this AD to detect and correct certain repairs on the floor cross beams flange. If those repairs are not reworked, the structural integrity of the airplane could be negatively affected.

**(f) Compliance**

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

**(g) Inspection**

(1) Within 30 months after the effective date of this AD: Do a general visual inspection of the floor cross beams flange at FR11 and FR12A to determine which structural repair manual (SRM) repairs have been done, in accordance with the instructions of the service information specified in paragraph (g)(1)(i), (g)(1)(ii), or (g)(1)(iii) of this AD, as applicable.

(i) For Model A300 series airplanes: Airbus All Operator Telex (AOT) A300–53A0392, dated March 14, 2012.

(ii) For Model A300 B4–601, B4–603, B4–620, and B4–622 airplanes; Model A300 B4–605R and B4–622R airplanes; Model A300 F4–605R and F4–622R airplanes; and Model A300 C4–605R Variant F airplanes: Airbus AOT A300–53A6171, dated March 14, 2012.

(iii) For Model A310 series airplanes: Airbus AOT A310–53A2135, dated March 14, 2012.

(2) A review of airplane maintenance records is acceptable in lieu of the general visual inspection required by paragraph (g)(1) of this AD if the SRM repairs can be positively identified from that review.

**(h) Repair**

If, during the inspection required by paragraph (g)(1) of this AD, it is determined that any SRM repair specified in paragraph 2 of the service information identified in paragraph (g)(1)(i), (g)(1)(ii), or (g)(1)(iii) of this AD, as applicable, has been done: Within 30 months after the effective date of this AD, rework the repair using a method approved by the Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA; or the European Aviation Safety Agency (EASA); or Airbus's EASA Design Organization Approval (DOA).

**(i) Other FAA AD Provisions**

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the International Branch, send it to ATTN: Dan Rodina, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue SW., Renton, WA 98507–3356; telephone 425–227–2125; fax 425–427–1149. Information may be emailed to: *9-ANM-116-AMOC-REQUESTS@faa.gov.* Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office. The AMOC approval letter must specifically reference this AD.

(2) *Contacting the Manufacturer:* For any requirement in this AD to obtain corrective

actions from a manufacturer, the action must be accomplished using a method approved by the Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA; or the EASA; or Airbus's EASA DOA. If approved by the DOA, the approval must include the DOA-authorized signature.

**(j) Related Information**

Refer to Mandatory Continuing Airworthiness Information (MCAI) Airworthiness Directive 2013–0220, dated September 18, 2013, for related information. This MCAI may be found in the AD docket on the Internet at *http://www.regulations.gov/#!documentDetail;D=FAA-2014-0229-0002.*

**(k) Material Incorporated by Reference**

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

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

(i) Airbus All Operator Telex A300–53A0392, dated March 14, 2012. The document number and date appear on only the first page of this document.

(ii) Airbus All Operator Telex A300–53A6171, dated March 14, 2012. The document number and date appear on only the first page of this document.

(iii) Airbus All Operator Telex A310–53A2135, dated March 14, 2012. The document number and date appear on only the first page of this document.

(3) For service information identified in this AD, contact Airbus SAS, Airworthiness Office—EAW, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France; telephone +33 5 61 93 36 96; fax +33 5 61 93 44 51; email *account.airworth-eas@airbus.com;* Internet *http://www.airbus.com.*

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

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

Issued in Renton, Washington, on March 14, 2015.

**Jeffrey E. Duven,**

*Manager, Transport Airplane Directorate, Aircraft Certification Service.*

[FR Doc. 2015–06583 Filed 3–26–15; 8:45 am]

BILLING CODE 4910–13–P

## FEDERAL TRADE COMMISSION

## 16 CFR Part 305

**RIN 3084–AB03**

## EnergyGuide Labels on Televisions

**AGENCY:** Federal Trade Commission.

**ACTION:** Final rule.

**SUMMARY:** The Federal Trade Commission (''Commission'') amends its Energy Labeling Rule (''Rule'') by publishing new ranges of comparability for required EnergyGuide labels on televisions.

**DATES:** Effective July 15, 2015.

**FOR FURTHER INFORMATION CONTACT:** Hampton Newsome, Attorney, Division of Enforcement, Federal Trade Commission, Washington, DC 20580 (202–326–2889).

**SUPPLEMENTARY INFORMATION:**

### I. Background

The Commission issued the Energy Labeling Rule in 1979, 44 FR 66466 (Nov. 19, 1979) pursuant to the Energy Policy and Conservation Act of 1975 (''EPCA'').[1] The Rule covers several categories of major household products, including televisions. It requires manufacturers of covered products to disclose specific energy consumption or efficiency information (derived from Department of Energy (''DOE'') test procedures) at the point-of-sale. In addition, each label must include a ''range of comparability'' indicating the highest and lowest energy consumption or efficiencies for comparable models. The Commission updates these ranges periodically.

### II. Range Updates for Televisions

The Commission amends its television ranges in section 305.17(f)(5) based on manufacturer data derived from the DOE test procedures and posted on the DOE Web site (*https://www.regulations.doe.gov/ccms*). Last year, the Commission issued changes to the television labeling requirements, including new reporting and testing provisions, to conform the FTC Rule to a new DOE test procedure (79 FR 19464 (April 9, 2014)). In that Notice, the Commission also discussed the possibility that it would revise the Rule's comparability ranges following the submission by manufacturers of new model data derived from the DOE test procedure.[2] The Commission now updates those ranges, along with related sample labels. In addition, these amendments update the cost figure on the television label to 12 cents per kWh consistent with other labeled products.[3] Manufacturers have until July 15, 2015 to begin using the ranges on their labels.

### III. Administrative Procedure Act

The amendments published in this Notice are purely ministerial in nature and implement the Rule's requirement that representations for televisions be derived from DOE test procedures. *See* 16 CFR 305.5(d). Accordingly, the Commission has good cause under section 553(b)(B) of the APA to forgo notice-and comment procedures for these rule amendments. 5 U.S.C. 553(b)(B). These technical amendments merely provide a routine, conforming change to the range and cost information required on EnergyGuide labels. The Commission therefore finds for good cause that public comment for these technical, procedural amendments is impractical and unnecessary.

### IV. Regulatory Flexibility Act

The provisions of the Regulatory Flexibility Act relating to a Regulatory Flexibility Act analysis (5 U.S.C. 603–604) are not applicable to this proceeding because the amendments do not impose any new obligations on entities regulated by the Energy Labeling Rule. These technical amendments merely provide a routine change to the range information required on EnergyGuide labels. Thus, the amendments will not have a ''significant economic impact on a substantial number of small entities.''[4] The Commission has concluded, therefore, that a regulatory flexibility analysis is not necessary, and certifies, under Section 605 of the Regulatory Flexibility Act (5 U.S.C. 605(b)), that the amendments announced today will not have a significant economic impact on a substantial number of small entities.

### V. Paperwork Reduction Act

The current Rule contains recordkeeping, disclosure, testing, and reporting requirements that constitute information collection requirements as defined by 5 CFR 1320.3(c), the definitional provision within the Office of Management and Budget (OMB) regulations that implement the Paperwork Reduction Act (PRA). OMB has approved the Rule's existing information collection requirements through May 31, 2017 (OMB Control No. 3084 0069). The amendments now being adopted do not change the substance or frequency of the recordkeeping,

[1] 42 U.S.C. 6294. EPCA also requires the Department of Energy (''DOE'') to set minimum efficiency standards and develop test procedures to measure energy use.

[2] The Commission also discussed the potential for new ranges in a notice published last summer (79 FR 34642, 34656 n.108 (June 18, 2014)).

[3] These amendments also make a minor, conforming change to the range categories in § 305.17 to reflect the scope of the DOE test procedure, which does not cover models with screen sizes smaller than 16 inches. See 79 FR at 19465 (Commission's discussion of this DOE change).

[4] 5 U.S.C. 605.

disclosure, or reporting requirements and, therefore, do not require further OMB clearance.

**List of Subjects in 16 CFR Part 305**

Advertising, Energy conservation, Household appliances, Labeling, Reporting and recordkeeping requirements.

For the reasons set out above, the Commission amends 16 CFR part 305 as follows:

## PART 305—ENERGY AND WATER USE LABELING FOR CONSUMER PRODUCTS UNDER THE ENERGY POLICY AND CONSERVATION ACT (''ENERGY LABELING RULE'')

■ 1. The authority citation for part 305 continues to read as follows:

**Authority:** 42 U.S.C. 6294.

■ 2. In § 305.17, revise paragraphs (f)(4) and (5) to read as follows:

**§ 305.17 Television labeling.**

* * * * *

(f) * * *

(4) Estimated annual energy costs determined in accordance with § 305.5 of this part and based on a usage rate of 5 hours in on mode and 19 hours in standby (sleep) mode per day and an electricity cost rate of 12 cents per kWh.

(5) The applicable ranges of comparability for estimated annual energy costs based on the labeled product's diagonal screen size, according to the following table:

| Screen size (diagonal) | Annual energy cost ranges for televisions | |
|---|---|---|
| | Low | High |
| 16–20″ (16.0 to 20.49″) | $3 | $4 |
| 21–23″ (20.5 to 23.49″) | 4 | 5 |
| 24–29″ (23.5 to 29.49″) | 4 | 7 |
| 30–34″ (29.5 to 34.49″) | 6 | 13 |
| 35–39″ (34.5 to 39.49″) | 7 | 13 |
| 40–44″ (39.5 to 44.49″) | 5 | 21 |
| 45–49″ (44.5 to 49.49″) | 6 | 24 |
| 50–54″ (49.5 to 54.49″) | 8 | 34 |
| 55–59″ (54.5 to 59.49″) | 8 | 34 |
| 60–64″ (59.5 to 64.49″) | 12 | 48 |
| 65–69″ (64.5 to 69.49″) | 10 | 51 |
| 69.5″ or greater | 15 | 97 |

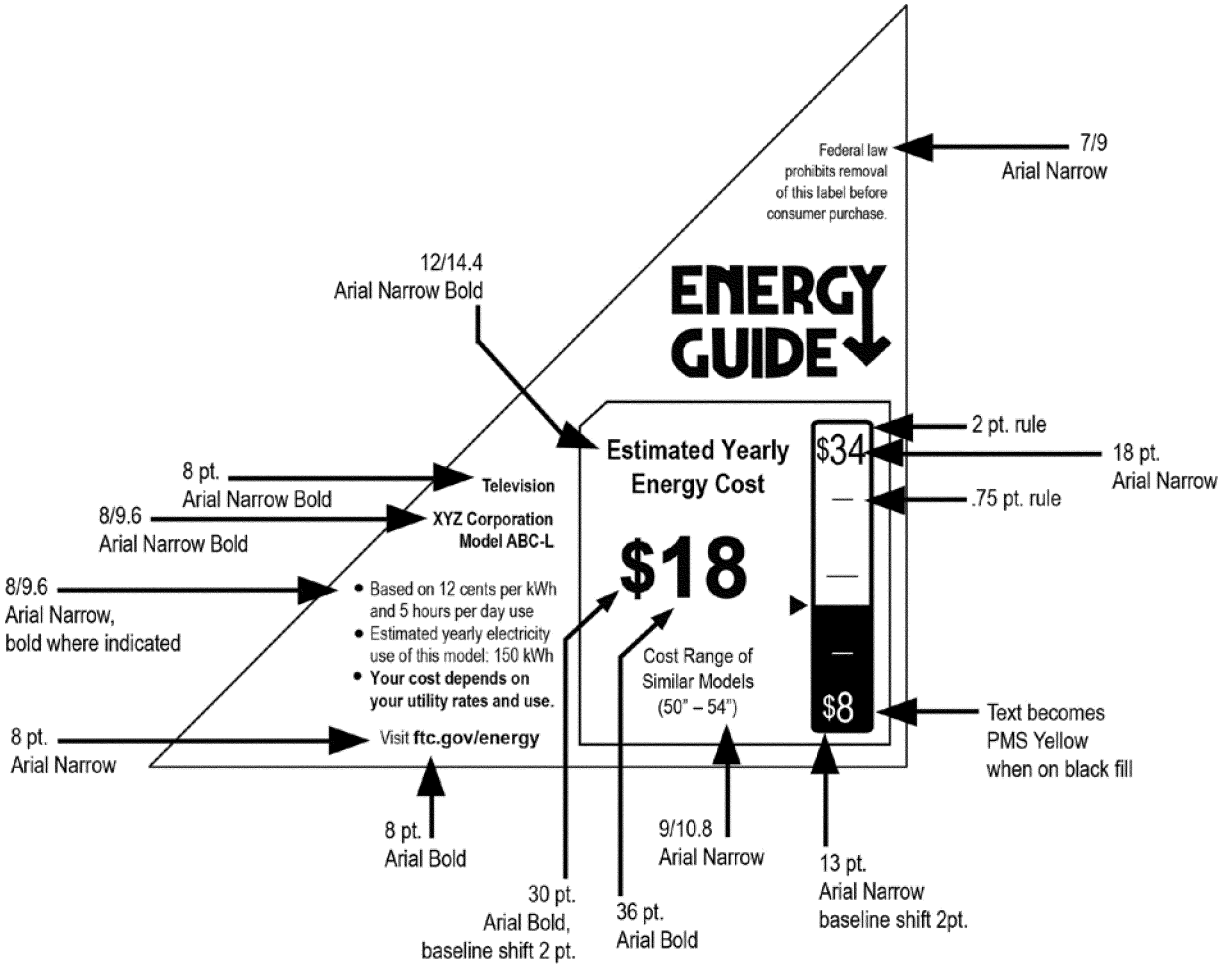
* * * * *

■ 3. In appendix L, revise Prototype Labels 8, 9, and 10 and Sample Labels in 14, 15, and 16 to read as follows:

**Appendix L to Part 305—Sample Labels**

* * * * *

BILLING CODE 6750–01–P

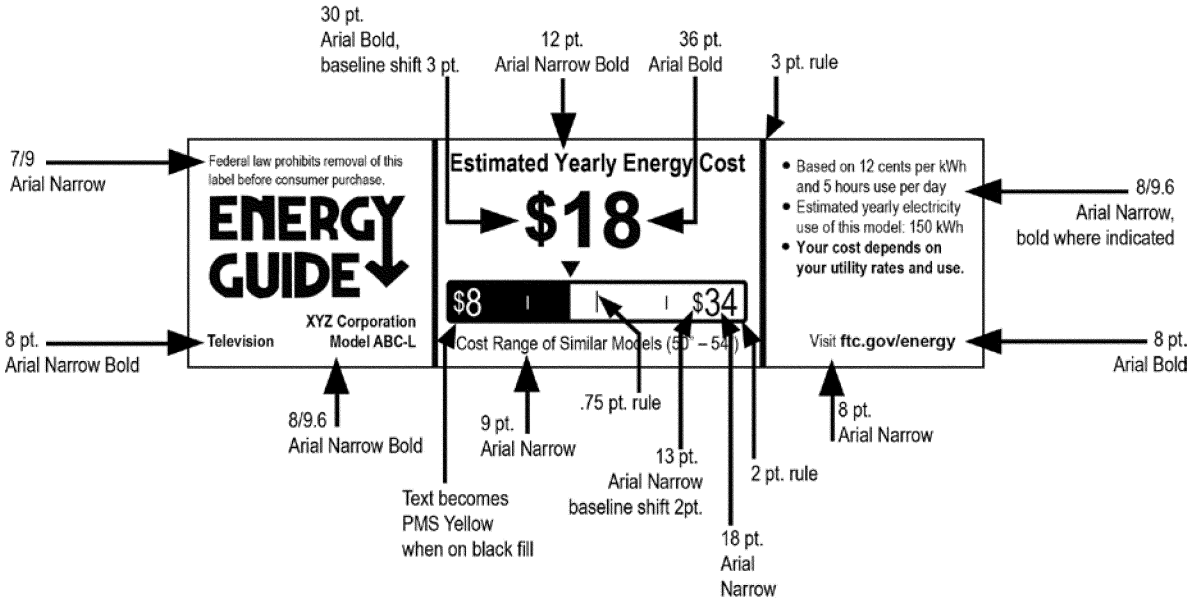



Minimum label size right angle triangle 4.5" x 4.5"

* Typeface is Arial Narrow and Arial or equivalent type style. Type sizes shown are minimum allowable. Use bold or heavy typeface where indicated. Type is black printed on process yellow or equivalent color background. Energy Star logo, if applicable, must be at least 0.36" wide.

Prototype Label 8

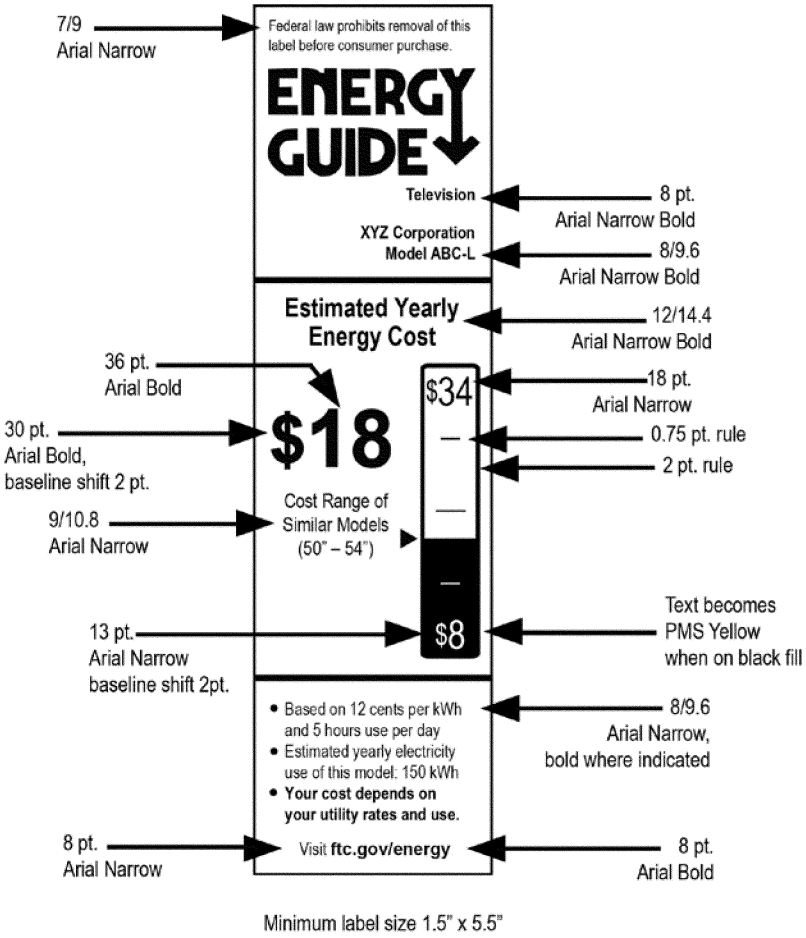
Triangular Television Label




* Typeface is Arial Narrow and Arial or equivalent type style. Type sizes shown are minimum allowable. Use bold or heavy typeface where indicated. Type is black printed on process yellow or equivalent color background. Energy Star logo, if applicable, must be at least 0.36" wide.

Prototype Label 9

Horizontal Rectangular Television Label

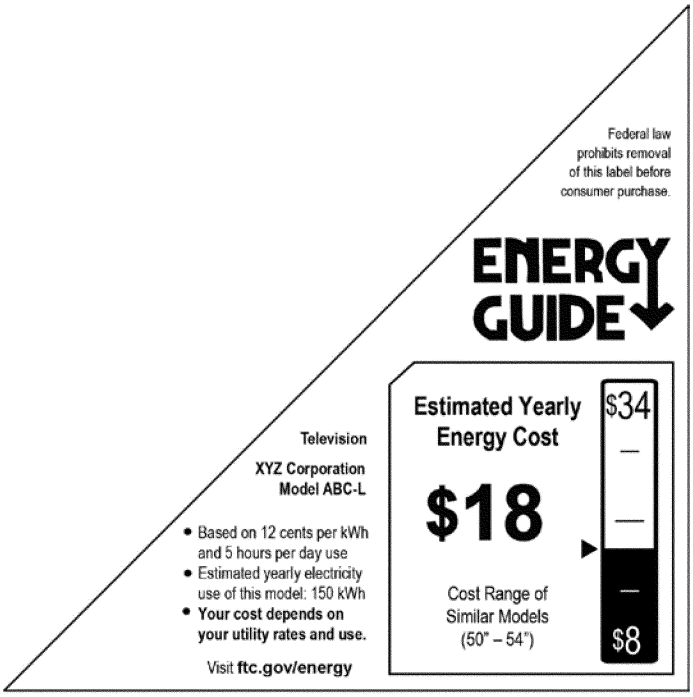


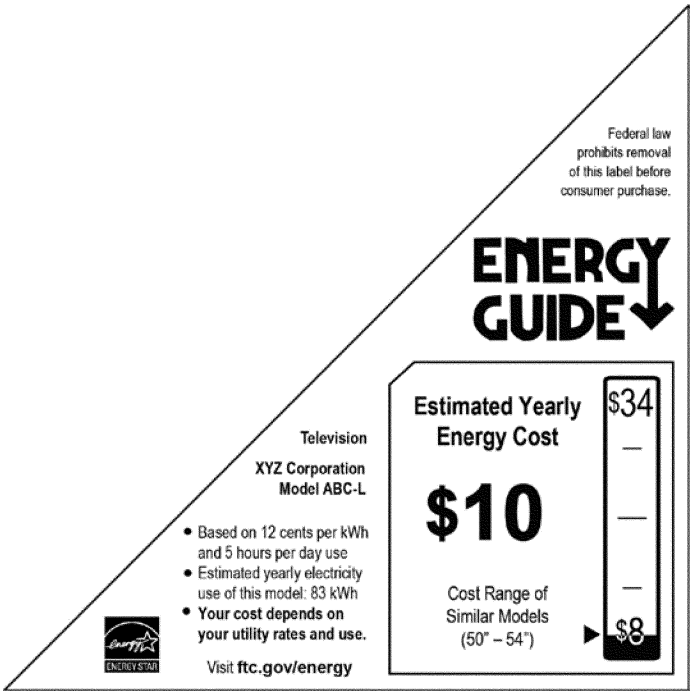

* Typeface is Arial Narrow and Arial or equivalent type style. Type sizes shown are minimum allowable. Use bold or heavy typeface where indicated. Type is black printed on process yellow or equivalent color background. Energy Star logo, if applicable, must be at least 0.36" wide.

Prototype Label 10

Vertical Rectangular Television Label

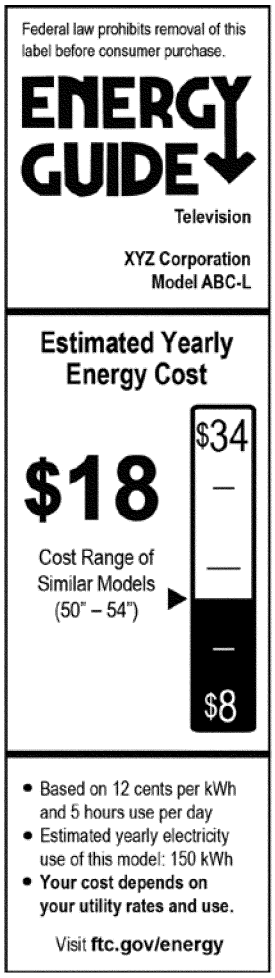
* * * * *

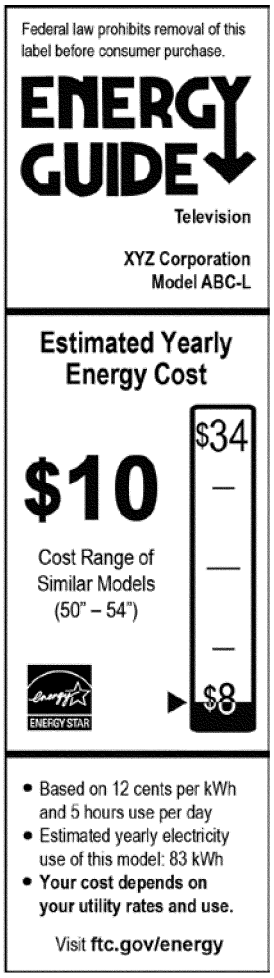



Sample Label 14

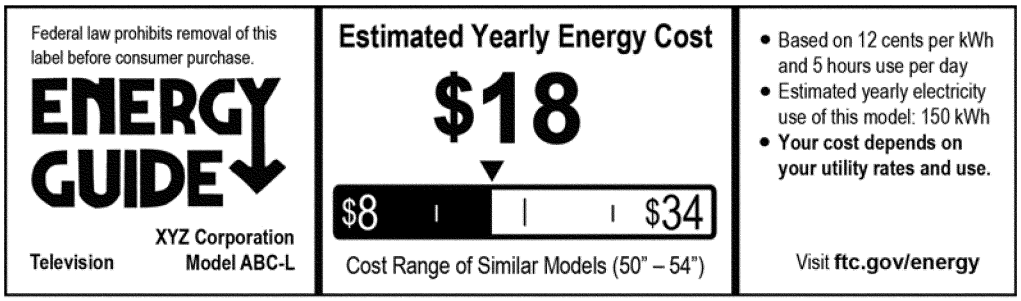
Triangular Television Labels

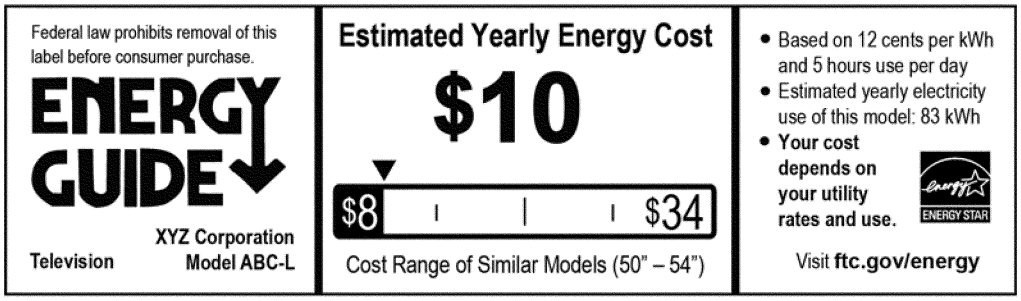



Sample Label 15

Vertical Television Labels




Sample Label 16

Horizontal Television Labels

* * * * *

By direction of the Commission.

**Donald S. Clark**

*Secretary.*

[FR Doc. 2015–07070 Filed 3–26–15; 8:45 am]

**BILLING CODE 6750–01–C**

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## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

### 21 CFR Part 882

**[Docket No. FDA–2015–N–0802]**

## Medical Devices; Neurological Devices; Classification of the Brain Injury Adjunctive Interpretive Electroencephalograph Assessment Aid

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Final order.

**SUMMARY:** The Food and Drug Administration (FDA) is classifying the brain injury adjunctive interpretive electroencephalograph assessment aid into class II (special controls). The special controls that will apply to the device are identified in this order and will be part of the codified language for the brain injury adjunctive interpretive electroencephalograph assessment aid's classification. The Agency is classifying the device into class II (special controls) in order to provide a reasonable assurance of safety and effectiveness of the device.

**DATES:** This order is effective March 27, 2015. The classification was applicable on November 17, 2014.

**FOR FURTHER INFORMATION CONTACT:** Jay Gupta, Center for Devices and Radiological Health, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 66, Rm. G312, Silver Spring, MD 20993–0002, 301–796–2795, *jay.gupta@fda.hhs.gov.*

**SUPPLEMENTARY INFORMATION:**

### I. Background

In accordance with section 513(f)(1) of the Federal Food, Drug, and Cosmetic Act (the FD&C Act) (21 U.S.C. 360c(f)(1)), devices that were not in commercial distribution before May 28, 1976 (the date of enactment of the Medical Device Amendments of 1976), generally referred to as postamendments devices, are classified automatically by statute into class III without any FDA rulemaking process. These devices remain in class III and require premarket approval, unless and until the device is classified or reclassified into class I or II, or FDA issues an order finding the device to be substantially equivalent, in accordance with section 513(i) of the FD&C Act, to a predicate device that does not require premarket approval. The Agency determines whether new devices are substantially equivalent to predicate devices by means of premarket notification procedures in section 510(k) of the FD&C Act (21 U.S.C. 360(k)) and part 807 (21 CFR part 807) of the regulations.

Section 513(f)(2) of the FD&C Act, as amended by section 607 of the Food and Drug Administration Safety and Innovation Act (Pub. L. 112–144), provides two procedures by which a person may request FDA to classify a device under the criteria set forth in section 513(a)(1). Under the first procedure, the person submits a premarket notification under section 510(k) of the FD&C Act for a device that has not previously been classified and, within 30 days of receiving an order classifying the device into class III under section 513(f)(1) of the FD&C Act, the person requests a classification

under section 513(f)(2). Under the second procedure, rather than first submitting a premarket notification under section 510(k) of the FD&C Act and then a request for classification under the first procedure, the person determines that there is no legally marketed device upon which to base a determination of substantial equivalence and requests a classification under section 513(f)(2) of the FD&C Act. If the person submits a request to classify the device under this second procedure, FDA may decline to undertake the classification request if FDA identifies a legally marketed device that could provide a reasonable basis for review of substantial equivalence with the device or if FDA determines that the device submitted is not of ''low-moderate risk'' or that general controls would be inadequate to control the risks and special controls to mitigate the risks cannot be developed.

In response to a request to classify a device under either procedure provided by section 513(f)(2) of the FD&C Act, FDA will classify the device by written order within 120 days. This classification will be the initial classification of the device.

On August 20, 2014, BrainScope Company, Inc., submitted a request for classification of the BrainScope Ahead 100, Models CV–100 and M–100 under section 513(f)(2) of the FD&C Act. The manufacturer recommended that the device be classified into class II (Ref. 1).

In accordance with section 513(f)(2) of the FD&C Act, FDA reviewed the request in order to classify the device under the criteria for classification set forth in section 513(a)(1). FDA classifies devices into class II if general controls by themselves are insufficient to provide reasonable assurance of safety and effectiveness, but there is sufficient information to establish special controls to provide reasonable assurance of the safety and effectiveness of the device for its intended use. After review of the information submitted in the request, FDA determined that the device can be classified into class II with the establishment of special controls. FDA believes these special controls, in addition to general controls, will provide reasonable assurance of the safety and effectiveness of the device.

Therefore, on November 17, 2014, FDA issued an order to the requestor classifying the device into class II. FDA is codifying the classification of the device by adding § 882.1450.

Following the effective date of this final classification order, any firm submitting a premarket notification (510(k)) for a brain injury adjunctive interpretive electroencephalograph assessment aid will need to comply with the special controls named in this final order. The device is assigned the generic name brain injury adjunctive interpretive electroencephalograph assessment aid, and it is identified as a prescription device that uses a patient's electroencephalograph (EEG) to provide an interpretation of the structural condition of the patient's brain in the setting of trauma. A brain injury adjunctive interpretive EEG assessment aid is for use as an adjunct to standard clinical practice only as an assessment aid for a medical condition for which there exists other valid methods of diagnosis.

FDA has identified the following risks to health associated specifically with this type of device, as well as the mitigation measures required to mitigate these risks in table 1.

TABLE 1—BRAIN INJURY ADJUNCTIVE INTERPRETIVE ELECTROENCEPHALOGRAPH ASSESSMENT AID RISKS AND MITIGATION MEASURES

| Identified risk | Mitigation measure |
|---|---|
| Adverse tissue reaction | Biocompatibility.<br>Labeling. |
| Equipment malfunction leading to injury to user/patient (shock, burn, or mechanical failure). | Electrical safety, thermal, and mechanical testing.<br>Electromagnetic compatibility testing.<br>Labeling. |
| Delay in treatment or unnecessary treatment due to hardware or software failure. | Performance testing.<br>Hardware and software verification, validation and hazard analysis.<br>Electromagnetic compatibility testing.<br>Technical parameters<br>Labeling. |
| False result due to incorrect artifact reduction | Software verification and validation.<br>Labeling. |
| False result due to incorrect placement of electrodes | Clinical performance testing.<br>Labeling. |
| False result when a brain injury adjunctive interpretive EEG assessment aid impacts the clinical decision. | Clinical performance testing.<br>Device design characteristics.<br>Labeling. |
| Use error | Clinical performance testing.<br>Labeling. |

FDA believes that the following special controls, in combination with the general controls, address these risks to health and provide reasonable assurance of the safety and effectiveness:

- The technical parameters of the device, hardware and software, must be fully characterized and include the following information:
  - Hardware specifications must be provided. Appropriate verification, validation, and hazard analysis must be performed.
  - Software, including any proprietary algorithm(s) used by the device to arrive at its interpretation of the patient's condition, must be described in detail in the software requirements specification (SRS) and software design specification (SDS). Appropriate software verification, validation, and hazard analysis must be performed.
- The device parts that contact the patient must be demonstrated to be biocompatible.
- The device must be designed and tested for electrical safety, electromagnetic compatibility (EMC), thermal, and mechanical safety.
- Clinical performance testing must demonstrate the accuracy, precision-repeatability and reproducibility, of determining the EEG-based

interpretation, including any specified equivocal zones (cut-offs).

• Clinical performance testing must demonstrate the ability of the device to function as an assessment aid for the medical condition for which the device is indicated. Performance measures must demonstrate device performance characteristics per the intended use in the intended use environment. Performance measurements must include sensitivity, specificity, positive predictive value (PPV), and negative predictive value (NPV) with respect to the study prevalence per the device intended use.

• The device design must include safeguards to ensure appropriate clinical interpretation of the device output (*e.g.,* use in appropriate patient population, or for appropriate clinical decision).

• The labeling and training information must include:

○ A warning that the device is not to be used as a stand-alone diagnostic.

○ A detailed summary of the clinical performance testing, including any adverse events and complications.

○ The intended use population and the intended use environment.

○ Any instructions technicians should convey to patients regarding the collection of EEG data.

○ Information allowing clinicians to gauge clinical risk associated with integrating the EEG interpretive assessment aid into their diagnostic pathway.

○ Information allowing clinicians to understand how to integrate the device output into their diagnostic pathway when the device is unable to provide a classification or final result.

Brain injury adjunctive interpretive electroencephalograph assessment aid devices are prescription devices restricted to patient use only upon the authorization of a practitioner licensed by law to administer or use the device; see 21 CFR 801.109 (*Prescription devices*)). Prescription-use restrictions are a type of general controls as defined in section 513(a)(1)(A)(i) of the FD&C Act.

Section 510(m) of the FD&C Act provides that FDA may exempt a class II device from the premarket notification requirements under section 510(k) of the FD&C Act, if FDA determines that premarket notification is not necessary to provide reasonable assurance of the safety and effectiveness of the device. For this type of device, FDA has determined that premarket notification is necessary to provide reasonable assurance of the safety and effectiveness of the device. Therefore, this device type is not exempt from premarket notification requirements. Persons who intend to market this type of device must submit to FDA a premarket notification, prior to marketing the device, which contains information about the brain injury adjunctive interpretive electroencephalograph assessment aid they intend to market.

## II. Environmental Impact

The Agency has determined under 21 CFR 25.34(b) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

## III. Paperwork Reduction Act of 1995

This final order establishes special controls that refer to previously approved collections of information found in other FDA regulations. These collections of information are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). The collections of information in 21 CFR part 807, subpart E, regarding premarket notification submissions have been approved under OMB control number 0910–0120, and the collections of information in 21 CFR part 801, regarding labeling have been approved under OMB control number 0910–0485.

## IV. Reference

The following reference has been placed on display in the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852, and may be seen by interested persons between 9 a.m. and 4 p.m., Monday through Friday, and is available electronically at *http://www.regulations.gov.*

1. [DEN140025]: De Novo Request per 513(f)(2) from BrainScope Company, Inc., dated August 20, 2014.

## List of Subjects in 21 CFR Part 882

Medical devices, Neurological devices.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, 21 CFR part 882 is amended as follows:

## PART 882—NEUROLOGICAL DEVICES

■ 1. The authority citation for 21 CFR part 882 continues to read as follows:

**Authority:** 21 U.S.C. 351, 360, 360c, 360e, 360j, 371.

■ 2. Add § 882.1450 to subpart B to read as follows:

### § 882.1450 Brain injury adjunctive interpretive electroencephalograph assessment aid.

(a) *Identification.* A brain injury adjunctive interpretive electroencephalograph assessment aid is a prescription device that uses a patient's electroencephalograph (EEG) to provide an interpretation of the structural condition of the patient's brain in the setting of trauma. A brain injury adjunctive interpretive EEG assessment aid is for use as an adjunct to standard clinical practice only as an assessment aid for a medical condition for which there exists other valid methods of diagnosis.

(b) *Classification.* Class II (special controls). The special controls for this device are:

(1) The technical parameters of the device, hardware and software, must be fully characterized and include the following information:

(i) Hardware specifications must be provided. Appropriate verification, validation, and hazard analysis must be performed.

(ii) Software, including any proprietary algorithm(s) used by the device to arrive at its interpretation of the patient's condition, must be described in detail in the software requirements specification (SRS) and software design specification (SDS). Appropriate software verification, validation, and hazard analysis must be performed.

(2) The device parts that contact the patient must be demonstrated to be biocompatible.

(3) The device must be designed and tested for electrical safety, electromagnetic compatibility (EMC), thermal, and mechanical safety.

(4) Clinical performance testing must demonstrate the accuracy, precision-repeatability and reproducibility, of determining the EEG-based interpretation, including any specified equivocal zones (cutoffs).

(5) Clinical performance testing must demonstrate the ability of the device to function as an assessment aid for the medical condition for which the device is indicated. Performance measures must demonstrate device performance characteristics per the intended use in the intended use environment. Performance measurements must include sensitivity, specificity, positive predictive value (PPV), and negative predictive value (NPV) with respect to the study prevalence per the device intended use.

(6) The device design must include safeguards to ensure appropriate clinical interpretation of the device output (*e.g.,*

use in appropriate patient population, or for appropriate clinical decision).

(7) The labeling and training information must include:

(i) A warning that the device is not to be used as a stand-alone diagnostic.

(ii) A detailed summary of the clinical performance testing, including any adverse events and complications.

(iii) The intended use population and the intended use environment.

(iv) Any instructions technicians should convey to patients regarding the collection of EEG data.

(v) Information allowing clinicians to gauge clinical risk associated with integrating the EEG interpretive assessment aid into their diagnostic pathway.

(vi) Information allowing clinicians to understand how to integrate the device output into their diagnostic pathway when the device is unable to provide a classification or final result.

Dated: March 23, 2015.

**Leslie Kux,**

*Associate Commissioner for Policy.*

[FR Doc. 2015–07010 Filed 3–26–15; 8:45 am]

BILLING CODE 4164–01–P

## DEPARTMENT OF DEFENSE

### Office of the Secretary

### 32 CFR Part 66

**[Docket ID: DOD–2011–OS–0099]**

**RIN 0790–AI78**

## Qualification Standards for Enlistment, Appointment, and Induction

**AGENCY:** Office of the Under Secretary of Defense for Personnel and Readiness, DoD.

**ACTION:** Interim final rule.

**SUMMARY:** This rule updates policies and responsibilities for basic entrance qualification standards for enlistment, appointment, and induction into the Armed Forces and delegates the authority to specify certain standards to the Secretaries of the Military Departments. It establishes the age, aptitude, character/conduct, citizenship, dependents, education, medical, physical fitness, and other disqualifying conditions that are causes for rejection from military service. Other standards may be prescribed in the event of mobilization or national emergency. This rule sets standards designed to ensure that individuals under consideration for enlistment, appointment, and/or induction are able to perform military duties successfully, and to select those who are the most trainable and adaptable to Service life.

**DATES:** *Effective Date:* This rule is effective March 27, 2015. Comments must be received by May 26, 2015.

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

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

*Instructions:* All submissions received must include the agency name and docket number or RIN for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the Internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

**FOR FURTHER INFORMATION CONTACT:** Dennis J. Drogo, (703) 697–9268.

**SUPPLEMENTARY INFORMATION:**

### Executive Summary

*I. Purpose of This Regulatory Action*

This rule updates policies and responsibilities for basic entrance qualification standards for enlistment, appointment, and induction into the Armed Forces and delegates the authority to specify certain standards to the Secretaries of the Military Departments.

*II. Summary of the Major Provisions of This Regulatory Action*

(a) Establishes age, aptitude, character/conduct, citizenship, dependents, education, medical, physical fitness, and other disqualifying conditions that are causes for rejection from military service. Other standards may be prescribed in the event of mobilization or national emergency.

(b) Sets standards designed to ensure that individuals under consideration for enlistment, appointment, and/or induction are able to perform military duties successfully and to select those who are the most trainable and adaptable to Service life.

(c) Removes provisions related to homosexual conduct.

*III. Costs and Benefits of This Regulatory Action*

The benefit of publishing this interim final rule is that it establishes standards to ensure that those who are enlisted, appointed, or inducted are the best qualified to complete their prescribed training and the best able to adapt to the military life. Failure to maintain these standards would result in a high attrition of personnel and would significantly increase training costs. The success of today's All-volunteer military is dependent on this policy.

### Justification for Interim Final Rule

This rule is being published as an interim final rule to provide required updates in DoD policy and procedures that impact the public. It has been almost 10 years since these policies and procedures have been updated. Some policy changes and court decisions have a great impact on the eligibility of potential applicants entry into the military. All language addressing homosexual conduct has been removed in accordance with the December 22, 2010, repeal of the Don't Ask Don't Tell policy, which opened military service to homosexuals, and the subsequent *United States* vs. *Windsor* decision (570 U.S. 12, 133 S. Ct 2675 (2013)) which found section 3 of the Defense of Marriage Act (DOMA) unconstitutional. By removing all references to homosexuality, otherwise qualified applicants are now free to apply and enroll in a military academy without prejudice or fear of reprisal. This interim rule is required immediately to remove any legal and policy restrictions which would prevent a potential applicant from entry into a military based solely on their sexual orientation.

It is important for DoD to have current and up-to-date enlistment, appointment, and induction standards, which are essential in defining the measures necessary to evaluate and qualify civilians for military service. A critical component of this update is the clarification of one of the underlying purposes of the enlistment, appointment, and induction standards which is to minimize entrance of persons who are likely to become disciplinary cases, security risks, or who are likely to disrupt good order, morale, and discipline. The Military Services are responsible for the defense of the Nation and should not be viewed as a source of rehabilitation for those who have not subscribed to the legal and moral standards of society at-large. The necessity of publishing these current standards, as an interim final rule, is vital to the DoD meeting its mission to man the All Volunteer Force with qualified citizens.

**Regulatory Procedures**

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

Executive Orders 13563 and 12866 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distribute impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This interim final rule has been designated a ''significant regulatory action,'' although not economically significant, under section 3(f) of Executive Order 12866. Accordingly, the rule has been reviewed by the Office of Management and Budget (OMB) under the requirements of these Executive Orders.

*Sec. 202, Public Law 104–4, ''Unfunded Mandates Reform Act''*

Section 202 of the Unfunded Mandates Reform Act of 1995 (UMRA) (Pub. L. 104–4) requires agencies assess anticipated costs and benefits before issuing any rule whose mandates require spending in any 1 year of $100 million in 1995 dollars, updated annually for inflation. In 2014, that threshold is approximately $141 million. This document will not mandate any requirements for State, local, or tribal governments, nor will it affect private sector costs.

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

The Department of Defense certifies that this interim final 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. Therefore, the Regulatory Flexibility Act, as amended, does not require us to prepare a regulatory flexibility analysis.

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

It has been certified that 32 CFR part 66 does not impose additional reporting or recordkeeping requirements under the Paperwork Reduction Act of 1995. The following exiting clearances will be utilized:

0701–0101—''Air Force ROTC College Scholarship Application''
0701–0150—''Air Force Recruiting Information Support System—Total Forces (AFRISS–TF)''
0702–0073—''U.S. Army ROTC 4-year College Scholarship Application''
0702–0111—''Army ROTC Referral Information''
0703–0020—''Enlistee Financial Statement''
0704–0006—''Request for Verification of Birth''
0704–0173—Record of Military Processing—Armed Forces of the United States''
0704–0413—''Medical Screening of Military Personnel''
0704–0415—''Application for Department of Defense Common Access Card—DEERS Enrollment''

The Department will continue to review its processes to identify collection instruments and consider how these collection tools may be improved and make revisions accordingly. The Department welcomes comments on how you think we can improve on our information collection activities.

*Executive Order 13132, ''Federalism''*

Executive Order 13132 establishes certain requirements that an agency must meet when it promulgates a proposed rule (and subsequent final rule) that imposes substantial direct requirement costs on State and local governments, preempts State law, or otherwise has Federalism implications. This interim final rule will not have a substantial effect on State and local governments.

**List of Subjects in 32 CFR Part 66**

Armed forces, Qualification standards.

■ Accordingly 32 CFR part 66 is added to read as follows:

## PART 66—QUALIFICATION STANDARDS FOR ENLISTMENT, APPOINTMENT, AND INDUCTION

Sec.
66.1 Purpose.
66.2 Applicability.
66.3 Definitions.
66.4 Policy.
66.5 Responsibilities.
66.6 Enlistment, appointment, and induction criteria.
66.7 Enlistment waivers.

**Authority:** 10 U.S.C. 504, 505, 520, 532, 12102, 12201, and 12205.

### § 66.1 Purpose.

In accordance with the authority in DoD Directive 5124.02, ''Under Secretary of Defense for Personnel and Readiness (USD(P&R))'' (available at *http://www.dtic.mil/whs/directives/corres/pdf/512402p.pdf*), this part:

(a) Updates established policies and responsibilities for basic entrance qualification standards for enlistment, appointment, and induction into the Military Services and delegates the authority to specify certain standards to the Secretaries of the Military Departments.

(b) Establishes the standards for age, aptitude, citizenship, dependents, education, medical, character/conduct, physical fitness, and other disqualifying conditions, which are cause for non-qualification for military service. Other standards may be prescribed in the event of national emergency.

(c) Sets standards designed to ensure that individuals under consideration for enlistment, appointment, or induction are able to perform military duties successfully, and to select those who are the most trainable and adaptable to Service life.

### § 66.2 Applicability.

This part applies to:

(a) Office of the Secretary of Defense, the Military Departments (including the Coast Guard at all times, including when it is a Service in the Department of Homeland Security by agreement with that Department), the Office of the Chairman of the Joint Chiefs of Staff and the Joint Staff, the Combatant Commands, the Office of the Inspector General of the Department of Defense, the Defense Agencies, the DoD Field Activities, and all other organizational entities within the DoD (referred to collectively in this part as the ''DoD Components'').

(b) Applicants for initial enlistment into the Military Services Regular and Reserve Components.

(c) Applicants for appointment as commissioned or warrant officers in the Regular and Reserve Components.

(d) Applicants for reenlistment following release from active duty into subsequent Regular or Reserve Components (including the Army National Guard of the United States and the Air National Guard of the United States) after a period of more than 6 months has elapsed since discharge.

(e) Applicants for contracting into the Reserve Officer Training Corps (ROTC), and all other Military Services special officer personnel procurement programs, including the Military Service Academies.

(f) All individuals being inducted into the Military Services.

### § 66.3 Definitions.

Unless otherwise noted, these terms and their definitions are for the purposes of this part.

*Adjudicating authority.* Any government official who is empowered to make findings or determinations

concerning an alleged criminal offense (adult and juvenile) and establish responsibility for commission of the offense. Examples include judges, courts, magistrates, prosecutors, hearing officers, military commanders (for Article 15 actions pursuant to 10 U.S.C. chapter 47, suspension of dependent privileges, or similar actions), probation officers, juvenile referees, and parole officers or boards.

*Adverse adjudication (adult or juvenile).*

(1) A finding, decision, sentence, or judgment by an adjudicating authority, against an individual, that was other than unconditionally dropped or dismissed or the individual was acquitted is considered adverse adjudication. If the adjudicating authority places a condition or restraint that leads to dismissal, drops the charges, acquits, or the records are later expunged, or the charge is dismissed after a certain period of time, the adjudication is still considered adverse. A suspension of sentence, not processed, or a dismissal after compliance with imposed conditions is also adverse adjudication. This includes fines and forfeiture of bond in lieu of trial.

(2) A conviction for violating any federal law (including 10 U.S.C. chapter 47), or any State or municipal law or ordinance) is considered an adverse adjudication. For example, a shoplifter is reprimanded and required by the on-scene police officer, store security guard, or manager to pay for the item before leaving the store but is not charged, not found guilty, or is not convicted. In this situation, there is no adverse adjudication because no legal proceedings occurred and no adjudicating authority was involved.

*Conviction.* The act of finding a person guilty of a crime, offense, or other violation of the law by an adjudicating authority.

*Dependent.*

(1) A spouse of an applicant for enlistment.

(2) An unmarried adopted child or an unmarried step-child under the age of 18 living with the applicant.

(3) An unmarried biological child of the applicant under the age of 18.

(4) Any person living with the applicant who is, by law or in fact, dependent upon the applicant for support, or who is not living with the applicant and is dependent upon the applicant for over one-half of his or her support.

*Reserve components.* Includes the Army National Guard of the United States, the Army Reserve, the Navy Reserve, the Marine Corps Reserve, the Air National Guard of the United States, the Air Force Reserve, and the Coast Guard Reserve.

*Restitution.* Any compensation in time, labor, or money for the adverse effects of an offense as a result of agreements from judicial or prosecutorial involvement. For example, an individual is adversely adjudicated for vandalism and is ordered by the adjudicating authority to replace or repair the damaged property.

*Service review.* A formal review of condition(s) or event(s) that, based on Service-specific standards, may make an applicant for enlistment ineligible to serve. Once a Service review is complete, the Service may grant an exception to policy to allow an individual to serve. These standards are subject to change at the discretion of the Service.

*Waiver.* A formal request to consider the suitability for service of an applicant who because of inappropriate conduct, dependency status, current or past medical conditions, or drug use may not be qualified to serve. Upon the completion of a thorough examination using a ''whole person'' review, the applicant may be granted a waiver. The applicant must have displayed sufficient mitigating circumstances that clearly justify waiver consideration. The Secretaries of the Military Departments may delegate the final approval authority for all waivers.

**§ 66.4 Policy.**

It is DoD policy to:

(a) Use common entrance qualification standards for enlistment, appointment, and induction into the Military Services.

(b) Avoid inconsistencies and inequities based on ethnicity, gender, race, religion, or sexual orientation in the application of these standards by the Military Services.

(c) Judge the suitability of individuals to serve in the Military Services on the basis of their adaptability, potential to perform, and conduct.

**§ 66.5 Responsibilities.**

(a) Under the authority, direction, and control of the Under Secretary of Defense for Personnel and Readiness (USD(P&R)), the Assistant Secretary of Defense for Reserve Affairs (ASD(RA)) acts as an advisor to the USD(P&R) on the Reserve enlistment and appointment standards.

(b) Under the authority, direction, and control of the USD(P&R), the Assistant Secretary of Defense for Health Affairs (ASD(HA)) acts as an advisor to the USD(P&R) on the medical requirements of the standards in § 66.6.

(c) Under the authority, direction, and control of the USD(P&R), the Assistant Secretary of Defense for Readiness and Force Management (ASD(R&FM)):

(1) Acts as an advisor to the USD(P&R) on the height and weight requirements of the standards in § 66.6.

(2) Ensures the U.S. Military Entrance Processing Command assists the Military Services in implementing the standards in § 66.6 of this part.

(d) The Secretaries of the Military Departments:

(1) Oversee conformance with this part.

(2) Recommend suggested changes to this part to the USD(P&R) as necessary.

(3) Establish other Service-specific standards as necessary to implement this part.

(4) Review all standards on an annual basis.

(5) Establish procedures to grant waivers, accomplish reviews, and require individuals to meet the appropriate standards or be granted an exception pursuant to 10 U.S.C. 504(a).

(6) Request approval from the USD(P&R) for generalized exceptions to these standards as permitted by law.

(7) Use the standards in § 66.6 to determine the entrance qualifications for all individuals being enlisted, appointed, or inducted into any component of the Military Services.

**§ 66.6 Enlistment, appointment, and induction criteria.**

(a) *General eligibility criteria*—(1) *Entrance considerations.* Accession of qualified individuals will be a priority when processing applicants for the Military Services.

(2) *Eligibility determination.* Eligibility will be determined by the applicant's ability to meet all requirements of this part, to include obtaining waivers. Applicants will not be enlisted, appointed, or inducted unless all requirements of this part are met.

(b) *Basic eligibility criteria*—(1) *Age.* (i) To be eligible for Regular enlistment, the minimum age for enlistment is 17 years and the maximum age is 42 years in accordance with 10 U.S.C. 505. The maximum age for a prior service enlistee is determined by adding the individual's years of prior service to age 42. The Secretary concerned will establish enlistment age standards for the Reserve Components in accordance with 10 U.S.C. 12102.

(ii) Age limitations for appointment as a commissioned or warrant officer normally depend on the Military Service concerned. In accordance with 10 U.S.C. 532, most persons appointed as commissioned officers must be able

to complete 20 years of active commissioned service before their 62nd birthday to receive a Regular commission.

(iii) In accordance with 10 U.S.C. 12201, a person will be at least 18 years of age for appointment as a Reserve Officer. The maximum age qualification for initial appointment as a Reserve Officer will not be less than 47 years of age for individuals in a health profession specialty designated by the Secretary concerned as a specialty critically needed in wartime.

(iv) In accordance with 32 U.S.C. 313, to be eligible for original enlistment in the National Guard, a person must be at least 17 years of age and under 45, or under 64 years of age and a former member of the Regular Army, Regular Navy, Regular Air Force, or Regular Marine Corps. To be eligible for reenlistment, a person must be under 64 years of age.

(v) In accordance with 32 U.S.C. 313, to be eligible for appointment as an officer of the National Guard, a person must be at least 18 years of age and under 64 years of age.

(2) *Citizenship.* (i) To be eligible for Regular or Reserve enlistment, an individual must meet one of the conditions outlined in 10 U.S.C. 504(b); however, the Secretary concerned may authorize the enlistment of a person not described in this section if the Secretary determines that such enlistment is vital to the national interest.

(ii) To be eligible for appointment as a commissioned officer (other than as a commissioned warrant officer) in the Regular Army, Regular Navy, Regular Air Force, or Regular Marine Corps, the individual must be a citizen of the United States as outlined in 10 U.S.C. 532. The Secretary of Defense (or the Secretary of Homeland Security for the Coast Guard) may waive the requirement of U.S. citizenship with respect to a person who has been lawfully admitted to the United States for permanent residence, or for a United States national otherwise eligible for appointment as a cadet or midshipman in accordance with 10 U.S.C. 2107(a), when the Secretary determines that the national security so requires, but only for an original appointment in a grade below the grade of major or lieutenant commander.

(iii) To be eligible for appointment as a Reserve Officer in an armed force, the individual must be a citizen of the United States or lawfully admitted to the United States for permanent residence in accordance with 8 U.S.C. 1101 *et seq.* (also known as the ''Immigration and Nationality Act'') or have previously served in the Military Services or in the National Security Training Corps as outlined under 10 U.S.C. 12201.

(iv) To be eligible for enlistment in the National Guard, a person must meet one of the conditions in 10 U.S.C. 504(b); however, the Secretary concerned may authorize the enlistment of a person not described in this section if the Secretary determines that such enlistment is vital to the national interest.

(v) To become an officer of the Army National Guard of the United States or the Air National Guard of the United States, the individual must first be appointed to, and be federally recognized in, the same grade in the Army National Guard or the Air National Guard. In accordance with 10 U.S.C. 12201, the individual must be a citizen of the United States or lawfully admitted to the United States for permanent residence in accordance with 8 U.S.C. 1101 *et seq.* or have previously served in Military Service or in the National Security Training Corps.

(3) *Education.* (i) Possession of a high school diploma is desirable, although not mandatory, for enlistment in any component of the Military Services. 10 U.S.C. 520 states that a person who is not a high school graduate may not be accepted for enlistment in the Military Services unless the score of that person on the Armed Forces Qualification Test (AFQT) is at or above the thirty-first percentile. 10 U.S.C. 520 also states that a person may not be denied enlistment in the Military Services solely because he or she does not have a high school diploma if his or her enlistment is needed to meet established strength requirements.

(ii) Bearers of alternative credential (*e.g.,* General Educational Development certificates and certificates of attendance) and non-graduates may be assigned lower enlistment priority based on first-term attrition rates for those credentials. DoD Instruction 1145.01, ''Qualitative Distribution of Military Manpower'' (available at *http://www.dtic.mil/whs/directives/corres/pdf/114501p.pdf*) identifies the authority for establishing the qualitative distribution objectives for accessions.

(iii) Educational requirements for appointment as a commissioned or warrant officer are determined by each Military Service. 10 U.S.C. 12205 establishes education requirements for certain Reserve appointments. Generally, and unless excepted under 10 U.S.C. 12205, a baccalaureate degree is required for appointment above the grade of first lieutenant in the Army, Air Force, and Marine Corps Reserves or lieutenant junior grade in the Navy Reserve, or to be federally recognized in a grade above the grade of first lieutenant as a member of the Army National Guard or Air National Guard. In addition, special occupations (*e.g.,* physician or chaplain) may require additional vocational credentials as determined by the Secretary concerned.

(4) *Aptitude.* (i) Overall aptitude requirements for enlistment and induction are based on applicant scores on the AFQT derived from the Armed Services Vocational Aptitude Battery. Applicant scores are grouped into percentile categories. Persons who score in AFQT Category V (percentiles 1–9) are ineligible to enlist. In accordance with 10 U.S.C. 520, the number of persons who enlist in any Armed Force during any fiscal year (*i.e.,* accession cohort) who score in AFQT Category IV (percentiles 10–30) may not exceed 20 percent of the total number of persons enlisted by Service. DoD Instruction 1145.01 identifies the authority for establishing the qualitative distribution objectives for accessions.

(ii) For officers and warrant officers, no single test or instrument is used as an aptitude requirement for appointment.

(5) *Medical.* (i) In accordance with DoD Instruction 6130.03, ''Medical Standards for Appointment, Enlistment, or Induction in the Military Services'' (available at *http://www.dtic.mil/whs/directives/corres/pdf/613003p.pdf*), the pre-accession screening process will be structured to identify any medical condition, including mental health, that disqualifies an applicant for military service.

(ii) Individuals who fail to meet established medical standards, as defined in DoD Instruction 6130.03, may be considered for a medical waiver. Each Service's waiver authority for medical conditions will make a determination based on all available information regarding the issue or condition. Waiver requirements are outlined in § 66.7.

(6) *Physical fitness.* (i) In accordance with DoD Instruction 1308.3, ''DoD Physical Fitness and Body Fat Programs Procedures'' (available at *http://www.dtic.mil/whs/directives/corres/pdf/130803p.pdf*), all individuals must meet the pre-accession height and weight standards as prescribed in Table 1 of DoD Instruction 1308.3.

(ii) The Military Services may have additional physical fitness screening requirements.

(7) *Dependency status.* (i) The Military Services may not enlist married individuals with more than two dependents under the age of 18 or unmarried individuals with custody of

any dependents under the age of 18; however, the Secretary concerned may grant a waiver for particularly promising entrants. Waiver requirements are outlined in § 66.7 of this part.

(ii) The Military Services will specify the circumstances under which individuals who have dependents may become commissioned officers or warrant officers; variations in policy may be affected by the commissioning source (*e.g.,* Service Academies, ROTC, or Officer Candidate School).

(8) *Character/conduct.* The underlying purpose of these enlistment, appointment, and induction standards is to minimize entrance of persons who are likely to become disciplinary cases, security risks, or who are likely to disrupt good order, morale, and discipline. The Military Services are responsible for the defense of the Nation and should not be viewed as a source of rehabilitation for those who have not subscribed to the legal and moral standards of society at-large. As a minimum, an applicant will be considered ineligible if he or she:

(i) Is under any form of judicial restraint (bond, probation, imprisonment, or parole).

(ii) Has a significant criminal record. 10 U.S.C. 504 prohibits any person who has been convicted of a felony from being enlisted in any of the Military Services; however, 10 U.S.C. 504 authorizes a waiver in meritorious cases. Except as limited by paragraph (b)(8)(iii) of this section, persons convicted of felonies may request a waiver to permit their enlistment. The waiver procedure is not automatic, and approval is based on each individual case. Waiver requirements are outlined in § 66.7 of this part.

(iii) Has a State or federal conviction or a finding of guilty in a juvenile adjudication for a felony crime of rape, sexual abuse, sexual assault, incest, any other sexual offense, or when the disposition requires the person to register as a sex offender. In these cases, the enlistment, appointment, or induction will be prohibited and no waivers are allowed.

(iv) Has been previously separated from the Military Services under conditions other than honorable or for the good of the Military Service concerned.

(v) Has exhibited antisocial behavior or other traits of character that may render the applicant unfit for service.

(vi) Receives an unfavorable final determination by the DoD Consolidated Adjudication Facility on a completed National Agency Check with Law and Credit (NACLC) or higher-level investigation, which is adjudicated to the National Security Standards in accordance with Executive Order 12968, during the accession process.

(A) An applicant may be accessed (including shipping him or her to training or a first duty assignment) provided that a NACLC or higher-level investigation was submitted and accepted by the investigative service provider (OPM) and an advanced fingerprint was conducted, and OPM did not identify any disqualifying background information.

(B) If NACLC adjudication is not completed until after accession, any additional disqualifying information identified during the adjudication should be transmitted to the appropriate personnel or human resource offices, as determined by the Services, for appropriate action.

(9) *Drugs and alcohol.* A current or history of alcohol dependence, drug dependence, alcohol abuse, or other drug abuse is incompatible with military life and does not meet military standards in accordance with DoD Instruction 6130.03. Pursuant to DoD Instruction 1010.01, ''Military Personnel Drug Abuse Testing Program (MPDATP)'' (available at *http://www.dtic.mil/whs/directives/corres/pdf/101001p.pdf*), the pre-accession screening process is structured to identify individuals with a history of drug (including pharmaceutical medications, illegal drugs and other substances of abuse) and alcohol abuse.

(i) Drug use (to include illegal drugs, other illicit substances, and pharmaceutical medications), drug abuse, and alcohol abuse may be self-admitted by an applicant, discovered during the medical screening process, or identified by the drug and alcohol test (DAT), which is administered at the Military Entrance Processing Stations (MEPS) or other approved military processing facility.

(ii) Current or history of alcohol dependence, drug dependence, alcohol abuse, or other drug abuse may be a medically disqualifying condition based on the standards in accordance with DoD Instruction 6130.03. The MEPS Chief Medical Officer, or equivalent, when the physical is not performed at MEPS, will make that determination based on all of the information available on a case-by-case basis. These instances will be treated as a medical disqualification and handled in accordance with the guidance provided in paragraphs (b)(5)(i) through (b)(5)(ii) of this section.

(iii) Individuals who test positive for illegal drugs on the DAT, which is administered as part of the accession physical, will be disqualified. A waiver may be requested. Waiver requirements are outlined in § 66.7.

(iv) Service qualification standards, regarding drugs and alcohol, may be more restrictive.

**§ 66.7 Enlistment waivers.**

(a) *Waiver requirements.* In accomplishing whole person reviews of enlistment eligibility, the following categories and combinations of categories would require a favorable waiver determination by the Secretary of the Military Department concerned for the applicant to be considered qualified.

(1) *Medical waiver.* A medical waiver is required for enlistment qualification of an applicant who has or may have had a disqualifying medical condition in accordance with DoD Instruction 6130.03.

(2) *Dependent waiver.* A dependent waiver is required when an applicant is married with more than two dependents under the age of 18 or when an applicant is unmarried and has custody of any dependents under the age of 18.

(3) *Conduct waiver.* In processing conduct waiver requests, the Military Services will require information about the ''who, what, when, where, and why'' of the offense in question; and letters of recommendation from responsible community leaders, such as school officials, clergy, and law enforcement officials, attesting to the applicant's character or suitability for enlistment.

(i) A Conduct Waiver is required when the final finding of the courts or other adjudicating authority is a conviction or other adverse adjudication of:

(A) One ''major misconduct'' offense, or;

(B) Two ''misconduct'' offenses, or;

(C) A pattern of misconduct.

(*1*) One ''misconduct'' offense and four ''non-traffic'' offenses.

(*2*) Five or more ''non-traffic'' offenses.

(ii) Use the Table of this section to determine the appropriate level of offense and applicable code. See paragraph (b) of this section for additional guidance.

(4) *Drug waiver.* A drug waiver is required when an applicant or enlistee is confirmed positive for the presence of drugs at the time of the original or subsequent physical examination (*i.e.,* tests positive on the DAT at a MEPS or equivalent facility). Drug waivers for these applicants may be considered and granted or rejected only after the disqualification period established in section 6 of Enclosure 7 of DoD Instruction 1010.16, ''Technical

Procedures for the Military Personnel Drug Abuse Testing Program (MPDATP)'' (available at *http://www.dtic.mil/whs/directives/corres/pdf/101016p.pdf*) ends.

(b) *Classifying conduct offenses.* The procedures that will be used in the classifying and coding of all conduct offenses are:

(1) *Initial classification.* Align the offense that is the subject of adverse adjudication with an offense from the Table of this section. As an exception, any offense classified as a felony under State or federal jurisdiction will be treated as a major misconduct offense for DoD purposes regardless of where similar charges are listed.

(2) *Non-similar offenses.* If unable to find a similar charge, the Military Services will:

(i) Treat the offense as a major misconduct offense if the adjudicating authority can impose a maximum period of confinement that exceeds 1 year.

(ii) Treat the offense as a misconduct offense if the adjudicating authority can impose a maximum period of confinement that exceeds 6 months but is not more than 1 year.

(iii) Treat all other offenses as either other non-traffic offenses or traffic offenses, depending on the nature of the offense.

*Table to § 66.7—Conduct Waiver Codes*

| Offense code | Offense title |
|---|---|
| | **TRAFFIC OFFENSES** |
| 100 | Bicycle ordinance violation. |
| 101 | Blocking or retarding traffic. |
| 102 | Contempt of court for minor traffic offenses. |
| 103 | Crossing yellow line; driving left of center. |
| 104 | Disobeying traffic lights, signs, or signals. |
| 105 | Driving on shoulder. |
| 106 | Driving uninsured vehicle. |
| 107 | Driving with blocked vision and/or tinted window. |
| 108 | Driving with expired plates or without plates. |
| 109 | Driving with suspended or revoked license. |
| 110 | Driving without license. |
| 111 | Driving without registration or with improper registration. |
| 112 | Driving wrong way on one-way street. |
| 113 | Failure to appear for traffic violations. |
| 114 | Failure to comply with officer's directive. |
| 115 | Failure to have vehicle under control. |
| 116 | Failure to signal. |
| 117 | Failure to stop or yield to pedestrian. |
| 118 | Failure to submit report after accident. |
| 119 | Failure to yield right-of-way. |
| 120 | Faulty equipment such as defective exhaust, horn, lights, mirror, muffler, signal device, steering device, tail pipe, or windshield wipers. |
| 121 | Following too closely. |
| 122 | Hitchhiking. |
| 123 | Improper backing such as backing into intersection or highway, backing on expressway, or backing over crosswalk. |
| 124 | Improper blowing of horn. |
| 125 | Improper passing such as passing on right, passing in no-passing zone, passing stopped school bus, or passing pedestrian in crosswalk. |
| 126 | Improper turn. |
| 127 | Invalid or unofficial inspection sticker or failure to display inspection sticker. |
| 128 | Jaywalking. |
| 129 | Leaving key in ignition. |
| 130 | Leaving scene of accident (when not considered hit and run). |
| 131 | License plates improperly displayed or not displayed. |
| 132 | Operating overloaded vehicle. |
| 133 | Racing, dragging, or contest for speed. |
| 134 | Reckless, careless, or imprudent driving (considered a traffic offense when the fine is less than $300 and there is no confinement). Court costs are not part of a fine. |
| 135 | Reserved for future use. |
| 136 | Seat belt and/or child restraint violation. |
| 137 | Skateboard, roller skate, or inline skate violation. |
| 138 | Speeding. |
| 139 | Spilling load on highway. |
| 140 | Spinning wheels, improper start, zigzagging, or weaving in traffic. |
| 141 | Violation of noise control ordinance. |
| 142 | Other traffic offenses not specifically listed. |
| 143 | Reserved for future use. |
| 144 | Reserved for future use. |
| | **NON-TRAFFIC OFFENSES** |
| 200 | Altered driver's license or identification. |
| 201 | Assault (simple assault with fine or restitution of $500 or less and no confinement). |
| 202 | Carrying concealed weapon (other than firearm); possession of brass knuckles. |
| 203 | Check, worthless, making or uttering, with intent to defraud or deceive (less than $500). |

| Offense code | Offense title |
|---|---|
| 204 | Committing a nuisance. |
| 205 | Conspiring to commit misdemeanor. |
| 206 | Curfew violation. |
| 207 | Damaging road signs. |
| 208 | Discharging firearm through carelessness or within municipal limits. |
| 209 | Disobeying summons; failure to appear (other than traffic). |
| 210 | Disorderly conduct; creating disturbance; boisterous conduct. |
| 211 | Disturbing the peace. |
| 212 | Drinking alcoholic beverages on public transportation. |
| 213 | Drunk in public. |
| 214 | Dumping refuse near highway. |
| 215 | Failure to appear, contempt of court (all offenses except felony proceedings). |
| 216 | Failure to appear, contempt of court (felony proceedings). |
| 217 | Failure to stop and render aid after accident. |
| 218 | Fare and/or toll evasion. |
| 219 | Harassment, menacing, or stalking. |
| 220 | Illegal betting or gambling; operating illegal handbook, raffle, lottery, or punchboard; cockfighting. |
| 221 | Indecent exposure. |
| 222 | Indecent, insulting, or obscene language communicated directly or by telephone to another person. |
| 223 | Jumping turnstile (to include those States that adjudicate jumping a turnstile as petty larceny). |
| 224 | Juvenile adjudications such as beyond parental control, incorrigible, runaway, truant, or wayward. |
| 225 | Killing a domestic animal. |
| 226 | Littering. |
| 227 | Loitering. |
| 228 | Malicious mischief (fine or restitution of $500 or less and no confinement). |
| 229 | Pandering. |
| 230 | Poaching. |
| 231 | Purchase, possession, or consumption of alcoholic beverages or tobacco products by minor. |
| 232 | Removing property from public grounds. |
| 233 | Removing property under lien. |
| 234 | Robbing an orchard. |
| 235 | Shooting from highway. |
| 236 | Throwing glass or other material in roadway. |
| 237 | Trespass (non-criminal or simple). |
| 238 | Unlawful assembly. |
| 239 | Unlawful manufacture, sale, possession, or consumption of liquor in public place. |
| 240 | Unlawful use of long-distance telephone calling card. |
| 241 | Using or wearing unlawful emblem and/or identification. |
| 242 | Vagrancy. |
| 243 | Vandalism (fine or restitution of $500 or less and no confinement). |
| 244 | Violation of fireworks laws. |
| 245 | Violation of fish and game laws. |
| 246 | Violation of leash laws. |
| 247 | Violation of probation. |
| 248 | Other non-traffic offenses not specifically listed. |
| 249 | Reserved for future use. |
| **MISCONDUCT OFFENSES** | |
| 300 | Aggravated assault, fighting, or battery (more than $500 fine or restitution or confinement). |
| 301 | Carrying of weapon on school grounds (other than firearm). |
| 302 | Concealment of or failure to report a felony. |
| 303 | Contributing to delinquency of minor. |
| 304 | Crimes against the family (non-payment of court-ordered child support and/or alimony). |
| 305 | Criminal mischief (more than $500 fine or restitution or confinement). |
| 306 | Criminal trespass. |
| 307 | Desecration of grave. |
| 308 | Domestic battery and/or violence not considered covered by 18 U.S.C. 922, referred to in this issuance as the ‘‘Lautenberg Amendment’’). |
| 309 | Driving while drugged or intoxicated; driving while ability impaired; permitting driving under the influence. |
| 310 | Illegal or fraudulent use of a credit card or bank card (value less than $500). |
| 311 | Larceny or conversion (value less than $500). |
| 312 | Leaving scene of an accident or hit and run. |
| 313 | Looting. |
| 314 | Mailbox destruction. |
| 315 | Mailing of obscene or indecent matter (including e-mail). |
| 316 | Possession of marijuana or drug paraphernalia. |
| 317 | Prostitution or solicitation for prostitution. |
| 318 | Reckless, careless, or imprudent driving (considered a misdemeanor when the fine is $300 or more or when confinement is imposed; otherwise, considered a minor traffic offense). |
| 319 | Reckless endangerment. |
| 320 | Resisting arrest or eluding police. |

| Offense code | Offense title |
|---|---|
| 321 | Selling or leasing weapons. |
| 322 | Stolen property, knowingly receiving (value less than $500). |
| 323 | Throwing rocks on a highway; throwing missiles at sporting events; throwing objects at vehicles. |
| 324 | Unauthorized use or taking of a vehicle or conveyance from family member; joy riding. |
| 325 | Unlawful carrying of firearms or carrying concealed firearm. |
| 326 | Unlawful entry. |
| 327 | Use of telephone, Internet, or other electronic means to abuse, annoy, harass, threaten, or torment another. |
| 328 | Vandalism (more than $500 fine or restitution or confinement). |
| 329 | Willfully discharging firearm so as to endanger life; shooting in public. |
| 330 | Other misconduct offenses not specifically listed. |
| 331 | Reserved for future use. |
| 332 | Reserved for future use. |
| **MAJOR MISCONDUCT OFFENSES** | |
| 400 | Aggravated assault; assault with dangerous weapon; maiming. |
| 401 | Arson. |
| 402 | Attempt to commit a felony. |
| 403 | Breaking and entering with intent to commit a felony. |
| 404 | Bribery. |
| 405 | Burglary. |
| 406 | Carjacking. |
| 407 | Carnal knowledge of a child. |
| 408 | Carrying of weapon on school grounds (firearm). |
| 409 | Check, worthless, making or uttering, with intent to defraud or deceive (over $500). |
| 410 | Child abuse. |
| 411 | Child pornography. |
| 412 | Conspiring to commit a felony. |
| 413 | Criminal libel. |
| 414 | Domestic battery and/or violence as defined in the Lautenberg Amendment. (Waiver not authorized if applicant was convicted of this offense.) |
| 415 | Embezzlement. |
| 416 | Extortion. |
| 417 | Forgery, knowingly uttering or passing forged instrument (except for altered identification cards). |
| 418 | Grand larceny or larceny (value of $500 or more). |
| 419 | Grand theft auto. |
| 420 | Hate crimes. |
| 421 | Illegal and/or fraudulent use of a credit card, bank card, or automated card (value of $500 or more). |
| 422 | Indecent acts or liberties with a child; molestation. |
| 423 | Indecent assault. |
| 424 | Kidnapping or abduction. |
| 425 | Mail matter; abstracting, destroying, obstructing, opening, secreting, stealing, or taking (not including the destruction of mail-boxes). |
| 426 | Manslaughter. |
| 427 | Murder. |
| 428 | Narcotics or habit-forming drugs, wrongful possession or use (not including marijuana). |
| 429 | Negligent or vehicular homicide. |
| 430 | Perjury or subornation of perjury. |
| 431 | Possession or intent to use materials in a manner to make a bomb or explosive device to cause bodily harm or destruction of property. |
| 432 | Public record; altering, concealing, destroying, mutilating, obligation, or removing. |
| 433 | Rape, sexual abuse, sexual assault, criminal sexual abuse, incest, or other sex crimes. (See paragraph (b)(8)(iii) of § 66.6 of this part; waivers for these offenses are not authorized.) |
| 434 | Riot. |
| 435 | Robbery (including armed). |
| 436 | Sale, distribution, or trafficking of cannabis (marijuana) or any other controlled substance (including intent). |
| 437 | Sodomy (only when it is nonconsensual or involves a minor). |
| 438 | Stolen property, knowingly received (value of $500 or more). |
| 439 | Terrorist threats (including bomb threats). |
| 440 | Violation of civil rights. |
| 441 | Other major misconduct offenses not specifically listed. |
| 442 | Reserved for future use. |
| 443 | Reserved for future use. |

Dated: March 23, 2015.

**Aaron Siegel,**

*Alternate OSD Federal Register Liaison Officer, Department of Defense.*

[FR Doc. 2015–06909 Filed 3–26–15; 8:45 am]

**BILLING CODE 5001–06–P**

## DEPARTMENT OF HOMELAND SECURITY

## Coast Guard

## 33 CFR Part 100

**[Docket Number USCG–2015–0018]**

**RIN 1625–AA08**

## Special Local Regulation; Charleston Race Week, Charleston Harbor; Charleston, SC

**AGENCY:** Coast Guard, DHS.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is establishing a special local regulation on the waters of Charleston Harbor in Charleston, South Carolina during Charleston Race Week, a series of sailboat races. The races are scheduled to take place on April 17, 2015 through April 19, 2015. Approximately 300 sailboats are anticipated to participate in the races. The special local regulation is necessary to provide for the safety of life on the navigable waters of the United States during the races. The special local regulation consists of three race areas. Except for those persons and vessels participating in the sailboat races, persons and vessels are prohibited from entering, transiting through, anchoring in, or remaining within any of the race areas unless authorized by the Captain of the Port Charleston or a designated representative.

**DATES:** This rule is effective on April 17, 2015 through April 19, 2015. This rule will be enforced daily from 8:30 a.m. until 5:00 p.m.

**ADDRESSES:** Documents indicated in this preamble are part of docket USCG–2015–0018. 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 Chief Warrant Officer Christopher Ruleman, telephone (843) 740–3184, email *Christopher.L.Ruleman@uscg.mil.* If you have questions on viewing the docket, call Barbara Hairston, Program Manager, Docket Operations, telephone (202) 366–9826.

**SUPPLEMENTARY INFORMATION:**

### Table of Acronyms

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

### A. Regulatory History and Information

On February 19, 2015, we published a notice of proposed rulemaking (NPRM) entitled Special Local Regulation; Charleston Race Week, Charleston, SC in the **Federal Register.** We received no comments on the proposed rule. No public meeting was requested, and none was held.

### B. Basis and Purpose

The legal basis for the rule is the Coast Guard's authority to establish special local regulations: 33 U.S.C. 1233. The purpose of the rule is to insure safety of life on navigable waters of the United States during three Charleston Race Week sailboat races.

### C. Discussion of the Final Rule

From April 17, 2015 through April 19, 2015, Charleston Ocean Racing Association will host three sailboat races on Charleston Harbor in Charleston, South Carolina during Charleston Race Week. Approximately 300 sailboats will be participating in the three races. The rule establishes a special local regulation on certain waters of Charleston Harbor in Charleston, South Carolina. The special local regulation will be enforced daily from 8:30 a.m. until 5:00 p.m. on April 17, 2015 through April 19, 2015. The special local regulation consists of the following three race areas.

1. *Race Area #1.* All waters encompassed within an 800 yard radius of position 32°46′23″ N, 79°55′11″ W.
2. *Race Area #2.* All waters encompassed within a 900 yard radius of position 32°45′54″ N, 79°54′41″ W.
3. *Race Area #3.* All waters encompassed within a 900 yard radius of position 32°46′09″ N, 79°53′52″ W.

Except for those persons and vessels participating in the sailboat races, persons and vessels are prohibited from entering, transiting through, anchoring in, or remaining within any of the race areas unless specifically authorized by the Captain of the Port Charleston or a designated representative. Persons and vessels desiring to enter, transit through, anchor in, or remain within any of the race areas may contact the Captain of the Port Charleston by telephone at (843) 740–7050, or a designated representative via VHF radio on channel 16, to request authorization. If authorization to enter, transit through, anchor in, or remain within the race areas is granted by the Captain of the Port Charleston or a designated representative, all persons and vessels receiving such authorization must comply with the instructions of the Captain of the Port Charleston or a designated representative. The Coast Guard will provide notice of the regulated areas by Local Notice to Mariners, Broadcast Notice to Mariners, and on-scene designated representatives.

### 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 and 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.

The economic impact of this rule is not significant for the following reasons: (1) Although persons and vessels will not be able to enter, transit through, anchor in, or remain within the regulated areas without authorization from the Captain of the Port Charleston or a designated representative, they may operate in the surrounding area during the enforcement periods; (2) persons and vessels may still enter, transit through, anchor in, or remain within the regulated areas if authorized by the Captain of the Port Charleston or a designated representative; and (3) the Coast Guard will provide advance notification of the special local regulation to the local maritime community by Local Notice to Mariners and Broadcast Notice to Mariners.

*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 may affect the following entities, some of which may be small entities: The owners or operators of vessels intending to enter, transit through, anchor in, or remain within the waters of Charleston Harbor encompassed within the three regulated areas between 8:30 a.m. and 5:00 p.m., from April 17, 2015 through April 19, 2015. For the reasons discussed in the Regulatory Planning and Review section above, this rule will not have a significant economic impact on a substantial number of small entities.

*3. Assistance for Small Entities*

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this 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 INTFORMATION 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 an 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 concluded this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves a special local regulation issued in conjunction with a regatta or marine parade. An environmental analysis checklist and a Categorical Exclusion Determination were completed for this event. This rule is categorically excluded from further review under paragraph 34(h) of Figure 2–1 of the Commandant Instruction. 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 100**

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

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

## PART 100—SAFETY OF LIFE ON NAVIGABLE WATERS

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

**Authority:** 33 U.S.C. 1233.

■ 2. Add a temporary § 100.35T07–0018 to read as follows:

### § 100.35T07–0018 Special Local Regulation; Charleston Race Week, Charleston Harbor; Charleston, SC.

(a) *Regulated Areas.* The following regulated areas are established as a special local regulation. All coordinates are North American Datum 1983.

(1) *Race Area #1.* All waters encompassed within an 800 yard radius of position 32°46′23″ N, 79°55′11″ W.

(2) *Race Area #2.* All waters encompassed within a 900 yard radius of position 32°45′54″ N, 79°54′41″ W.

(3) *Race Area #3.* All waters encompassed within a 900 yard radius of position 32°46′09″ N, 79°53′52″ W.

(b) *Definition.* The term ''designated representative'' means Coast Guard Patrol Commanders, including Coast Guard coxswains, petty officers, and other officers operating Coast Guard vessels, and Federal, state, and local officers designated by or assisting the Captain of the Port Charleston in the enforcement of the regulated areas.

(c) *Regulations.* (1) Except for those person and vessels participating in the sailboat races, all persons and vessels are prohibited from entering, transiting through, anchoring in, or remaining within any of the three regulated areas unless authorized by the Captain of the Port Charleston or a designated representative.

(2) Persons and vessels desiring to enter, transit through, anchor in, or remain within any of the regulated areas may contact the Captain of the Port Charleston by telephone at (843) 740–7050, or a designated representative via VHF radio on channel 16, to request authorization. If authorization to enter, transit through, anchor in, or remain within any of the regulated areas is granted by the Captain of the Port Charleston or a designated representative, all persons and vessels receiving such authorization must comply with the instructions of the Captain of the Port Charleston or a designated representative.

(3) The Coast Guard will provide notice of the regulated areas by Local Notice to Mariners, Broadcast Notice to Mariners, and on-scene designated representatives.

(d) *Enforcement Period.* This rule will be enforced daily from 8:30 a.m. until 5:00 p.m. from April 17, 2015 through April 19, 2015.

Dated: March 12, 2015.

**B. D. Falk,**

*Commander, U.S. Coast Guard, Captain of the Port Charleston.*

[FR Doc. 2015–06950 Filed 3–26–15; 8:45 am]

BILLING CODE 9110–04–P

## DEPARTMENT OF HOMELAND SECURITY

## Coast Guard

## 33 CFR Part 117

**[Docket No. USCG–2015–0191]**

## Drawbridge Operation Regulation; Willamette River, Portland, OR

**AGENCY:** Coast Guard, DHS.

**ACTION:** Notice of temporary deviation from regulations.

**SUMMARY:** The Coast Guard has issued a temporary deviation from the operating schedule that governs the upper deck of the Steel Bridge across the Willamette River, mile 12.1, at Portland, OR. This deviation is necessary to accommodate the annual Bridge to Brews 8K and 10K run. This deviation allows the upper deck of the Steel Bridge to remain in the closed-to-navigation position and need not open for marine traffic.

**DATES:** This deviation is effective from 8:45 a.m. until 10:40 a.m. on April 12, 2015.

**ADDRESSES:** The docket for this deviation, [USCG–2015–0191] is available at *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 deviation. 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 temporary deviation, call or email Mr. Steven Fischer, Bridge Administrator, Thirteenth Coast Guard District; telephone 206–220–7282, email *d13-pf-d13bridges@uscg.mil.* If you have questions on viewing the docket, call Cheryl Collins, Program Manager, Docket Operations, telephone 202–366–9826.

**SUPPLEMENTARY INFORMATION:** The Oregon Department of Transportation (ODOT) has requested that the upper deck of the Steel Bridge remain closed-to-navigation to accommodate the annual Bridge to Brews 8K and 10K run. The Steel Bridge crosses the Willamette River at mile 12.1 and is a double-deck lift bridge with a lower lift deck and an upper lift deck which operate independent of each other. When both decks are in the down position the bridge provides 26 feet of vertical clearance above Columbia River Datum 0.0. When the lower deck is in the up position the bridge provides 71 feet of vertical clearance above Columbia River Datum 0.0. This deviation does not affect the operating schedule of the lower deck which opens on signal. Under normal conditions the upper deck of the Steel Bridge operates in accordance with 33 CFR 117.897(c)(3)(ii) which states that from 8 a.m. to 5 p.m. Monday through Friday one hour advance notice shall be given for draw openings, and at all other times two hours advance notice shall be given to obtain an opening. This deviation period is from 8:45 a.m. until 10:40 a.m. on April 12, 2015. The deviation allows the upper deck of the Steel Bridge across the Willamette River, mile 12.1, to remain in the closed-to-navigation position and need not open for maritime traffic from 8:45 a.m. until 10:40 a.m. on April 12, 2015.

Vessels able to pass through the bridge in the closed positions may do so at anytime. The bridge will be able to open for emergencies and there is no immediate alternate route for vessels to pass. The Coast Guard will also inform the users of the waterways through our Local and Broadcast Notices to Mariners of the change in operating schedule for the bridge so that vessels can arrange their transits to minimize any impact caused by the temporary deviation. Waterway usage on this stretch of the Willamette River includes vessels ranging from commercial tug and barge to small pleasure craft.

In accordance with 33 CFR 117.35(e), the drawbridge must return to its regular operating schedule immediately at the end of the designated time period. This deviation from the operating regulations is authorized under 33 CFR 117.35.

Dated: March 23, 2015.

**Steven M. Fischer,**

*Bridge Administrator, Thirteenth Coast Guard District.*

[FR Doc. 2015–07019 Filed 3–26–15; 8:45 am]

BILLING CODE 9110–04–P

## DEPARTMENT OF HOMELAND SECURITY

## Coast Guard

## 33 CFR Part 117

**[Docket No. USCG–2015–0205]**

## Drawbridge Operation Regulation; Willamette River, Portland, OR

**AGENCY:** Coast Guard, DHS.

**ACTION:** Notice of deviation from drawbridge regulation.

**SUMMARY:** The Coast Guard has issued a temporary deviation from the operating schedule that governs the Broadway Bridge across the Willamette River, mile 11.7, at Portland, OR. The deviation is necessary to accommodate the Portland Race for the Roses event. This deviation allows the bridge to remain in the down, or closed, position to facilitate the safe movement of event participants across the bridge.

**DATES:** This deviation is effective from 4 a.m. to 9:30 a.m. on April 19, 2015.

**ADDRESSES:** The docket for this deviation, [USCG–2015–0205] is available at *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 deviation. 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 temporary deviation, call or email Mr. Steven Fischer, Bridge Administrator, Thirteenth Coast Guard District; telephone 206–220–7282, email *Steven.M.Fischer@uscg.mil.* If you have questions on viewing the docket, call Cheryl Collins, Program Manager, Docket Operations, telephone 202–366–9826.

**SUPPLEMENTARY INFORMATION:** Multnomah County requested that the Broadway Bascule Bridge remain closed to vessel traffic to facilitate the safe, uninterrupted roadway passage of participants in the Portland Race for the Roses event. The Broadway Bridge crosses the Willamette River at mile 11.7 and provides 90 feet of vertical clearance above Columbia River Datum 0.0 while in the closed-to-navigation position.

Under normal conditions, this bridge operates in accordance with 33 CFR 117.897, which allows for the bridge to remain closed between 7 a.m. and 9 a.m. and 4 p.m. and 6 p.m. Monday through Friday and also requires advance notification when a bridge opening is needed. This deviation allows the bascule span of the Broadway Bridge across the Willamette River, mile 11.7, to remain in the closed-to-navigation position and need not open for maritime traffic from 4:00 a.m. to 9:30 a.m. April 19, 2015. The bridge shall operate in accordance to 33 CFR 117.897 at all other times. Waterway usage on this stretch of the Willamette River includes vessels ranging from commercial tug and barge to small pleasure craft.

Vessels able to pass through the bridge in the closed positions may do so at any time. The bridge will be able to open for emergencies and there is no immediate alternate route for vessels to pass. The Coast Guard will also inform the users of the waterways through our Local and Broadcast Notices to Mariners of the change in operating schedule for the bridge so that vessels can arrange their transits to minimize any impact caused by the temporary deviation.

In accordance with 33 CFR 117.35(e), the drawbridge must return to its regular operating schedule immediately at the end of the effective period of this temporary deviation. This deviation from the operating regulations is authorized under 33 CFR 117.35.

Dated: March 23, 2015.

**Steven M. Fischer,**

*Bridge Administrator, Thirteenth Coast Guard District.*

[FR Doc. 2015–07020 Filed 3–26–15; 8:45 am]

BILLING CODE 9110–04–P

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## DEPARTMENT OF HOMELAND SECURITY

## Coast Guard

## 33 CFR Part 117

**[Docket No. USCG–2015–0046]**

## Drawbridge Operation Regulations; Snake Creek, Islamorada, FL

**AGENCY:** Coast Guard, DHS.

**ACTION:** Notice of temporary deviation from regulations; request for comments.

**SUMMARY:** The Coast Guard has issued a temporary deviation from the operating schedule that governs the Snake Creek Bridge across Snake Creek, at Islamorada, FL. This deviation will test a change to the drawbridge operation schedule to determine whether a permanent change to the schedule is needed. This deviation will allow Snake Creek Bridge to open once an hour between 8 a.m. and 6 p.m. Local officials are requesting this action to assist in reducing traffic caused by bridge openings.

**DATES:** This deviation is effective without actual notice from March 27, 2015 to 6 p.m. on July 14, 2015. For the purposes of enforcement, actual notice will be used from 8 a.m. on March 16, 2015, until March 27, 2015.

Comments and related material must be received by the Coast Guard on or before September 14, 2015. Requests for public meetings must be received by the Coast Guard on or before July 14, 2015.

**ADDRESSES:** You may submit comments identified by docket number USCG–2015–0046 using any one of the following methods:

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

(2) *Fax:* 202–493–2251.

(3) *Mail or Delivery:* Docket Management Facility (M–30), U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590–0001. Deliveries accepted between 9 a.m. and 5 p.m., Monday through Friday, except federal holidays. The telephone number is 202–366–9329.

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

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this temporary deviation, call or email Coast Guard Sector Key West Waterways Management Division; telephone 305–292–8772, email *D07-DG-SECKW-WaterwaysManagement@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:**

### A. Public Participation and Request for Comments

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

*1. Submitting Comments*

If you submit a comment, please include the docket number for this rulemaking (USCG–2015–0046), indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. You may submit your comments and material online (*http://www.regulations.gov*), or by fax, mail or hand delivery, but please use only one of these means. If you submit a comment online via *http://www.regulations.gov,* it will be considered received by the Coast Guard when you successfully transmit the comment. If you fax, hand deliver, or mail your comment, it will be considered as having been received by

the Coast Guard when it is received at the Docket Management Facility. We recommend that you include your name and a mailing address, an email address, or a phone number in the body of your document so that we can contact you if we have questions regarding your submission.

To submit your comment online, type the docket number [USCG–2015–0046] in the ''SEARCH'' box and click ''SEARCH.'' Click on ''Submit a Comment'' on the line associated with this rulemaking. If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit them by mail and would like to know that they reached the Facility, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period and may change the rule based on your comments.

*2. Viewing Comments and Documents*

To view comments, as well as documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov,* type the docket number (USCG–2015–0046) 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.

*3. Privacy Act*

Anyone can search the electronic form of comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review a Privacy Act notice regarding our public dockets in the January 17, 2008, issue of the **Federal Register** (73 FR 3316).

*4. Public Meeting*

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

**B. Basis and Purpose**

The Snake Creek Bridge in Islamorada, Florida, owned by the Florida Department of Transportation, has a vertical clearance of 27 feet in the closed position. The normal operating schedule as published in 33 CFR 117.331 is—''The draw of the Snake Creek bridge, at Islamorada, Florida, shall open on signal, except that from 8 a.m. to 4 p.m., the draw need open only on the hour and half-hour.'' This schedule has been in effect since 2001.

For the following reasons the Coast Guard is testing a new schedule for the Snake Creek Bridge:

1. As reported by village and city councils, vessel traffic has negatively impacted Islamorada and surrounding communities. This temporary deviation is intended to test a new bridge operation schedule to reduce vehicular traffic caused by bridge openings during peak travel times.

2. On January 8–10, 2013, the Florida Department of Transportation conducted a traffic monitoring study 1400 feet south of the Snake Creek Bridge on US–1. The study found peak traffic volumes occurring at 08:45 a.m. and between 12:15 p.m. and 15:15 p.m.

The types of vessels navigating Snake Creek include sport fishing vessels and catamaran sailboats.

This deviation is effective from 8 a.m. on March 16, 2015 until 6 p.m. on July 14, 2015. This deviation will allow the Snake Creek Bridge in Islamorada, Florida to open on the top of the hour from 8 a.m. to 6 p.m.

During the test deviation, vessels may signal the bridge to open on the top of the hour from 8 a.m. to 6 p.m.

Any vessel that can safely transit under the Snake Creek Bridge while closed may continue to navigate under the bridge during this deviation.

As an alternate route, vessel operators may consider the use of Channel Five, a navigable channel above Long Key, Florida 5.7 nautical miles southwest of Snake Creek Bridge. The fixed US–1 bridge has a vertical clearance of 65 feet.

In accordance with 33 CFR 117.35(e), the drawbridge must return to its regular operating schedule immediately at the end of this temporary deviation's effective period. This deviation from the operating regulations is authorized under 33 CFR 117.35.

Dated: March 6, 2015.

**Barry Dragon,**

*U.S. Coast Guard, Bridge Administrator, Seventh Coast Guard District.*

[FR Doc. 2015–06949 Filed 3–26–15; 8:45 am]

BILLING CODE 9110–04–P

**DEPARTMENT OF HOMELAND SECURITY**

**Coast Guard**

**33 CFR Part 165**

**[Docket Number USCG–2015–0189]**

**RIN 1625–AA00**

## Safety Zone; Vessel Fire and Escort, Port of New York, NJ, NY

**AGENCY:** Coast Guard, DHS.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is establishing a temporary safety zone on the navigable waters of the Port of New York for the transit of the M/V GREY SHARK. This action is necessary to provide for the safety of life on navigable waters during the transit of the vessel in distress due to a shipboard fire and ongoing damage control operations. Entering into, transiting through, remaining, anchoring or mooring within this safety zone is prohibited unless authorized by the Captain of the Port (COTP) New York.

**DATES:** This rule is effective without actual notice from March 27, 2015 until April 1, 2015. For the purposes of enforcement, actual notice will be used from the date the rule was signed, March 18, 2015 until April 1, 2015.

**ADDRESSES:** Documents mentioned in this preamble are part of docket [USCG–2015–0189]. 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, contact LT Douglas Neumann, Waterways Management Division, Coast Guard Sector New York, (718) 354–4154, *Douglas.W.Neumann@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:**

### Table of Acronyms

COTP Captain of the Port
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 the safety zone is required for an emergency response to escort the vessel into port after a shipboard fire, for which the Coast Guard had no advance notice. Therefore publishing an NPRM and taking public comments prior to issuing a rule would be impracticable and contrary to the public interest.

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**. For the same reasons discussed in the preceding paragraph, delaying the effective date of this rule would be impracticable and contrary to the public interest.

## B. Basis and Purpose

The legal basis for this temporary rule is 33 U.S.C. 1231; 46 U.S.C. Chapter 701, 3306, 3703; 50 U.S.C. 191, 195; 33 CFR 1.05–1, 6.04–1, 6.04–6, and 160.5; Public Law 107–295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1, which collectively authorize the Coast Guard to define regulatory safety zones.

On March 17, 2015 U.S. Coast Guard Sector New York was made aware that the M/V Grey Shark intended to enter the Port of New York after suffering a shipboard fire and encountering rough weather. The M/V Grey Shark was placed under tow and escorted by the Coast Guard Cutter Seneca to Gravesend Bay Anchorage at the mouth of the Port of New York until the vessel proceeds to its final destination to safely mitigate the fire and ongoing damage control operations. After examination of the facts by Coast Guard personnel, it was determined by the Captain of the Port (COTP), Sector New York, that Coast Guard emergency response was necessary to protect the public and environment from a potential hazard to navigation.

## C. Discussion of the Temporary Final Rule

For the reasons discussed above, the COTP is establishing a temporary safety zone of 150 yards around the M/V Grey Shark as the vessel proceeds to its final destination to safely mitigate the fire and ongoing damage control operations. No vessel may enter, transit, moor, or anchor within safety zone during the period of enforcement unless authorized by the COTP or designated representative. The COTP will cause public notifications to be made by all appropriate means including but not limited to Broadcast Notice to Mariners.

## 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 and 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.

The Coast Guard determined that this rule is not a significant regulatory action for the following reasons: The safety zone will be relatively short in duration and covers only a small portion of the navigable waterways. Furthermore, vessels may transit the navigable waterway outside of the safety zone. Moreover, vessels desiring entry into the safety zone may be authorized to do so by the COTP or a COTP's designated representative. Advanced public notifications will also be made to the local maritime community by Broadcast Notice to Mariners.

### *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 would affect the following entities, some of which might be small entities: The owners or operators of vessels intending to transit or anchor in Gravesend Bay Anchorage.

This safety zone would not have a significant economic impact on a substantial number of small entities for the following reasons. This safety zone would be activated, and thus subject to enforcement, for a limited period of time. Vessel traffic could pass safely around the safety zone.

### *3. Assistance for Small Entities*

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this 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 INTFORMATION 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 an 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 the establishment of a safety zone. 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, and 160.5; Pub. L. 107–295, 116 Stat. 2064; and Department of Homeland Security Delegation No. 0170.1.

■ 2. Add § 165.T01–0189 to read as follows:

**§ 165.T01–0189 Safety Zone; M/V Grey Shark, New York Harbor.**

(a) *Location.* The following area is a safety zone: 150 yards from the M/V Grey Shark.

(b) *Effective and enforcement period.* This rule will be effective and enforced from 7:00 p.m. on March 17, 2015 to 11:59 p.m. on April 1, 2015.

(c) *Definitions.* The following definitions apply to this section: A ''designated representative'' is any Coast Guard commissioned, warrant or petty officer of the U.S. Coast Guard who has been designated by the COTP, Sector New York, to act on his behalf. The designated representative may be on an official patrol vessel or may be on shore and will communicate with vessels via VHF–FM radio or loudhailer. ''Official patrol vessels'' may consist of any Coast Guard, Coast Guard Auxiliary, state, or local law enforcement vessels assigned or approved by the COTP Sector New York. In addition, members of the Coast Guard Auxiliary may be present to inform vessel operators of this regulation.

(d) *Regulations.* (1) The general regulations contained in 33 CFR 165.23 apply.

(2) In accordance with the general regulations in 33 CFR 165.23, entry into or movement within this zone is prohibited unless authorized by the Captain of the Port, New York

(3) Operators of vessels desiring to enter or operate within the safety zone should contact the Sector New York Vessel Traffic Center via VHF channel 16 to obtain permission to do so.

(4) Any vessel given permission to enter or operate in the safety zone must comply with all directions given to them by the COTP Sector New York or a designated on-scene representative.

(5) Upon being hailed by a U.S. Coast Guard vessel by siren, radio, flashing light or other means, the operator of the vessel shall proceed as directed.

Dated: March 18, 2015.

**G. Loebl,**

*Captain, U.S. Coast Guard, Captain of the Port New York.*

[FR Doc. 2015–07139 Filed 3–26–15; 8:45 am]

BILLING CODE 9110–04–P

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## DEPARTMENT OF HOMELAND SECURITY

## Coast Guard

## 33 CFR Part 165

**[Docket No. USCG–2015–0067]**

## Annual Safety Zones in the Eighth Coast Guard District

**AGENCY:** Coast Guard, DHS.

**ACTION:** Notice of enforcement of regulation.

**SUMMARY:** The Coast Guard will enforce the RiverFest fireworks safety zone on the Neches River in Port Neches, TX from 8:30 p.m. until 9:30 p.m. on May 2, 2015. This action is necessary to protect persons from the hazards associated with a fireworks display.

During the enforcement period no person or vessel may enter the safety zone without the permission of the Captain of the Port (COTP) Port Arthur or his designated on-scene Patrol Commander.

**DATES:** The regulations in 33 CFR 165.801, Table 3, number 1 will be enforced from 8:30 p.m. to 9:30 p.m. on May 2, 2015.

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this notice of enforcement, call or email Mr. Scott Whalen, U.S. Coast Guard Marine Safety Unit Port Arthur, TX; telephone 409–719–5086, email *scott.k.whalen@uscg.mil.*

**SUPPLEMENTARY INFORMATION:** The Coast Guard will enforce a 500-yard safety zone for the RiverFest fireworks display in 33 CFR 165.801, Table 3, number 1 from 8:30 p.m. to 9:30 p.m. on May 2, 2015. While the location of the display is in the same general area as currently listed in 33 CFR 165.801, for this year only the fireworks display will be set off from land located along the Neches River near the approximate position of 30°00′05.6″ N 093°57′25.75″ W (NAD 83).

Under the provisions of 33 CFR 165.801, a vessel may not enter the regulated area, unless it receives permission from the Captain of the Port or his designated on-scene Patrol Commander. Spectator vessels may safely transit outside the regulated area but may not anchor, block, loiter, or impede participants or official patrol vessels. The Coast Guard may be assisted by other federal, state or local law enforcement agencies in enforcing this regulation.

This notice is issued under authority of 33 CFR 165.801 and 5 U.S.C. 552(a). In addition to this notice in the **Federal Register**, the Coast Guard will provide the maritime community with notification of this enforcement period via Local Notice to Mariners, Safety Marine Information Broadcasts, and Marine Safety Information Bulletins.

If the Captain of the Port or his designated on-scene Patrol Commander determines that the regulated area need not be enforced for the full duration stated in this notice, he or she may use a Broadcast Notice to Mariners to grant general permission to enter the regulated area.

Dated: March 12, 2015.

**R.S. Ogrydziak,**

*Captain, U.S. Coast Guard, Captain of the Port, Port Arthur.*

[FR Doc. 2015–07140 Filed 3–26–15; 8:45 am]

**BILLING CODE 9110–04–P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

**[EPA–R03–OAR–2014–0634; FRL–9925–17–Region 3]**

## Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; Plan Approval and Operating Permit Fees

**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 Pennsylvania State Implementation Plan (SIP). This proposed revision pertains to minor editorial revisions to Pennsylvania's existing plan approval and operating permit fee rules. This action is being taken under the Clean Air Act (CAA).

**DATES:** This rule is effective on May 26, 2015 without further notice, unless EPA receives adverse written comment by April 27, 2015. If EPA receives such comments, it will publish a timely withdrawal of the direct final rule in the **Federal Register** and inform the public that the rule will not take effect.

**ADDRESSES:** Submit your comments, identified by Docket ID Number EPA–R03–OAR–2014–0634 by one of the following methods:

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

B. *Email: Campbell.Dave@epa.gov.*

C. *Mail:* EPA–R03–OAR–2014–0634, Dave Campbell, Associate Director, Office of Permits and Air Toxics, Mailcode 3AP10, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103.

D. *Hand Delivery:* At the previously-listed EPA Region III address. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

*Instructions:* Direct your comments to Docket ID No. EPA–R03–OAR–2014–0634. EPA's policy is that all comments received will be included in the public docket without change, and may be made available online at *www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI, or otherwise protected, through *www.regulations.gov* or email. The *www.regulations.gov* Web site is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to EPA without going through *www.regulations.gov,* your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

*Docket:* All documents in the electronic docket are listed in the *www.regulations.gov* index. Although listed in the index, some information is not publicly available, *i.e.,* CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in *www.regulations.gov* or in hard copy during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of the State submittal are available at the Pennsylvania Department of Environmental Protection, Bureau of Air Quality Control, P.O. Box 8468, 400 Market Street, Harrisburg, Pennsylvania 17105.

**FOR FURTHER INFORMATION CONTACT:** Gerallyn Duke, (215) 814–2084, or by email at *Duke.Gerallyn@epa.gov.*

**SUPPLEMENTARY INFORMATION:** On February 11, 2014, the Pennsylvania Department of Environmental Protection submitted a revision to the Pennsylvania SIP for minor clarifying amendments to Pennsylvania's existing air permit fee rule.

### I. Background

Section 110(a)(2)(L) of the CAA requires SIPs to include requirements that the owner or operator of each major stationary source pay to the permitting authority, as a condition of any permit required by the CAA, fees sufficient to

cover reasonable costs of acting on the permit as well as implementing and enforcing the terms and conditions of the permit. EPA approved Pennsylvania's plan approval and operating permit fee regulation at 25 PA Code 127.701–127.707 into the Pennsylvania SIP in accordance with section 110 of the CAA, on July 30, 1996. 61 FR 39595.

## II. Summary of SIP Revision

The February 11, 2014 revision amends 25 PA Code 127.701 to clarify that permit fees paid to the Pennsylvania Department of Environmental Protection by owners and operators of certain stationary sources are deposited into the Clean Air Fund which was previously established under section 9 of the Pennsylvania Air Pollution Control Act. Minor editorial changes to 25 PA Code 127.701 also are included to clarify that plan approval and operating permit fees collected to implement title V requirements shall be made payable to the ''Pennsylvania Clean Air Fund.''

## III. Final Action

EPA is approving the Pennsylvania SIP revision submitted on February 11, 2014 pertaining to payment of air permit fees to the ''Pennsylvania Clean Air Fund'' and requirements to deposit such fees in a restricted revenue account within the Clean Air Fund. The February 11, 2014 SIP revision is in accordance with requirements in section 110(a)(2)(L) of the CAA. EPA is publishing this rule without prior proposal because EPA views this as a noncontroversial amendment and anticipates no adverse comment. However, in the ''Proposed Rules'' section of today's **Federal Register**, EPA is publishing a separate document that will serve as the proposal to approve the SIP revision if adverse comments are filed. This rule will be effective on May 26, 2015 without further notice unless EPA receives adverse comment by April 27, 2015. If EPA receives adverse comment, EPA will publish a timely withdrawal in the **Federal Register** informing the public that the rule will not take effect. EPA will address all public comments in a subsequent final rule based on the proposed rule. EPA will not institute a second comment period on this action. Any parties interested in commenting must do so at this time.

## IV. Incorporation by Reference

In this rulemaking action, the EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, the EPA is finalizing the incorporation by reference of this Pennsylvania SIP revision regarding amendments to 25 PA Code 127.701, as discussed in section II of this preamble. The EPA has made, and will continue to make, these documents generally available electronically through *www.regulations.gov* and/or in hard copy at the appropriate EPA office (see the **ADDRESSES** section of this preamble for more information).

## V. 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 May 26, 2015. 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 action. This action pertaining to minor editorial revisions to Pennsylvania's existing title V fee rule 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, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: March 10, 2015.

**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)(1) is amended by revising the entry ''Section 127.701'' to read as follows:

**§ 52.2020 Identification of plan.**

* * * * *

(c) * * *

(1) EPA-APPROVED PENNSYLVANIA REGULATIONS AND STATUTES

| State citation | Title/Subject | State effective date | EPA Approval date | Additional explanation/ § 52.2063 citation |
|---|---|---|---|---|
| * | * | * | * | * |
| **Subchapter I—Plan Approval and Operating Permit Fees** | | | | |
| Section 127.701 | General provisions | 12/14/13 | 3/27/15 [*Insert **Federal Register** citation*]. | Paragraphs (b) and (c) revised. |
| * | * | * | * | * |

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[FR Doc. 2015–06968 Filed 3–26–15; 8:45 am]

**BILLING CODE 6560–50–P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

**[EPA–R03–OAR–2014–0342; FRL–9925–16–Region 3]**

### Approval and Promulgation of Implementation Plans; Pennsylvania; Pennsylvania Regional Haze State Implementation Plan Revision: Sulfur Dioxide and Nitrogen Oxide Best Available Retrofit Technology Limits for the Cheswick Power Plant

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is finalizing a limited approval and limited disapproval of a revision to the Pennsylvania State Implementation Plan (SIP) submitted by the Commonwealth of Pennsylvania through the Pennsylvania Department of Environmental Protection (PADEP). This SIP revision addresses the sulfur dioxide ($SO_2$) and nitrogen oxide ($NO_X$) Best Available Retrofit Technology (BART) requirements for Boiler Number 1 of the Cheswick Generating Station (Cheswick) in Allegheny County. EPA is finalizing a limited approval of the SIP revision for Cheswick's $SO_2$ and $NO_X$ BART requirements on the basis that the revision corrects an error in the SIP and strengthens the Pennsylvania SIP, while EPA is also finalizing a limited disapproval of this part of the SIP revision because the SIP revision relies on the Clean Air Interstate Rule (CAIR) and not the Cross-State Air Pollution Rule (CSAPR) which has replaced CAIR. This final action is in accordance with the requirements of the Clean Air Act (CAA) and EPA's rules for BART.

**DATES:** This final rule is effective on April 27, 2015.

**ADDRESSES:** EPA has established a docket for this action under Docket ID Number EPA–R03–OAR–2014–0342. 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 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

Regional haze is visibility impairment that is produced by a multitude of sources and activities which are located across a broad geographic area and emit fine particles (*e.g.,* sulfates, nitrates, organic carbon, elemental carbon, and soil dust) and their precursors (*e.g.,* $SO_2$, $NO_X$, and in some cases, ammonia ($NH_3$) and volatile organic compounds (VOC)). Fine particle precursors react in the atmosphere to form fine particulate matter ($PM_{2.5}$), which impairs visibility by scattering and absorbing light. Visibility impairment reduces the clarity, color, and visible distance that one can see. Section 169A of the CAA establishes as a national goal the ''prevention of any future, and the remedying of any existing, impairment of visibility in mandatory class I Federal areas which impairment results from manmade air pollution'' and requires SIPs for states whose emissions may reasonably be anticipated to cause or contribute to visibility impairment in Class I areas to contain emission limits, compliance schedules and other measures as may be necessary to make reasonable progress toward the national goal of achieving natural visibility

conditions in Class I areas.[1] A regional haze SIP generally must include, among other measures, source-specific BART emission limits for each source subject to BART. A detailed discussion of the requirements of the regional haze program can be found in our earlier notice proposing action on Pennsylvania's regional haze SIP. *See* 77 FR 3984 (January 26, 2012).

Rather than requiring source-specific BART controls, states also have the flexibility to adopt an emissions trading program or other alternative program as long as the alternative provides greater reasonable progress towards improving visibility than BART. 40 CFR 51.308(e)(2). EPA made such a demonstration for the CAIR.[2] 70 FR 39104 (July 6, 2005). EPA's regulations provided that states participating in the CAIR cap and trade program under 40 CFR part 96 pursuant to an EPA-approved CAIR SIP or which remain subject to the CAIR Federal Implementation Plan (FIP) in 40 CFR part 97, do not require affected BART eligible electric generating units (EGUs) to install, operate, and maintain BART for emissions of $SO_2$ and $NO_X$. *See* 40 CFR 51.308(e)(4). EPA subsequently determined that the trading programs in CSAPR, which was promulgated to replace CAIR, would achieve greater reasonable progress towards the national goal than would BART and could also serve as an alternative to source-by-source BART. *See* 77 FR 33641 (June 7, 2012).[3]

On December 20, 2010, PADEP submitted revisions to the Pennsylvania SIP to address regional haze as required by the CAA and 40 CFR 51.308. At the time of the development and submission of Pennsylvania's December 20, 2010 regional haze SIP submission, EPA had not yet promulgated CSAPR to replace CAIR. On July 13, 2012, EPA finalized a limited approval of the Pennsylvania regional haze SIP. 77 FR 41279. Our approval was limited due to Pennsylvania's reliance upon CAIR for certain regional haze requirements including BART for EGUs. On June 7, 2012, EPA had also finalized the limited disapproval of Pennsylvania's regional haze SIP (and other states' regional haze SIPs that relied similarly on CAIR) due to its reliance on CAIR as EPA had issued the CSAPR to replace CAIR at that time. 77 FR 33641. On June 7, 2012, EPA also finalized a limited FIP for Pennsylvania and other states, which merely substituted reliance on EPA's more recent CSAPR $NO_X$ and $SO_2$ trading programs for EGUs for the SIP's reliance on CAIR.[4] *See* 77 FR 33641.

For the December 20, 2010 regional haze SIP, the Allegheny County Health Department (ACHD) had performed a BART analysis for Cheswick, a Pennsylvania EGU. In the May 4, 2009 Cheswick BART review memo, ACHD stated it performed its BART analysis in accordance with 40 CFR 51.308(e) and 40 CFR part 51, appendix Y, Guidelines for BART Determinations Under the Regional Haze Rule (BART Guidelines).[5] The May 4, 2009 Cheswick BART review memo was included in Pennsylvania's December 20, 2010 regional haze SIP (in Appendix J) and specifically stated that $SO_2$ and $NO_X$ limits were not considered in the memo since the source was participating in CAIR. The May 4, 2009 BART Review Memo for Cheswick and the December 20, 2010 regional haze SIP submission also contained an error concerning the recommended particulate matter (PM) BART for Cheswick.

The December 20, 2010 regional haze SIP submission explicitly provided that BART for Pennsylvania EGUs was participation in CAIR; however, the SIP submission incorrectly identified $SO_2$ and $NO_X$ BART emission limits for Cheswick in error.

## II. Summary of SIP Revision and EPA Analysis

On March 25, 2014, the Commonwealth of Pennsylvania through PADEP submitted a SIP revision to revise the incorrect PM BART emission limit for Cheswick's Boiler No. 1 and to remove the errant inclusion of the BART $SO_2$ and $NO_X$ emission limits for Cheswick's Boiler No. 1 from the regional haze SIP because Pennsylvania intended CAIR as $SO_2$ and $NO_X$ BART for all EGUs including Cheswick. EPA has corrected the PM BART error in a separate rulemaking. *See* 80 FR 2834 (January 21, 2015). On January 21, 2015 (80 FR 2841), EPA published a notice of proposed rulemaking (NPR) for the Commonwealth of Pennsylvania proposing limited approval and limited disapproval of this SIP revision to correct the $SO_2$ and $NO_X$ BART for Cheswick. As explained in detail in the NPR, EPA proposed a limited approval to the March 25, 2014 SIP revision to the Cheswick $SO_2$ and $NO_X$ BART limits included in the Pennsylvania regional haze SIP because the removal of the specific $SO_2$ and $NO_X$ emission limits corrects an error in the regional haze SIP and strengthens the Pennsylvania SIP overall through replacing the incorrect BART limits with Cheswick's participation in an emissions trading program. EPA proposed a limited disapproval to the portion of the SIP revision addressing $SO_2$ and $NO_X$ BART for Cheswick because the revision relied on replacing the specific $SO_2$ and $NO_X$ limits with CAIR which the D.C. Circuit remanded to EPA and which EPA replaced with CSAPR. EPA began implementing CSAPR on January 1, 2015 as the emissions trading program for $SO_2$ and $NO_X$ for EGUs in certain states including Pennsylvania following the D.C. Circuit's lifting of the stay on CSAPR. *See EME Homer City Generation, L.P.* v. *EPA,* No. 11–1302 (D.C. Cir. Oct. 23, 2014), Order at 3. *See also* 79 FR 71663 (interim final rule revising CSAPR compliance deadlines).

Although CAA section 110(c)(1) provides that EPA must promulgate a FIP within two years after disapproving

[1] EPA's regulations implementing CAA section 169A are located at 40 CFR 51.308 and require states to establish long-term strategies for making reasonable progress toward meeting the national goal in CAA section 169A.

[2] CAIR required certain states like Pennsylvania to reduce emissions of $SO_2$ and $NO_X$ that significantly contribute to downwind nonattainment of the 1997 NAAQS for $PM_{2.5}$ and ozone. *See* 70 FR 25162 (May 12, 2005). CAIR was later found to be inconsistent with the requirements of the CAA and the rule was remanded to EPA. *See North Carolina* v. *EPA,* 550 F.3d 1176 (D.C. Cir. 2008). The court left CAIR in place until replaced by EPA with a rule consistent with its opinion. *Id.*

[3] CSAPR was proposed by EPA to replace CAIR and to help states reduce air pollution and attain CAA standards. *See* 75 FR 45210 (August 2, 2010) (proposal) and 76 FR 48208 (August 8, 2011) (final rule). The United States Court of Appeals for the D.C. Circuit (D.C. Circuit) issued a decision in *EME Homer City Generation, L.P.* v. *EPA,* 696 F.3d 7 (D.C. Cir. 2012), vacating CSAPR and keeping CAIR in place pending the promulgation of a valid replacement rule. Subsequently, on April 29, 2014, the United States Supreme Court reversed the August 21, 2012 opinion of the D.C. Circuit which had vacated CSAPR and remanded the matter to the D.C. Circuit for further proceedings. *EPA* v. *EME Homer City Generation, L.P.,* 134 S. Ct. 1584 (2014). After the Supreme Court's decision, EPA filed a motion to lift the stay of CSAPR and asked the D.C. Circuit to toll CSAPR's compliance deadlines by three years, so that the Phase 1 emissions budgets apply in 2015 and 2016 (instead of 2012 and 2013), and the Phase 2 emissions budgets apply in 2017 and beyond (instead of 2014 and beyond). On October 23, 2014, the D.C. Circuit granted EPA's motion and lifted the stay on CSAPR. *EME Homer City Generation, L.P.* v. *EPA,* No. 11–1302 (D.C. Cir. Oct. 23, 2014), Order at 3. EPA views the D.C. Circuit's October 23, 2014 Order as also granting EPA's request to toll CSAPR's compliance deadlines. EPA commenced implementation of CSAPR on January 1, 2015. 79 FR 71663 (Dec. 3, 2014) (interim final rule revising CSAPR compliance deadlines).

[4] In response to a petition for review of EPA's limited approval of the Pennsylvania regional haze SIP in the United States Court of Appeals for the Third Circuit, EPA successfully moved for a voluntary remand without vacatur. On April 30, 2014, EPA reissued its final limited approval of the Pennsylvania SIP to implement the Commonwealth's regional haze program for the first planning period through 2018. 79 FR 24340.

[5] The BART Guidelines provide a process for making BART determinations that states and local agencies can use in implementing the regional haze BART requirements on a source-by-source basis, as provided in 40 CFR 51.308(e)(1).

a SIP submission in whole or in part, unless EPA approves a SIP revision correcting the deficiencies, EPA believes our limited disapproval of the March 25, 2014 SIP submission does not result in any new FIP obligation for EPA because we already promulgated a FIP on June 7, 2012 to address the identified deficiency (replacing CAIR with CSAPR for $SO_2$ and $NO_X$ BART for Pennsylvania EGUs). Thus, as explained in the NPR, the June 7, 2012 FIP fully addresses Cheswick's $SO_2$ and $NO_X$ BART because Cheswick is a Pennsylvania EGU subject to CSAPR. Under section 179(a) of the CAA, final disapproval of a submittal that addresses a requirement of part D of title I of the CAA (CAA sections 171–193) or is required in response to a finding of substantial inadequacy as described in CAA section 110(k)(5) (SIP Call) starts a sanctions clock. Pennsylvania's March 25, 2014 SIP revision submittal for revising Cheswick's BART was not submitted to meet either of these requirements. Therefore, our limited disapproval of Pennsylvania's SIP submission concerning Cheswick's $SO_2$ and $NO_X$ BART does not trigger mandatory sanctions under CAA section 179. Other specific requirements and the rationale for EPA's proposed action are explained in the NPR and will not be restated here.[6] No adverse public comments were received on the NPR.

## III. Final Action

EPA is finalizing a limited approval of the portion of the Pennsylvania March 25, 2014 revision to its regional haze SIP which removes specific $SO_2$ and $NO_X$ BART emission limitations for Cheswick set in error and is finalizing a limited disapproval of the SIP revision due to its reliance upon CAIR, which has been replaced with CSAPR. As EPA issued a FIP for $SO_2$ and $NO_X$ BART emission limitations for EGUs in Pennsylvania, which includes Cheswick, no further action by EPA is required to address the limited disapproval. This conclusion is based on our review of the March 25, 2014 SIP revision as well as Pennsylvania's December 20, 2010 regional haze SIP submission, including technical data and supporting analysis. This final action concludes that Cheswick's participation in CSAPR supersedes the previous $SO_2$ and $NO_X$ BART determinations for Cheswick included in Pennsylvania's regional haze SIP.

## 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. Section 804, however, exempts from section 801 the following types of rules: Rules of particular applicability; rules relating to agency management or personnel; and rules of agency organization, procedure, or practice that do not substantially affect the rights or obligations of non-agency parties. 5 U.S.C. 804(3). Because this is a rule of particular applicability, EPA is not required to submit a rule report regarding this action under section 801.

### *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 May 26, 2015. 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 revising the $SO_2$ and $NO_X$ BART emission limitations for Cheswick in Pennsylvania's regional haze SIP may not be challenged later in proceedings to enforce its requirements. (*See* section 307(b)(2).)

## List of Subjects in 40 CFR Part 52

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

Dated: March 10, 2015.

**William C. Early,**

*Acting Regional Administrator, Region III.*

Therefore, 40 CFR part 52 is amended as follows:

[6] In the NPR, EPA found this SIP revision to Cheswick's BARTs complies with section 110(l) of the CAA and will not interfere with any applicable requirements concerning attainment and reasonable further progress or any other applicable requirement of the CAA, such as the visibility and regional haze provisions of sections 169A and 169B of the CAA.

## 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 (e)(1) is amended by adding a new entry following the existing entries for ''Regional Haze Plan'' to read as follows:

**§ 52.2020 Identification of plan.**

* * * * *

(e) * * *

(1) * * *

| Name of non-regulatory SIP revision | Applicable geographic area | State submittal date | EPA Approval date | Additional explanation |
|---|---|---|---|---|
| * | * | * | * | * |
| Regional Haze Plan | Statewide | 3/25/14 | 3/27/15 *[Insert **Federal Register** citation].* | Rulemaking pertains to Boiler No. 1 of the Cheswick Power Plant in Allegheny County. Limited approval removes $SO_2$ and $NO_X$ Best Available Retrofit Technology limits. Limited disapproval relates to the Federal Implementation Plan at § 52.2042(b) and (c). |
| * | * | * | * | * |

* * * * *

[FR Doc. 2015–06965 Filed 3–26–15; 8:45 am]

**BILLING CODE 6560–50–P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

**[EPA–R09–OAR–2015–0083; FRL–9924–73–Region 9]**

## Revisions to the California State Implementation Plan, Placer County Air Pollution Control District and the Ventura 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 Placer County Air Pollution Control District (PCAPCD) and Ventura County Air Pollution Control District (VCAPCD) portions of the California State Implementation Plan (SIP). These revisions concern volatile organic compound (VOC) emissions from the surface coating of plastic parts and products, metalworking fluids (MWF) and direct-contact lubricants (DCL). 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 May 26, 2015 without further notice, unless EPA receives adverse comments by April 27, 2015. 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–2015–0083, 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:** Arnold Lazarus, EPA Region IX, (415) 947–3024, *lazarus.arnold@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 addressed by this Submittal with the dates that they were adopted by the local air agencies and submitted by the California Air Resources Board.

TABLE 1—SUBMITTED RULES

| Local agency | Rule number | Rule title | Adopted | Submitted |
|---|---|---|---|---|
| PCAPCD | 249 | Surface Coating of Plastic Parts and Products | 8/8/13 | 5/13/14 |
| VCAPCD | 74.31 | Metalworking Fluids and Direct-Contact Lubricants | 11/12/13 | 5/13/14 |

On July 18, 2014, EPA determined that the submittals for PCAPCD Rule 249 and VCAPCD Rule 74.31 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 PCAPCD Rule 249 or VCAPCD Rule 74.31 in the SIP.

### *C. What is the purpose of the submitted rules?*

VOCs help produce ground-level ozone and smog, which harm human health and the environment. Section 110(a) of the CAA requires States to submit regulations that control VOC emissions. Rule 249 establishes VOC content limits and workplace standards for the surface coating of plastic parts and products. It also describes related recordkeeping, reporting, and monitoring requirements. Rule 74.31 establishes VOC content limits and usage for MWF and DCL. Rule 74.31 applies to any person who uses MWF and DCL commercially or industrially and to any manufacturer or supplier who supplies, sells, or offers for sale either MWF or DCL for use at industrial or commercial facilities. Such persons must use compliant fluids as specified by rule 74.31. EPA's technical support documents (TSDs) have more information about these rules.

## II. EPA's Evaluation and Action

### *A. How is EPA evaluating the rules?*

40 CFR 81.305 describes PCAPCD as regulating an ozone nonattainment area classified as Severe and VCAPCD classified as Serious for the 8-hour ozone National Ambient Air Quality Standard (NAAQS) (2008 Standard). SIP rules must be enforceable (see CAA section 110(a)(2)), must not interfere with applicable requirements concerning attainment and reasonable further progress or other CAA requirements (see CAA section 110(l)), and must not modify certain SIP control requirements in nonattainment areas without ensuring equivalent or greater emissions reductions (see CAA section 193).

Generally, SIP rules must require Reasonably Available Control Technology (RACT) for each category of sources covered by a Control Techniques Guidelines (CTG) document as well as each VOC major source in ozone nonattainment areas classified as moderate or above (see sections 182(b)(2) and 182(f)).

Guidance and policy documents that we use to evaluate enforceability, revision/relaxation and rule stringency requirements for the applicable criteria pollutants 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 and 57 FR 18070, April 28, 1992).
2. ''Issues Relating to VOC Regulation Cutpoints, Deficiencies, and Deviations'' (''the Bluebook,'' U.S. EPA, May 25, 1988; revised January 11, 1990).
3. ''Guidance Document for Correcting Common VOC & Other Rule Deficiencies'' (''the Little Bluebook'', EPA Region 9, August 21, 2001).
4. ''Control Techniques Guidelines for Miscellaneous Metal and Plastic Parts Coatings'' (CTG), September 2008. (EPA 453–R–008–003).

### *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. The VOC content limits and usage requirements in Rule 249 are equivalent or more stringent to the relevant sections of EPA's 2008 metal parts CTG, implement RACT and strengthen the SIP. Rule 74.31 strengthens the SIP because the VCAPCD did not have a SIP approved rule regulating MWF and DCL and there exists no relevant CTG, but we also believe Rule 74.31 implements RACT. The TSDs associated with each rule have more information on our evaluation.

### *C. EPA Recommendations To Further Improve the Rules*

The TSDs describe additional rule revisions that we recommend for the next time the local agencies modify the rules but are not currently the basis for rule disapproval.

### *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 April 27, 2015, 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 May 26, 2015. 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. Incorporation by Reference

In this rule, the EPA is finalizing regulatory text that includes incorporation by reference. In

accordance with requirements of 1 CFR 51.5, the EPA is finalizing the incorporation by reference of the PCAPCD and VCAPCD rules described in the amendments to 40 CFR 52 set forth below. The EPA has made, and will continue to make, these documents available electronically through *www.regulations.gov* and in hard copy at the appropriate EPA office (see the **ADDRESSES** section of this preamble for more information).

**IV. 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).

The SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

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 May 26, 2015. 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, Intergovernmental relations, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: February 27, 2015.

**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)(441)(i)(B)(*3*) and (c)(441)(i)(C)(*2*) to read as follows:

**§ 52.220 Identification of plan.**

* * * * *

(c) * * *

(441) * * *

(i) * * *

(B) * * *

(*3*) Rule 249, ''Surface Coating of Plastic Parts and Products,'' adopted on August 8, 2013.

(C) * * *

(*2*) Metalworking Fluids and Direct-Contact Lubricants,'' adopted on November 12, 2013.

* * * * *

[FR Doc. 2015–06858 Filed 3–26–15; 8:45 am]

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

**[EPA–R06–OAR–2013–0804; FRL–9925–13–Region 6]**

## Approval and Promulgation of Implementation Plans; Texas; Reasonably Available Control Technology for the 1997 8-Hour Ozone National Ambient Air Quality Standard

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is finalizing its proposal to approve revisions to the Texas State Implementation Plan (SIP) for the Houston/Galveston/Brazoria (HGB) and Dallas Fort Worth (DFW) 1997 8-Hour ozone nonattainment areas. The HGB area consists of Brazoria, Chambers, Fort Bend, Galveston, Harris, Liberty, Montgomery and Waller counties. The DFW area consists of Collin, Dallas,

Denton, Ellis, Johnson, Kaufman, Parker, Rockwall, and Tarrant counties. Specifically, we are approving portions of multiple revisions to the Texas SIP submitted by the Texas Commission on Environmental Quality (TCEQ) as meeting Reasonably Available Control Technology (RACT) requirements. The RACT requirements apply to sources of Volatile Organic Compounds (VOC) and Oxides of Nitrogen (NOx) in these areas. This action is in accordance with the federal Clean Air Act (the Act, CAA).

**DATES:** This rule will be effective on April 27, 2015.

**ADDRESSES:** The EPA has established a docket for this action under Docket ID No. EPA–R06–OAR–2013–0804. 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, *e.g.,* Confidential Business Information or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through *www.regulations.gov* or in hard copy at the Air Planning Section (6PD–L), Environmental Protection Agency, 1445 Ross Avenue, Suite 700, Dallas, Texas 75202–2733. The file will be made available by appointment for public inspection in the Region 6 FOIA Review Room between the hours of 8:30 a.m. and 4:30 p.m. weekdays except for legal holidays.

**FOR FURTHER INFORMATION CONTACT:** Mr. Alan Shar (6PD–L), telephone (214) 665–2164, email *shar.alan@epa.gov*. To schedule an appointment contact Alan Shar.

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

## Outline

I. Background
II. Public Comments
III. Submittals
IV. Negative Declarations
V. Final Actions
VI. Incorporation by Reference
VII. Statutory and Executive Order Reviews

## I. Background

On January 21, 2014 (80 FR 2846) we proposed to approve revisions to the Texas SIP that the TCEQ submitted to EPA in multiple RACT-related rule revisions dated December 6, 2013, January 17, 2012, June 13, 2007, as well as the RACT analysis portions of attainment demonstration plans of January 17, 2012, April 6, 2010, and June 13, 2007 for the DFW and HGB areas. Details of these submittals and their evaluation were explained in our proposal, and its corresponding Technical Supporting Document. A summary of these submittals is described in section III.

On August 4, 2014 (79 FR 45105) we approved RACT for the Offset Lithographic Printing Operations in the DFW (Serious) and HGB (Severe) areas. See docket No. EPA–R06–OAR–2010–0332 at *www.regulations.gov.* Also, on September 9, 2014 (79 FR 53299) we approved revisions to 30 TAC Chapter 115 for control of VOC emissions for storage tanks in the DFW (Serious) and HGB (Severe) areas. See docket No. EPA–R06–OAR–2012–0096 at *www.regulations.gov*.

## II. Public Comments

The public comment period for the January 21, 2015 (80 FR 2846) proposal expired on February 20, 2015, and we did not receive any comments on the proposed actions during this period. Therefore, we are approving the January 21, 2015 (80 FR 2846) proposal without any changes into the Texas SIP.

## III. Submittals

The December 6, 2013 submittal concerned rule revisions to 30 TAC, Chapter 115 Control of Air Pollution from Volatile Organic Compounds for solvent using processes and surface coating application systems. We are approving all of this submittal into the Texas SIP.

The January 17, 2012 submittal concerned rule revisions to 30 TAC, Chapter 115 Control of Air Pollution from Volatile Organic Compounds intended to implement RACT for both HGB and DFW areas. The submittal will limit VOC content of coatings and solvents used in Flexible Package Printing, Industrial Cleaning Solvents, Large Appliance Coatings, Metal Furniture Coatings, Paper, Film, and Foil Coatings, Miscellaneous Industrial Adhesives, Automobile and Light-Duty Truck Assembly Coatings, and Miscellaneous Metal and Plastic Parts Coatings operations. We are approving all of this submittal into the Texas SIP.

Another submittal also dated January 17, 2012 contained a corresponding analysis to demonstrate RACT is in place for multiple source categories in the HGB area. We are approving that RACT is in place for the source categories listed in the paragraph above, and we are approving the Flexographic and Rotogravure Printing sector for the HGB area of the RACT-related rule revisions which had not been previously approved.

A third SIP submittal dated January 17, 2012 contained RACT analysis for the DFW area. As a result of this submittal, and consistent with section 182(c) of the Act, the VOC or NOx major source threshold in the DFW area is lowered to 50 Tons Per Year (TPY) from 100 TPY for RACT purposes under the 1997 8-Hour ozone standard. See EPA–R06–OAR–2012–0098 at *www.regulations.gov*. We are approving the RACT analysis portion of this submittal.

The April 6, 2010 attainment demonstration submittal, among other things, concerned revisions to 30 TAC, Chapter 115 Control of Air Pollution from Volatile Organic Compounds for control of ozone pollution in the HGB area. Appendix D of this attainment demonstration plan was titled ''Reasonably Available Control Technology Analysis,'' and included source categories affected by the newly EPA-issued Control Techniques Guidelines (CTGs), and NOx emissions sources. We are approving the RACT analysis portion of this submittal.

The June 13, 2007 attainment demonstration submittal concerned revisions to 30 TAC, Chapter 115 Control of Air Pollution from Volatile Organic Compounds. The June 13, 2007 submittal included an analysis intended to demonstrate RACT was being implemented in the HGB area as required by the CAA (Appendix B of the submittal). We are approving the RACT analysis portion of this submittal.

The submittals concerning these nonattainment areas are available at *www.regulations.gov,* docket ID No. EPA–R06–OAR–2013–0804 under the ''supporting and related materials.''

We are approving the above-mentioned revisions, as well as confirming the RACT finding for revisions previously approved for Texas, into the Texas SIP. We are approving Texas' RACT analysis as meeting the RACT requirements for all affected VOC and NOx sources for the DFW and HGB areas for the 1997 8-Hour ozone standard.

## IV. Negative Declarations

The January 21, 2015 (80 FR 2846) proposal included a list of source categories that do not operate within these nonattainment areas.

For the DFW area, Texas declared that there were no fiberglass boat manufacturing materials, ship building and ship repair coating, leather tanning and finishing, surface coating for flat wood paneling, vegetable oil manufacturing, plywood veneer dryers,

rubber tire manufacturing, and batch processes operations. We are approving the VOC RACT negative declaration for these operations in the DFW area.

For the HGB area, on April 15, 2014 (79 FR 21144), we approved the VOC RACT negative declarations for fiberglass boat manufacturing materials, leather tanning and finishing, surface coating for flat wood paneling, letterpress printing, automobile and light-duty truck assembly coating, rubber tire manufacturing, and vegetable oil manufacturing operations. See 40 CFR 52.2270(e).

However, if a major source of these categories locates in these nonattainment areas in future, then TCEQ will need to take appropriate regulatory measures.

## V. Final Actions

We are approving rule revisions to sections 30 TAC chapter 115.422, 115.427, 115.429, 115.430, 115.432, 115.433, 115.435, 115.436, and 115.439 implementing controls on the following source categories: Flat Wood Paneling Coatings, Flexible Packaging Printing Materials, Industrial Cleaning Solvents, Offset Lithographic and Letterpress Printing, Large Appliance Coatings, Metal Furniture Coatings, Paper, Film, and Foil Coatings, Auto and Light-Duty Truck Assembly Coatings, Fiberglass Boat Manufacturing Materials, Miscellaneous Industrial Adhesives, and Miscellaneous Metal and Plastic Parts Coatings.

We are approving new sections 30 TAC chapter 115.431, 115.450, 115.451, 115.453–115.455, 115.458–115.461, 115.463–115.465, 115.468–115.471, 115.473–115.475, 115.478, and 115.479 implementing controls on the source categories listed above.

We are approving repeal of section 30 TAC chapter 115.437.

We are approving to find that for VOC CTG categories identified above, Texas has RACT-level controls in place for the HGB and DFW areas under the 1997 8-Hour ozone standard.

We are approving to find that Texas has RACT-level controls in place for the Flexographic and Rotogravure Printing operations for the HGB area.

We are approving the negative declarations as explained in section IV of this action.

We are approving NOx RACT for the DFW area under the 1997 8-Hour ozone standard.

In consideration of the above rule revisions, as well as the rule revisions previously approved and the rules in 30 TAC Chapters 115 and 117, we are approving that, Texas is implementing RACT for all affected VOC and NOx sources in the HGB and DFW areas under the 1997 8-Hour ozone standard.

We are approving these revisions in accordance with sections 110, 182, and 183 of the federal CAA.

The EPA had previously approved RACT for all affected NOx sources for the HGB area under the 1997 8-Hour ozone standard.

The EPA had previously approved RACT for all affected VOC and NOx sources into Texas' SIP under the 1-Hour ozone standard.

## VI. Incorporation by Reference

In this rule, we are finalizing regulatory text that includes incorporation by reference. In accordance with the requirements of 1 CFR 51.4, we are finalizing the incorporation by reference of the revisions to the Texas regulations as described in the Final Action section above. We have made, and will continue to make, these documents generally available electronically through *www.regulation.gov,* Docket ID. No. EPA–R06–OAR–2013–0804.

## VII. 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. If a portion of the plan revision meets all the applicable requirements of this chapter and Federal regulations, the Administrator may approve the plan revision in part. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices that meet the criteria of the Act, and to disapprove state choices that do not meet the criteria of the Act. Accordingly, this final action approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this final 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;
- 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); and
- 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.

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 May 26, 2015. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposed 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).)

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

## List of Subjects in 40 CFR Part 52

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

Dated: March 16, 2015.

**Samuel Coleman,**

*Acting Regional Administrator, Region 6.*

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 SS—Texas

■ 2. In § 52.2270:

■ a. In paragraph (c), the table is amended under Chapter 115 (Reg 5) as follows:

■ i. Revising the entries for Sections 115.422, 115.427, and 115.429 under ''Subchapter E—Solvent Using—Process,'' ''Division 2: Surface Coating Processes''.

■ ii. Adding new entry for Section 115.431 in numerical order under ''Subchapter E—Solvent Using—Process,'' ''Division 3: Flexographic and Rotogravure Printing''.

■ iii. Removing the entry for Section 115.437 under ''Subchapter E—Solvent Using—Process,'' ''Division 3: Flexographic and Rotogravure Printing''.

■ iv. Revising the entries for Sections 115.430, 115.432, 115.433, 115.435, 115.436, and 115.439 under ''Subchapter E—Solvent Using—Process,'' ''Division 3: Flexographic and Rotogravure Printing''.

■ v. Adding new entries for Sections 115.450, 115.451, 115.453, 115.454, 115.455, 115.458, 115.459 under ''Subchapter E—Solvent Using—Process,'' ''Division 5: Control Requirements for Surface Coating Processes''.

■ vi. Adding new entries for Sections 115.460, 115.461, 115.463, 115.464, 115.465, 115.468, and 115.469, under ''Subchapter E—Solvent Using—Process,'' ''Division 6: Industrial Cleaning Solvents''.

■ vii. Adding new entries for Sections 115.470, 115.471, 115.473, 115.474, 115.475, 115.478, and 115.479 under ''Subchapter E—Solvent Using—Process,'' ''Division 7: Miscellaneous Industrial Adhesives''.

■ b. In paragraph (e), the table titled ''EPA approved nonregulatory provisions and quasi-regulatory measures in the Texas SIP'' is amended by adding four new entries at the end.

The revisions and additions read as follows:

**§ 52.2270 Identification of plan.**

* * * * *

(c) * * *

EPA APPROVED REGULATIONS IN THE TEXAS SIP

| State citation | Title/Subject | State approval/submittal date | EPA Approval date | Explanation |
|---|---|---|---|---|
| * * | * | * | * | * |
| **Chapter 115 (Reg 5)—Control of Air Pollution From Volatile Organic Compounds** | | | | |
| * * | * | * | * | * |
| **Subchapter E—Solvent-Using Processes** | | | | |
| * * | * | * | * | * |
| **Division 2: Surface Coating Processes** | | | | |
| * * | * | * | * | * |
| Section 115.422 | Control Requirements | 01/17/12 | 3/27/15 [Insert FR citation]. | |
| * * | * | * | * | * |
| Section 115.427 | Exemptions | 01/17/12 | 3/27/15 [Insert FR citation]. | |
| Section 115.429 | Counties and Compliance Schedules. | 01/17/12 | 3/27/15 [Insert FR citation]. | |
| **Division 3: Flexographic and Rotogravure Printing** | | | | |
| Section 115.430 | Applicability and Definitions | 01/17/12 | 3/27/15 [Insert FR citation]. | |
| Section 115.431 | Exemptions | 01/17/12 | 3/27/15 [Insert FR citation]. | |
| Section 115.432 | Control Requirements | 01/17/12 | 3/27/15 [Insert FR citation]. | |
| Section 115.433 | Alternate Control Requirements | 01/17/12 | 3/27/15 [Insert FR citation]. | |
| Section 115.435 | Testing Requirements | 01/17/12 | 3/27/15 [Insert FR citation]. | |
| Section 115.436 | Monitoring and Recordkeeping Requirements. | 01/17/12 | 3/27/15 [Insert FR citation]. | |
| Section 115.439 | Counties and Compliance Schedules. | 01/17/12 | 3/27/15 [Insert FR citation]. | |
| * * | * | * | * | * |
| **Division 5: Control Requirements for Surface Coating Processes** | | | | |
| Section 115.450 | Applicability and Definitions | 01/17/12 | 3/27/15 [Insert FR citation]. | |
| Section 115.451 | Exemptions | 01/17/12 | 3/27/15 [Insert FR citation]. | |
| Section 115.453 | Control Requirements | 12/6/13 | 3/27/15 [Insert FR citation]. | |
| Section 115.454 | Alternate Control Requirements | 01/17/12 | 3/27/15 [Insert FR citation]. | |
| Section 115.455 | Approved Test Methods and Testing Requirements. | 01/17/12 | 3/27/15 [Insert FR citation]. | |

EPA APPROVED REGULATIONS IN THE TEXAS SIP—Continued

| State citation | Title/Subject | State approval/submittal date | EPA Approval date | Explanation |
|---|---|---|---|---|
| Section 115.458 | Monitoring and Recordkeeping Requirements. | 01/17/12 | 3/27/15 [Insert FR citation]. | |
| Section 115.459 | Compliance Schedules | 01/17/12 | 3/27/15 [Insert FR citation]. | |
| **Division 6: Industrial Cleaning Solvents** | | | | |
| Section 115.460 | Applicability and Definitions | 01/17/12 | 3/27/15 [Insert FR citation]. | |
| Section 115.461 | Exemptions | 01/17/12 | 3/27/15 [Insert FR citation]. | |
| Section 115.463 | Control Requirements | 01/17/12 | 3/27/15 [Insert FR citation]. | |
| Section 115.464 | Alternate Control Requirements | 01/17/12 | 3/27/15 [Insert FR citation]. | |
| Section 115.465 | Approved Test Methods and Testing Requirements. | 01/17/12 | 3/27/15 [Insert FR citation]. | |
| Section 115.468 | Monitoring and Recordkeeping Requirements. | 01/17/12 | 3/27/15 [Insert FR citation]. | |
| Section 115.469 | Compliance Schedules | 01/17/12 | 3/27/15 [Insert FR citation]. | |
| **Division 7: Miscellaneous Industrial Adhesives** | | | | |
| Section 115.470 | Applicability and Definitions | 01/17/12 | 3/27/15 [Insert FR citation]. | |
| Section 115.471 | Exemptions | 01/17/12 | 3/27/15 [Insert FR citation]. | |
| Section 115.473 | Control Requirements | 01/17/12 | 3/27/15 [Insert FR citation]. | |
| Section 115.474 | Alternate Control Requirements | 01/17/12 | 3/27/15 [Insert FR citation]. | |
| Section 115.475 | Approved Test Methods and Testing Requirements. | 01/17/12 | 3/27/15 [Insert FR citation]. | |
| Section 115.478 | Monitoring and Recordkeeping Requirements. | 01/17/12 | 3/27/15 [Insert FR citation]. | |
| Section 115.479 | Compliance Schedules | 01/17/12 | 3/27/15 [Insert FR citation]. | |
| * * | * * | * | * * | |

* * * * * (e) * * *

EPA APPROVED NONREGULATORY PROVISIONS AND QUASI-REGULATORY MEASURES IN THE TEXAS SIP

| Name of SIP provision | Applicable geographic or non-attainment area | State approval/submittal date | EPA Approval date | Comments |
|---|---|---|---|---|
| * * | * * | * | * | * |
| $NO_X$ RACT finding for the 1997 8-hour ozone NAAQS. | Collin, Dallas, Denton, Tarrant, Ellis, Johnson, Kaufman, Parker, and Rockwall Counties, TX. | 01/17/12 | 3/27/15 [Insert FR citation]. | DFW as Moderate and Serious. |
| VOC RACT finding of negative declaration for Fiberglass Boat Manufacturing Materials, Ship Building and Ship Repair Coating, Leather Tanning and Finishing, Surface Coating for Flat Wood Paneling, Vegetable Oil Manufacturing, Letterpress Printing, Plywood Veneer Dryers, Rubber Tire Manufacturing, and Batch Processes Operations. | Collin, Dallas, Denton, Tarrant, Ellis, Johnson, Kaufman, Parker, and Rockwall Counties, TX. | 01/17/12 | 3/27/15 [Insert FR citation]. | DFW as Moderate and Serious. |
| VOC RACT finding for all sectors under the 1997 8-hour ozone NAAQS, including the 2006–2008 EPA-issued CTG series and non-CTG major sources. | Collin, Dallas, Denton, Tarrant, Ellis, Johnson, Kaufman, Parker, and Rockwall Counties, TX. | 01/17/12 | 3/27/15 [Insert FR citation]. | DFW as Moderate and Serious. |
| VOC RACT finding for all sectors under the 1997 8-hour ozone NAAQS, including the 2006–2008 EPA-issued CTG series and non-CTG major sources. | Brazoria, Chambers, Fort Bend, Galveston, Harris, Liberty, Montgomery and Waller Counties, TX. | 01/17/12 | 3/27/15 [Insert FR citation]. | HGB as Severe. |

* * * * *

[FR Doc. 2015–06847 Filed 3–26–15; 8:45 am]

**BILLING CODE 6560–50–P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 180

**[EPA–HQ–OPP–2014–0209; FRL–9924–60]**

### Deltamethrin; Pesticide Tolerances

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule.

**SUMMARY:** This regulation establishes tolerances for residues of the insecticide deltamethrin in or on all food and feed commodities from use of deltamethrin as a wide-area mosquito adulticide. Bayer CropScience requested these tolerances under the Federal Food, Drug, and Cosmetic Act (FFDCA).

**DATES:** This regulation is effective March 27, 2015. Objections and requests for hearings must be received on or before May 26, 2015, and must be filed in accordance with the instructions provided in 40 CFR part 178 (see also Unit I.C. of the **SUPPLEMENTARY INFORMATION**).

**ADDRESSES:** The docket for this action, identified by docket identification (ID) number EPA–HQ–OPP–2014–0209, is available at *http://www.regulations.gov* or at the Office of Pesticide Programs Regulatory Public Docket (OPP Docket) in the Environmental Protection Agency Docket Center (EPA/DC), West William Jefferson Clinton Bldg., Rm. 3334, 1301 Constitution Ave. NW., Washington, DC 20460–0001. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the OPP Docket is (703) 305–5805. Please review the visitor instructions and additional information about the docket available at *http://www.epa.gov/dockets.*

**FOR FURTHER INFORMATION CONTACT:** Susan Lewis, Registration Division (7505P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001; main telephone number: (703) 305–7090; email address: *RDFRNotices@epa.gov*.

**SUPPLEMENTARY INFORMATION:**

## I. General Information

*A. Does this action apply to me?*

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

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

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

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

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

Under FFDCA section 408(g), 21 U.S.C. 346a, any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. You must file your objection or request a hearing on this regulation in accordance with the instructions provided in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket ID number EPA–HQ–OPP–2014–0209 in the subject line on the first page of your submission. All objections and requests for a hearing must be in writing, and must be received by the Hearing Clerk on or before May 26, 2015. Addresses for mail and hand delivery of objections and hearing requests are provided in 40 CFR 178.25(b).

In addition to filing an objection or hearing request with the Hearing Clerk as described in 40 CFR part 178, please submit a copy of the filing (excluding any Confidential Business Information (CBI)) for inclusion in the public docket. Information not marked confidential pursuant to 40 CFR part 2 may be disclosed publicly by EPA without prior notice. Submit the non-CBI copy of your objection or hearing request, identified by docket ID number EPA–HQ–OPP–2014–0209, by one of the following methods:

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

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

## II. Summary of Petitioned-For Tolerance

In the **Federal Register** of January 28, 2015 (80 FR 4527) (FRL–9921–60), EPA issued a document pursuant to FFDCA section 408(d)(3), 21 U.S.C. 346a(d)(3), announcing the filing of a pesticide petition (PP [3F8210]) by Bayer CropScience, 2 T.W. Alexander Dr., Research Triangle Park, NC 27709. The petition requested that 40 CFR 180.435 be amended by establishing a tolerance for residues of the insecticide deltamethrin, (1R,3R)-R-cyano(3-phenoxyphenyl)methyl 3-(2,2-dibromoethenyl)-2,2-dimethylcyclopropanecarboxylate, in or on food and feed commodities at 0.05 parts per million (ppm) from use as a wide-area mosquito adulticide. That document referenced a summary of the petition prepared by Bayer CropScience, the registrant, which is available in the docket, *http://www.regulations.gov.* One comment was received on the notice of filing. EPA's response to the comment is discussed in Unit IV.C.

## III. Aggregate Risk Assessment and Determination of Safety

Section 408(b)(2)(A)(i) of FFDCA allows EPA to establish a tolerance (the legal limit for a pesticide chemical residue in or on a food) only if EPA determines that the tolerance is ''safe.'' Section 408(b)(2)(A)(ii) of FFDCA defines ''safe'' to mean that ''there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue, including all anticipated dietary exposures and all other exposures for which there is reliable information.'' This includes exposure through drinking water and in residential settings, but does not include occupational exposure. Section 408(b)(2)(C) of FFDCA requires EPA to give special consideration to exposure of infants and children to the pesticide chemical residue in establishing a tolerance and to ''ensure that there is a reasonable certainty that no harm will result to infants and children from

aggregate exposure to the pesticide chemical residue. . . .''

Consistent with FFDCA section 408(b)(2)(D), and the factors specified in FFDCA section 408(b)(2)(D), EPA has reviewed the available scientific data and other relevant information in support of this action. EPA has sufficient data to assess the hazards of and to make a determination on aggregate exposure for deltamethrin including exposure resulting from the tolerances established by this action. EPA's assessment of exposures and risks associated with deltamethrin follows.

*A. Toxicological Profile*

EPA has evaluated the available toxicity data and considered its validity, completeness, and reliability as well as the relationship of the results of the studies to human risk. EPA has also considered available information concerning the variability of the sensitivities of major identifiable subgroups of consumers, including infants and children. Deltamethrin, a Type II pyrethroid, targets the nervous system by disrupting the voltage-gated sodium channels, resulting in neurotoxicity. Neurotoxicity was observed throughout the toxicity database, and effects were seen across species, sexes, exposure duration, and routes of administration. Clinical signs characteristic of Type II pyrethroids, such as increased salivation, altered mobility/gait, and tremors were the most common effects observed. Increased sensitivity to external stimuli, abnormal vocalization, and decreased fore- and hind-limb grip strength were also commonly observed in the database.

Deltamethrin is rapidly absorbed following an oral dose, and effects are typically observed within two to five hours after dosing. For pyrethroids, as a class, the combination of rapid absorption, metabolism, and elimination precludes accumulation and increased potency following repeated dosing. This is also true of deltamethrin. No observed adverse effect levels (NOAELs) for the acute and chronic studies are similar, and the acute endpoint is protective of the endpoints from repeat dosing studies.

A dermal risk assessment was not conducted based on the lack of effects in a 21-day dermal study and low potential for dermal absorption for deltamethrin. These findings are consistent with the toxicology profile of many pyrethroids.

Deltamethrin did not have any adverse effects on fetuses or offspring in the prenatal developmental studies in rats and rabbits. However, potential qualitative susceptibility was observed at high doses in the developmental neurotoxicity study (DNT) and the 2-generation reproduction study. Symptoms included vocalization, decreased pre- and post-weaning body weight in pups of both sexes, decreased body weight and body weight gain in maternal animals, hyperactivity, and excessive salivation. The increased qualitative susceptibility in the DNT and 2-generation reproduction study was observed at doses 10- to 20-fold higher (near lethal doses) than the current points of departure (PODs) selected for risk assessment. At doses near the POD, no effects on parental animals or offspring were observed in either the DNT or 2-generation reproductive studies. Therefore, the current PODs are protective of the observed sensitivity.

There was no evidence of immunotoxicity after deltamethrin exposure in the toxicology database or in an immunotoxicity study in rats. Deltamethrin is classified as ''not likely to be carcinogenic to humans.'' There was no evidence of carcinogenicity in the combined chronic/carcinogenicity study in rats or the carcinogenicity study in mice. In a battery of mutagenicity studies there was no evidence of a mutagenic effect.

The database shows that deltamethrin has moderate to minimal acute toxicity via the oral route, moderate acute toxicity via the inhalation route, and minimal acute toxicity via the dermal route of exposure. Deltamethrin is minimally irritating to the eyes, non-irritating to the skin, and is not a skin sensitizer.

The Agency is making best use of the extensive scientific knowledge about the mode of action/adverse outcome pathway (MOA/AOP) on pyrethroids in the risk assessments for this class of pesticides. A significant portion of the scientific literature on pyrethroids utilizes deltamethrin as the test chemical. In the on-going work by the Council for the Advancement of Pyrethroid Human Risk Assessment (CAPHRA), deltamethrin is one of two sentinel pyrethroids being used to develop the initial, extensive database of *in vitro* and *in vivo* toxicology studies and highly refined physiologically-based pharmacokinetic (PBPK) models. Pharmacokinetics (PK) can be defined as what the body does to the chemical. The underlying PK of pyrethroids is an important determination of their toxicity because the concentration of pyrethroid at the sodium channel relates to the extent of toxicity; greater pyrethroid concentration translates as increased neurotoxicity. Age-dependent PK differences have been identified for several pyrethroids (*i.e.,* there are differences in the ability of adults and juveniles to metabolize pyrethroids). The enzymes that metabolize and detoxify pyrethroids are present in rats and humans at birth, and as a result, both juveniles and adults are able to tolerate low doses of pyrethroids when the internal dose, or the amount of pyrethroid at the sodium channel, is low. However, the activity of these enzymes increases with age, conveying in adults a greater capacity to detoxify pyrethroids compared to juveniles and the PK contribution to the FQPA Safety Factor will be 1X for adults and children >6 years old, and 3X for children <6 years old.

Pharmacodynamics (PD) can be defined as the changes that chemicals cause to the body, in this case, how pyrethroids interact with the sodium channels. In contrast to the age-related PK differences identified for pyrethroids, pharmacodynamic contributions to pyrethroid toxicity are not age-dependent. The occurrence and ontogeny of voltage-gated sodium channels in humans are not well characterized compared to those in the rat. The available data indicate that the rat is a highly-sensitive model and extrapolations from the rat would be protective of human health. Based on the comparable function and distribution of sodium channels between the species, the rat is an appropriate surrogate for the evaluation of human PD. Based on the body of data, the Agency concludes that juvenile rats are not more sensitive than adults with respect to pyrethroid PD, and the PD contribution to the FQPA SF will be 1X.

The Wolansky et al. acute oral study (2006), in which decreased motor activity was observed, provides the most robust data set for extrapolating risk from exposure to deltamethrin. The dose used for risk assessment was determined using a benchmark dose (BMD) analysis using one standard deviation from the control group as the benchmark response (BMR) as suggested for continuous endpoints in the Agency's BMD guidance (USEPA 2012). The Wolansky acute study, endpoint, and dose were used for all dietary (acute), non-occupational (incidental oral and inhalation), and occupational exposure (inhalation) scenarios because it was the most robust data set for extrapolating risk from deltamethrin, and there is a lack of increased hazard from repeated/chronic exposure to deltamethrin.

Specific information on the studies received and the nature of the adverse effects caused by deltamethrin as well

as the no-observed-adverse-effect-level (NOAEL) and the lowest-observed-adverse-effect-level (LOAEL) from the toxicity studies can be found at *http://www.regulations.gov* in document *Deltamethrin. Human Health Risk Assessment for the Proposed Use of Deltamethrin as a Mosquito Adulticide over Agricultural Crops* at [page 55] in docket ID number EPA–HQ–OPP–20[14]–[0209].

*B. Toxicological Points of Departure/Levels of Concern*

Once a pesticide's toxicological profile is determined, EPA identifies toxicological points of departure (POD) and levels of concern to use in evaluating the risk posed by human exposure to the pesticide. For hazards that have a threshold below which there is no appreciable risk, the toxicological POD is used as the basis for derivation of reference values for risk assessment. PODs are developed based on a careful analysis of the doses in each toxicological study to determine the dose at which no adverse effects are observed (the NOAEL) and the lowest dose at which adverse effects of concern are identified (the LOAEL). Uncertainty/safety factors are used in conjunction with the POD to calculate a safe exposure level—generally referred to as a population-adjusted dose (PAD) or a reference dose (RfD)—and a safe margin of exposure (MOE). For non-threshold risks, the Agency assumes that any amount of exposure will lead to some degree of risk. Thus, the Agency estimates risk in terms of the probability of an occurrence of the adverse effect expected in a lifetime. For more information on the general principles EPA uses in risk characterization and a complete description of the risk assessment process, see *http://www.epa.gov/pesticides/factsheets/riskassess.htm.*

A summary of the toxicological endpoints for deltamethrin used for human risk assessment is discussed in Unit III.B of the final rule published in the **Federal Register** of [November 7, 2014] ([79] FR [66294]) (FRL–9918–24).

*C. Exposure Assessment*

1. *Dietary exposure from food and feed uses.* In evaluating dietary exposure to deltamethrin, EPA considered exposure under the petitioned-for tolerance as well as all existing deltamethrin tolerances in 40 CFR 180.435. Acute and chronic dietary (food and drinking water) exposure assessments were conducted using the Dietary Exposure Evaluation Model software with the Food Commodity Intake Database (DEEM–FCID) Version 3.16. This software uses 2003–2008 food consumption data from the U.S. Department of Agriculture's (USDA's) National Health and Nutrition Examination Survey, What We Eat in America, (NHANES/WWEIA). Specific information on the dietary exposure assessment can be found at *http://www.regulations.gov* in document *Deltamethrin. Acute and Chronic Dietary (Food and Drinking Water) Exposure and Risk Assessment for the Proposed Use of Deltamethrin as a Wide Area Mosquito Adulticide over Agricultural Crops* in docket ID number EPA–HQ–OPP–20[14]–[0209].

i. *Acute exposure.* Quantitative acute dietary exposure and risk assessments are performed for a food-use pesticide, if a toxicological study has indicated the possibility of an effect of concern occurring as a result of a 1-day or single exposure. Such effects were identified for deltamethrin. As to residue levels in food, EPA used tolerance-level residues for most commodities and Pesticide Data Program (PDP) monitoring data for a number of commodities. Maximum percent crop treated (%CT) estimates were used for some commodities. To account for the mosquito adulticide use, the maximum residue value from the mosquito adulticide trials was multiplied by the %CT estimate for the adulticide use (1%) for those commodities that would only have a residue as a result of the mosquito adulticide use. However, if the commodity could have residues from both the agricultural and mosquitocide uses, residue values from the adulticide trials were included in a distribution considering the 1% CT estimate (depending on whether the commodities were blended, nonblended, or partially blended). Default processing factors were used for some processed commodities and empirical factors were used for others.

ii. *Chronic exposure.* As to residue levels in food, EPA [used tolerance-level residues for most commodities. The average PDP value was used for cereal grains and milk. The average mosquito adulticide residue value multiplied by the 1% CT estimate was used to account for the mosquito adulticide uses. Since deltamethrin is registered for use in food handling establishments (FHEs), one-half the FHE tolerance was used to account for the FHE uses. The FHE tolerance is based on the LOQ, and one-half the tolerance was used as a refinement in the dietary assessment. For the commodities for which one-half the FHE tolerance was used, the assumption was made that there was a 4.65% chance that a food item consumed by a person contained deltamethrin residues as a result of treatment at some point in an FHE. Default processing factors were used for some processed commodities and empirical factors were used for others.

The chronic assessment was conducted solely for the purpose of obtaining estimates of background levels of dietary exposure for estimating aggregate risk.

iii. *Cancer.* Based on the data summarized in Unit III.A., EPA has concluded that deltamethrin does not pose a cancer risk to humans. Therefore, a dietary exposure assessment for the purpose of assessing cancer risk is unnecessary.

iv. *Anticipated residue and percent crop treated (PCT) information.*

Section 408(b)(2)(E) of FFDCA authorizes EPA to use available data and information on the anticipated residue levels of pesticide residues in food and the actual levels of pesticide residues that have been measured in food. If EPA relies on such information, EPA must require pursuant to FFDCA section 408(f)(1) that data be provided 5 years after the tolerance is established, modified, or left in effect, demonstrating that the levels in food are not above the levels anticipated. For the present action, EPA will issue such data call-ins as are required by FFDCA section 408(b)(2)(E) and authorized under FFDCA section 408(f)(1). Data will be required to be submitted no later than 5 years from the date of issuance of these tolerances.

Section 408(b)(2)(F) of FFDCA states that the Agency may use data on the actual percent of food treated for assessing chronic dietary risk only if:

- Condition a: The data used are reliable and provide a valid basis to show what percentage of the food derived from such crop is likely to contain the pesticide residue.
- Condition b: The exposure estimate does not underestimate exposure for any significant subpopulation group.
- Condition c: Data are available on pesticide use and food consumption in a particular area, the exposure estimate does not understate exposure for the population in such area.

In addition, the Agency must provide for periodic evaluation of any estimates used. To provide for the periodic evaluation of the estimate of PCT as required by FFDCA section 408(b)(2)(F), EPA may require registrants to submit data on PCT.

The Agency estimated the PCT for existing uses as follows: For acute dietary: 2.5% for apples, cantaloupes, carrots, soybeans, tomatoes, and watermelons; and 5% for cucumbers and pears. For chronic dietary: 1% for

apples, cantaloupes, carrots, cotton, potatoes (some food forms), pumpkins, radishes, squash, tomatoes, turnips, and watermelon; 2.5% for cucumbers, leeks, onions, pears, and sunflowers; 4.65% (commodities with residues resulting only from the FHE use) for: Almonds, pistachios, potatoes (some food forms), soybeans, sweet corn, and walnuts; 5% for canola and peppers; and 40% for globe artichokes.

In the acute and chronic assessments, the mosquito adulticide %CT estimate of 1% was used to modify the mosquito adulticide use residue value. Residues from the mosquito adulticide use were included for all commodities with the exception of livestock commodities because the livestock commodities tolerances are very conservative, and any residues in livestock feed items resulting from the mosquito adulticide use will not increase the established tolerance levels.

In most cases, EPA uses available data from United States Department of Agriculture/National Agricultural Statistics Service (USDA/NASS), proprietary market surveys, and the National Pesticide Use Database for the chemical/crop combination for the most recent 6–7 years. EPA uses an average PCT for chronic dietary risk analysis. The average PCT figure for each existing use is derived by combining available public and private market survey data for that use, averaging across all observations, and rounding to the nearest 5%, except for those situations in which the average PCT is less than one. In those cases, 1% is used as the average PCT and 2.5% is used as the maximum PCT. EPA uses a maximum PCT for acute dietary risk analysis. The maximum PCT figure is the highest observed maximum value reported within the recent 6 years of available public and private market survey data for the existing use and rounded up to the nearest multiple of 5%.

The Agency believes that the three conditions discussed in Unit III.C.1.iv. have been met. With respect to Condition a, PCT estimates are derived from Federal and private market survey data, which are reliable and have a valid basis. The Agency is reasonably certain that the percentage of the food treated is not likely to be an underestimation. As to Conditions b and c, regional consumption information and consumption information for significant subpopulations is taken into account through EPA's computer-based model for evaluating the exposure of significant subpopulations including several regional groups. Use of this consumption information in EPA's risk assessment process ensures that EPA's exposure estimate does not understate exposure for any significant subpopulation group and allows the Agency to be reasonably certain that no regional population is exposed to residue levels higher than those estimated by the Agency. Other than the data available through national food consumption surveys, EPA does not have available reliable information on the regional consumption of food to which deltamethrin may be applied in a particular area.

2. *Dietary exposure from drinking water.* The Agency used screening level water exposure models in the dietary exposure analysis and risk assessment for deltamethrin in drinking water. These simulation models take into account data on the physical, chemical, and fate/transport characteristics of deltamethrin. Further information regarding EPA drinking water models used in pesticide exposure assessment can be found at *http://www.epa.gov/oppefed1/models/water/index.htm*.

The estimated drinking water concentration (EDWC) of deltamethrin for acute and chronic exposures is estimated to be 0.200 parts per billion (ppb) for both surface water and ground water. The FIRST Model was used to determine the surface water concentration, and the SCI–GROW Model was used to determine the groundwater concentration. The acute surface water EDWC and the groundwater EDWC were equivalent because, in both cases, the value was limited by the solubility of deltamethrin.

Modeled estimates of drinking water concentrations were directly entered into the dietary exposure model.

3. *From non-dietary exposure.* The term ''residential exposure'' is used in this document to refer to non-occupational, non-dietary exposure (*e.g.*, for lawn and garden pest control, indoor pest control, termiticides, and flea and tick control on pets).

Deltamethrin is currently registered for the following uses that could result in residential exposures: Residential outdoor and indoor sites, turf, paint additives, and pet products.

There are no residential handler exposure scenarios associated with the proposed mosquito control use as applications are to be made by Federal, State, Tribal or local Government Officials or the U.S. Military. However, there is potential for residential post-application exposure resulting from mosquito control use. Post-application inhalation exposures and incidental oral (hand-to-mouth) contact with residues deposited on lawn/turf from ULV truck fogger applications were included in the quantitative risk assessment. To calculate post-application exposure from ULV truck fogger applications, EPA used the 2012 Residential SOPs for Outdoor Fogging/Misting Systems, with minimal modification to the well-mixed box (WMB) model. The WMB model allows for the estimation of inhalation exposure in the breathing zones of adults and children residing in areas being treated by ground application of deltamethrin.

EPA also assessed handler and post-application exposures for existing residential uses of deltamethrin (*i.e.*, indoor, outdoor, pet, and paint additive). A quantitative dermal assessment for residential handlers was not conducted since no systemic toxicity associated with dermal exposure to deltamethrin was observed. MOEs were calculated for the inhalation route of exposure only. Adult post-application exposures from the existing uses were not quantitatively assessed since inhalation exposures are typically negligible in outdoor settings. Post-application inhalation exposure for adults and children is anticipated to be negligible for representative residential registered uses; therefore, a quantitative post-application inhalation exposure assessment was not performed. EPA assessed post-application incidental oral exposures to children for representative indoor/outdoor and pet incidental oral scenarios including hand-to-mouth, object-to-mouth, soil ingestion, and episodic granule ingestion scenarios.

Further information regarding EPA standard assumptions and generic inputs for residential exposures may be found at *http://www.epa.gov/pesticides/trac/science/trac6a05.pdf*.

4. *Cumulative effects from substances with a common mechanism of toxicity.* Section 408(b)(2)(D)(v) of FFDCA requires that, when considering whether to establish, modify, or revoke a tolerance, the Agency consider ''available information'' concerning the cumulative effects of a particular pesticide's residues and ''other substances that have a common mechanism of toxicity.''

The Agency has determined that the pyrethroids and pyrethrins share a common mechanism of toxicity: the ability to interact with voltage-gated sodium channels ultimately leading to neurotoxicity. The cumulative risk assessment (CRA) for the pyrethroids/pyrethrins (published on 11/9/2011 and available at *http://www.regulations.gov*; EPA–HQ–OPP–2011–0746) did not identify cumulative risks of concern, allowing the Agency to consider new uses for pyrethroids. Deltamethrin was

included in the pyrethroid/pyrethrin CRA.

Dietary exposures make a minor contribution to the total pyrethroid exposure. The dietary exposure assessment performed in support of the pyrethroid CRA was much more highly refined than that performed for deltamethrin alone. Additionally, the PODs selected for deltamethrin are specific to deltamethrin, whereas the PODs selected for the cumulative assessment were based on common mechanism of action data that are appropriate for all 20 pyrethroids included in the CRA. Dietary exposure to deltamethrin residues resulting from the proposed wide-area mosquito adulticide use will contribute very little to the dietary exposure to deltamethrin alone and will have an insignificant impact on the cumulative risk assessment. No dietary, residential, or aggregate risk estimates of concern have been identified in the single chemical assessment.

In the cumulative assessment, residential exposure was the greatest contributor to the total exposure. In order to determine if the registered deltamethrin indoor and turf uses will significantly contribute to, or change the overall findings in the pyrethroid CRA, the Agency performed a quantitative exposure and risk assessment. This assessment used the deltamethrin relative potency factor (RPF) as well as the same exposure algorithms and inputs that were used in the 2011 pyrethroid CRA. In all cases, the estimated deltamethrin MOEs using the RPF method were higher (*i.e.*, less of a risk concern) than those used in the 2011 pyrethroid CRA. Thus, the Agency continues to support the previous assessment, and concludes that the registered deltamethrin uses will not significantly contribute to the overall findings in the 2011 pyrethroid CRA, and the registered deltamethrin indoor and turf uses will have no impact on the residential component of the cumulative risk estimates.

For information regarding EPA's efforts to evaluate the risk of exposure to this class of chemicals, refer to: – *http://www.epa.gov/oppsrrd1/reevaluation/pyrethroids-pyrethrins.html.*

### *D. Safety Factor for Infants and Children*

1. *In general.* Section 408(b)(2)(C) of FFDCA provides that EPA shall apply an additional tenfold (10X) margin of safety for infants and children in the case of threshold effects to account for prenatal and postnatal toxicity and the completeness of the database on toxicity and exposure unless EPA determines based on reliable data that a different margin of safety will be safe for infants and children. This additional margin of safety is commonly referred to as the FQPA Safety Factor (SF). In applying this provision, EPA either retains the default value of 10X, or uses a different additional safety factor when reliable data available to EPA support the choice of a different factor.

2. *Prenatal and postnatal sensitivity.* There were no indications of fetal toxicity in any of the guideline studies. Evidence of increased juvenile qualitative sensitivity was observed in the DNT and 2-generation reproduction studies at doses that were considered to be relatively high (*i.e.,* near lethal doses). However, at doses near the point of departure, no effects on parental animals or offspring were observed in either the DNT or 2-generation reproduction study and, therefore, there is no susceptibility at these doses.

3. *Conclusion.* EPA has determined that reliable data show the safety of infants and children would be adequately protected if the FQPA SF were reduced to 3X for infants and children <6 years old; and to 1X for children >6 years old, women of child bearing age and all adult populations. That decision is based on the following findings:

i. The database of experimental toxicology studies available for deltamethrin is largely complete including developmental toxicity studies in rats and rabbits, a reproduction study in rats, and acute neurotoxicity (ACN), subchronic neurotoxicity (SCN), and developmental neurotoxicity (DNT) studies. The database provides a robust characterization profile for children 6 years old and older, as well as for adults. In addition to the standard guideline studies, numerous studies from the scientific literature that describe the pharmacodynamic and pharmacokinetic profile of the pyrethroids in general have been considered in this assessment. Many of these studies were conducted with deltamethrin. A 28- or 90-day inhalation study is not available, but the Agency determined the study is not required for deltamethrin.

ii. As with other pyrethroids, deltamethrin causes neurotoxicity from interaction with sodium channels leading to clinical signs of neurotoxicity. These effects are well characterized and adequately assessed by the body of data available to the Agency.

iii. There were no indications of fetal toxicity in any of the guideline studies in the database, including developmental studies in the rat and rabbit, a developmental neurotoxicity study in rats, and a 2-generation reproduction study in rats. There was evidence of increased juvenile qualitative susceptibility at high doses observed in both the DNT and 2-generation reproduction studies. These observations are consistent with the findings of juvenile sensitivity in the literature for deltamethrin. However, the observations of increased sensitivity were at doses that were considered to be relatively high (*i.e.*, near lethal doses), whereas at doses near the point of departure, no effects on parental animals or offspring were observed in either the developmental neurotoxicity (DNT) or 2-generation reproduction study and, therefore, there is no susceptibility at these doses. The Agency has retained a 3X uncertainty factor to protect for exposures of children <6 years of age based on increased quantitative susceptibility seen in studies on pyrethroid pharmacokinetics (primarily conducted with deltamethrin) and the increased quantitative juvenile susceptibility observed in high dose guideline and literature studies with deltamethrin and other pyrethroids. The Agency has no residual uncertainties regarding age-related sensitivity for women of child bearing age as well as for all adult populations and children ≥6 years of age, based on the absence of pre-natal sensitivity observed in 76 guideline studies for 24 pyrethroids and the scientific literature. Additionally, no evidence of increased quantitative or qualitative susceptibility was seen in the pyrethroid scientific literature related to pharmacodynamics.

iv. There are no residual uncertainties with regard to dietary exposure. The dietary exposure assessments are based on high-end residue levels for most commodities, and that account for parent and metabolites of concern, processing factors, and percent crop treated assumptions. Furthermore, conservative, upper-bound assumptions were used to determine exposure through drinking water and residential sources, such that these exposures have not been underestimated.

### *E. Aggregate Risks and Determination of Safety*

EPA determines whether acute and chronic dietary pesticide exposures are safe by comparing aggregate exposure estimates to the acute PAD (aPAD) and chronic PAD (cPAD). For linear cancer risks, EPA calculates the lifetime probability of acquiring cancer given the estimated aggregate exposure. Short-,

intermediate-, and chronic-term risks are evaluated by comparing the estimated aggregate food, water, and residential exposure to the appropriate PODs to ensure that an adequate MOE exists.

1. *Acute risk.* Using the exposure assumptions discussed in this unit for acute exposure, the acute dietary exposure from food and water to deltamethrin will occupy 81% of the aPAD for children 1–2 years old, the population group receiving the greatest exposure.

2. *Chronic risk.* A chronic dietary risk assessment was not conducted because there is no apparent increase in hazard from repeated/chronic exposures to deltamethrin. Therefore, the acute endpoint is protective of the endpoints from repeat dosing studies. A chronic dietary exposure assessment was performed in order to generate background exposure estimates to aggregate with residential exposure estimates for the short-term aggregate risk assessment.

3. *Short-term risk.* Short-term aggregate exposure takes into account short-term residential exposure plus chronic exposure to food and water (considered to be a background exposure level). Deltamethrin is currently registered for uses that could result in short-term residential exposure, and the Agency has determined that it is appropriate to aggregate chronic exposure through food and water with short-term residential exposures to deltamethrin.

Using the exposure assumptions described in this unit for short-term exposures, EPA has concluded the combined short-term food, water, and residential exposures result in aggregate MOEs of 2,500 for the general U.S. population and of 520 for children 1–2 years old, the population group receiving the greatest exposure. Because EPA's level of concern for deltamethrin is an MOE of 300 or below, these MOEs are not of concern.

4. *Intermediate-term risk.* Because no intermediate-term adverse effect was identified, deltamethrin is not expected to pose an intermediate-term risk.

5. *Aggregate cancer risk for U.S. population.* Based on the lack of evidence of carcinogenicity in two adequate rodent carcinogenicity studies, deltamethrin is not expected to pose a cancer risk to humans.

6. *Determination of safety.* Based on these risk assessments, EPA concludes that there is a reasonable certainty that no harm will result to the general population, or to infants and children from aggregate exposure to deltamethrin residues.

## IV. Other Considerations

### *A. Analytical Enforcement Methodology*

Adequate enforcement methodology utilizing gas chromatography with electron capture detection (GC/ECD), is available for enforcing tolerances for residues of deltamethrin in plant commodities, as described in Pesticide Analytical Manual (PAM) Volume II, Section 180.422. Another GC/ECD method (Method HRAV–22) is available for enforcing tolerances in livestock commodities. Adequate confirmatory method validation data have been submitted for these methods, along with adequate independent laboratory validation (ILV) trials.

Multiresidue methods data for *cis*-deltamethrin and *trans*-deltamethrin were previously sent to FDA. *Cis*-deltamethrin is completely recovered through Methods 302 and 303, and partially recovered through Method 304. *Trans*-Deltamethrin is partially recovered through Method 303, but not recovered through Method 304.

### *B. International Residue Limits*

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

Harmonization of MRLs is not an issue for the proposed use of deltamethrin as a wide area mosquitocide since established tolerance levels are not changing.

### *C. Response to Comments*

An anonymous citizen objected to the approval of the requested tolerance for deltamethrin. The commenter expressed concerns about the neurotoxicity of the chemical and made unsubstantiated claims that together with all other approved toxic chemicals, use of deltamethrin could lead to many deaths and injuries and that the Agency is harming the American people. Under section 408 of the Federal Food, Drug and Cosmetic Act (FFDCA) EPA is authorized to establish pesticide tolerances where the safety standard imposed by that statute is met. When new or amended tolerances for residues of a pesticide in food or feed are requested, the Agency evaluates whether there is a reasonable certainty of no harm from aggregate exposure to the pesticide chemical residue. The risk assessment conducted by the Agency considers the potential risks from dietary exposure and other non-occupational exposures. The Agency also considers the available information regarding cumulative toxicological effects of the pesticide residues and other substances that share a common mechanism of toxicity with the subject pesticide. Such an assessment has been conducted for deltamethrin. Deltamethrin is a Type II pyrethroid, and as with other pyrethroids, deltamethrin causes neurotoxicity. These effects are well characterized and adequately assessed by the body of data available to the Agency. The Agency is confident that it has chosen endpoints, points of departure, and uncertainty factors, that have a strong scientific foundation and that are protective for all human populations. As a result, EPA concludes that the tolerances for deltamethrin are safe.

## V. Conclusion

Therefore, tolerances are established for residues of deltamethrin, (1R,3R)-3-(2,2-dibromovinyl)-2,2-dimethylcyclopropanecarboxylic acid (S)-alpha-cyano-3-phenoxybenzyl ester and its major metabolites, *trans*-deltamethrin (S)-*alpha*-cyano-m-phenoxybenzyl-(1R,3R)-3-(2,2-dibromovinyl)-2,2-dimethylcyclopropanecarboxylate and *alpha*-R-deltamethrin[(R)-*alpha*-cyano-m-phenoxybenzyl-(1R,3R)-3-(2,2-dibromovinyl)-2,2-dimethylcyclopropanecarboxylate in or on all food/feed items (other than those covered by a higher tolerance as a result of use on growing crops) from use as a wide-area mosquito adulticide at 0.05 ppm.

Currently, a tolerance of 0.05 ppm is established for residues of deltamethrin in or on all food/feed items (other than those covered by a higher tolerance as a result of use on growing crops) in food/feed handling establishments. The tolerance level does not need to be increased for the proposed use as a mosquito adulticide; however, EPA is revising 40 CFR 180.435 to clarify the tolerance. In addition, EPA is removing subparagraphs (a)(2)(i), (ii), (A) and (B) as they contain language that is more

appropriately enforced under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as use directions on the label.

### VI. Statutory and Executive Order Reviews

This action establishes tolerances under FFDCA section 408(d) in response to a petition submitted to the Agency. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled ''Regulatory Planning and Review'' (58 FR 51735, October 4, 1993). Because this action has been exempted from review under Executive Order 12866, this action is not subject to Executive Order 13211, entitled ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001) or Executive Order 13045, entitled ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997). This action does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA) (44 U.S.C. 3501 *et seq.*), nor does it require any special considerations under Executive Order 12898, entitled ''Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations'' (59 FR 7629, February 16, 1994).

Since tolerances and exemptions that are established on the basis of a petition under FFDCA section 408(d), such as the tolerance in this final rule, do not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*), do not apply.

This action directly regulates growers, food processors, food handlers, and food retailers, not States or tribes, nor does this action alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of FFDCA section 408(n)(4). As such, the Agency has determined that this action will not have a substantial direct effect on States or tribal governments, on the relationship between the national government and the States or tribal governments, or on the distribution of power and responsibilities among the various levels of government or between the Federal Government and Indian tribes. Thus, the Agency has determined that Executive Order 13132, entitled ''Federalism'' (64 FR 43255, August 10, 1999) and Executive Order 13175, entitled ''Consultation and Coordination with Indian Tribal Governments'' (65 FR 67249, November 9, 2000) do not apply to this action. In addition, this action does not impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act (UMRA) (2 U.S.C. 1501 *et seq.*).

This action does not involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note).

### VII. Congressional Review Act

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

### List of Subjects in 40 CFR Part 180

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

Dated: March 18, 2015.

**Susan Lewis,**

*Director, Registration Division, Office of Pesticide Programs.*

Therefore, 40 CFR chapter I is amended as follows:

## PART 180—[AMENDED]

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

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

■ 2. In § 180.435, paragraph (a)(2) is revised to read as:

**§ 180.435 Deltamethrin; tolerances for residues.**

(a) *General.* * * *

* * * * *

(2) A tolerance of 0.05 ppm is established for residues of the insecticide deltamethrin, including its metabolites and degradates, in or on all food/feed items (other than those covered by a higher tolerance as a result of use on growing crops) when deltamethrin is used in food/feed handling establishments or as a wide-area mosquito adulticide. Compliance with the tolerance levels specified is to be determined by measuring only deltamethrin, (1*R*,3*R*)-3-(2,2-dibromovinyl)-2,2-dimethylcyclopropanecarboxylic acid (*S*)-*alpha*-cyano-3-phenoxybenzyl ester, and its major metabolites, *trans*-deltamethrin, (*S*)-*alpha*-cyano-*m*-phenoxybenzyl(1*R*,3*S*)-3-(2,2-dibromovinyl)-2,2-dimethylcyclopropanecarboxylate, and *alpha-R*-deltamethrin, (*R*)-*alpha*-cyano-*m*-phenoxybenzyl-(1*R*,3*R*)-3-(2,2-dibromovinyl)-2,2-dimethylcyclopropanecarboxylate, in or on the commodity.

* * * * *

[FR Doc. 2015–06861 Filed 3–26–15; 8:45 am]

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## ENVIRONMENTAL PROTECTION AGENCY

## 40 CFR Part 180

**[EPA–HQ–OPP–2014–0632; FRL–9924–86]**

## Thiram; Pesticide Tolerance

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule.

**SUMMARY:** This regulation establishes a tolerance for residues of thiram in or on banana. Taminco US, Inc. requested this tolerance under the Federal Food, Drug, and Cosmetic Act (FFDCA).

**DATES:** This regulation is effective March 27, 2015. Objections and requests for hearings must be received on or before May 26, 2015, and must be filed in accordance with the instructions provided in 40 CFR part 178 (see also Unit I.C. of the **SUPPLEMENTARY INFORMATION**).

**ADDRESSES:** The docket for this action, identified by docket identification (ID) number EPA–HQ–OPP–2014–0632, is available at *http://www.regulations.gov* or at the Office of Pesticide Programs Regulatory Public Docket (OPP Docket) in the Environmental Protection Agency Docket Center (EPA/DC), West William Jefferson Clinton Bldg., Rm. 3334, 1301 Constitution Ave. NW., Washington, DC 20460–0001. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the OPP Docket is (703) 305–5805. Please review the visitor instructions and additional information about the docket available at *http://www.epa.gov/dockets*.

**FOR FURTHER INFORMATION CONTACT:** Susan Lewis, Registration Division (7505P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001; main telephone number: (703) 305–7090; email address: *RDFRNotices@epa.gov*.

**SUPPLEMENTARY INFORMATION:**

## I. General Information

*A. Does this action apply to me?*

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

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

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

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

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

Under FFDCA section 408(g), 21 U.S.C. 346a, any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. You must file your objection or request a hearing on this regulation in accordance with the instructions provided in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket ID number EPA–HQ–OPP–2014–0632 in the subject line on the first page of your submission. All objections and requests for a hearing must be in writing, and must be received by the Hearing Clerk on or before May 26, 2015. Addresses for mail and hand delivery of objections and hearing requests are provided in 40 CFR 178.25(b).

In addition to filing an objection or hearing request with the Hearing Clerk as described in 40 CFR part 178, please submit a copy of the filing (excluding any Confidential Business Information (CBI)) for inclusion in the public docket. Information not marked confidential pursuant to 40 CFR part 2 may be disclosed publicly by EPA without prior notice. Submit the non-CBI copy of your objection or hearing request, identified by docket ID number EPA–HQ–OPP–2014–0632, by one of the following methods:

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

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

## II. Summary of Petitioned-for Tolerance

In the **Federal Register** of December 17, 2014 (79 FR 75107) (FRL–9918–90), EPA issued a document pursuant to FFDCA section 408(d)(3), 21 U.S.C. 346a(d)(3), announcing the filing of a pesticide petition (PP 4E8268) by Taminco US, Inc., Two Windsor Plaza, Suite 411, Allentown, PA 18195. The petition requested that 40 CFR 180.132 be amended by establishing a tolerance for residues of the fungicide thiram, in or on banana at 0.8 parts per million (ppm). That document referenced a summary of the petition prepared by Taminco US, Inc., the petitioner, which is available in the docket, *http://www.regulations.gov*. There were no comments received in response to the notice of filing.

## III. Aggregate Risk Assessment and Determination of Safety

Section 408(b)(2)(A)(i) of FFDCA allows EPA to establish a tolerance (the legal limit for a pesticide chemical residue in or on a food) only if EPA determines that the tolerance is ''safe.'' Section 408(b)(2)(A)(ii) of FFDCA defines ''safe'' to mean that ''there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue, including all anticipated dietary exposures and all other exposures for which there is reliable information.'' This includes exposure through drinking water and in residential settings, but does not include occupational exposure. Section 408(b)(2)(C) of FFDCA requires EPA to give special consideration to exposure of infants and children to the pesticide chemical residue in establishing a tolerance and to ''ensure that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to the pesticide chemical residue. . . .''

Consistent with FFDCA section 408(b)(2)(D), and the factors specified in FFDCA section 408(b)(2)(D), EPA has reviewed the available scientific data and other relevant information in support of this action. EPA has sufficient data to assess the hazards of and to make a determination on aggregate exposure for thiram including exposure resulting from the tolerances established by this action. EPA's assessment of exposures and risks associated with thiram follows.

*A. Toxicological Profile*

EPA has evaluated the available toxicity data and considered its validity, completeness, and reliability as well as the relationship of the results of the studies to human risk. EPA has also considered available information concerning the variability of the sensitivities of major identifiable subgroups of consumers, including infants and children.

Thiram is a dimethyl dithiocarbamate fungicide. Thiram has been shown to cause neurotoxicity following acute and subchronic exposures. In the acute and subchronic neurotoxicity studies submitted, neurotoxicity is characterized as lethargy, reduced and/or tail pinch response, changes in the functional-observation battery (FOB) parameters, increased hyperactivity, changes in motor activity, and increased occurrences of rearing events. No treatment-related changes were observed in brain weights or in the histopathology of the nervous system. In a non-guideline study published in the open literature, chronic feeding of thiram to rats caused neurotoxicity, with onset of ataxia in some animals 5–19 months after beginning of treatment. However, no evidence of neurotoxicity was seen following chronic exposures in mice or rats in guideline studies submitted to the Agency. The chronic toxicity profile for thiram indicates that the liver, blood, and urinary system are the target organs for this chemical in mice, rats, and dogs. There is no evidence for increased susceptibility following *in utero* exposures to rats or rabbits and following prenatal and postnatal exposures to rats for 2 generations. There is evidence of quantitative susceptibility in the developmental neurotoxicity (DNT) study. However, there is low concern for the increased susceptibility seen in the DNT study since the dose response is well defined with a clear no-observed-adverse-effect-level (NOAEL) and this endpoint is used for assessing the acute dietary risk for the most sensitive

population. Thiram is classified as ''not likely to be carcinogenic to humans'' based on lack of evidence for carcinogenicity in mice or rats. There are no mutagenic/genotoxic concerns with thiram. The available toxicological database for thiram suggests that this chemical has a low to moderate acute-toxicity profile.

Specific information on the studies received and the nature of the adverse effects caused by thiram as well as the NOAEL and the lowest-observed-adverse-effect-level (LOAEL) from the toxicity studies can be found at *http://www.regulations.gov* in document ''Thiram. Update to the Aggregate Risk Assessment to Support the Requested PHI Reduction and Increased Tolerance Request on Strawberry,'' p. 9 in docket ID number EPA–HQ–OPP–2012–0925.

*B. Toxicological Points of Departure/Levels of Concern*

Once a pesticide's toxicological profile is determined, EPA identifies toxicological points of departure (POD) and levels of concern to use in evaluating the risk posed by human exposure to the pesticide. For hazards that have a threshold below which there is no appreciable risk, the toxicological POD is used as the basis for derivation of reference values for risk assessment. PODs are developed based on a careful analysis of the doses in each toxicological study to determine the dose at which no adverse effects are observed (the NOAEL) and the lowest dose at which adverse effects of concern are identified (the LOAEL). Uncertainty/safety factors are used in conjunction with the POD to calculate a safe exposure level—generally referred to as a population-adjusted dose (PAD) or a reference dose (RfD)—and a safe margin of exposure (MOE). For non-threshold risks, the Agency assumes that any amount of exposure will lead to some degree of risk. Thus, the Agency estimates risk in terms of the probability of an occurrence of the adverse effect expected in a lifetime. For more information on the general principles EPA uses in risk characterization and a complete description of the risk assessment process, see *http://www.epa.gov/pesticides/factsheets/riskassess.htm*.

A summary of the toxicological endpoints for thiram used for human risk assessment is discussed in Unit III.B. of the final rule published in the **Federal Register** of February 12, 2014 (79 FR 8295) (FRL–9904–22).

*C. Exposure Assessment*

1. *Dietary exposure from food and feed uses.* In evaluating dietary exposure to thiram, EPA considered exposure under the petitioned-for tolerances as well as all existing thiram tolerances in 40 CFR 180.132. EPA assessed dietary exposures from thiram in food as follows:

i. *Acute exposure.* Quantitative acute dietary exposure and risk assessments are performed for a food-use pesticide, if a toxicological study has indicated the possibility of an effect of concern occurring as a result of a 1-day or single exposure.

A partially refined probabilistic acute dietary-exposure assessment was performed using 100 percent crop treated (PCT), tolerance-level residues the highest residue found during field-trials, distributions of field trial residues, and empirical processing factors.

ii. *Chronic exposure.* Tolerances-level residues for banana and average field trial residues for apples, peaches, and strawberries along with 100 PCT were used for the chronic dietary exposure analysis for all crops. Empirical processing factors were also used.

iii. *Cancer.* Based on the data summarized in Unit III.A., EPA has concluded that thiram does not pose a cancer risk to humans. Therefore, a dietary exposure assessment for the purpose of assessing cancer risk is unnecessary.

iv. *Anticipated residue and PCT information.* EPA did not use PCT information in the dietary assessment for thiram. The acute dietary assessment used 100 PCT, tolerance-level residues, the highest residue found during field-trials, distributions of field trial residues, and empirical processing factors; the chronic dietary assessment used average field trial residues along with tolerance-level residues. In addition, 100 PCT were assumed for all food commodities. Section 408(b)(2)(E) of FFDCA authorizes EPA to use available data and information on the anticipated residue levels of pesticide residues in food and the actual levels of pesticide residues that have been measured in food. If EPA relies on such information, EPA must require pursuant to FFDCA section 408(f)(1) that data be provided 5 years after the tolerance is established, modified, or left in effect, demonstrating that the levels in food are not above the levels anticipated. For the present action, EPA will issue such data call-ins as are required by FFDCA section 408(b)(2)(E) and authorized under FFDCA section 408(f)(1). Data will be required to be submitted no later than 5 years from the date of issuance of these tolerances.

2. *Dietary exposure from drinking water.* The Agency used screening-level water exposure models in the dietary exposure analysis and risk assessment for thiram in drinking water. These simulation models take into account data on the physical, chemical, and fate/transport characteristics of thiram. Further information regarding EPA drinking water models used in pesticide exposure assessment can be found at *http://www.epa.gov/oppefed1/models/water/index.htm*.

Based on the Pesticide Root Zone Model/Exposure Analysis Modeling System (PRZM/EXAMS) and Screening Concentration in Ground Water (SCI–GROW) models, the estimated drinking water concentrations (EDWCs) of thiram for acute exposures are 0.0478 parts per million (ppm) and 0.0025 ppm for chronic exposures (for non-cancer assessments) for surface water. Ground water sources were not included (for acute or chronic exposures), as the EDWCs for ground water are minimal in comparison to those for surface water. Surface water EDWCs were incorporated in DEEM–FCID into the food categories ''water, direct, all sources'' and ''water, indirect, all sources'' for the dietary assessments.

3. *From non-dietary exposure.* The term ''residential exposure'' is used in this document to refer to non-occupational, non-dietary exposure (*e.g.,* for lawn and garden pest control, indoor pest control, termiticides, and flea and tick control on pets). Thiram is not available for sale or use by homeowner applicators; therefore, there are no residential handler exposure scenarios. However, there is potential for residential post-application dermal exposure from treated golf course greens and tees. Residential exposures resulting from dermal contact with thiram-treated turf were assessed for children 6 to <11 years old, children 11 to <16 years old, and adults as described in document ''Thiram. Update to the Aggregate Risk Assessment to Support the Requested PHI Reduction and Increased Tolerance Request on Strawberry,'' p. 15 in docket ID number EPA–HQ–OPP–2012–0925.

4. *Cumulative effects from substances with a common mechanism of toxicity.* Section 408(b)(2)(D)(v) of FFDCA requires that, when considering whether to establish, modify, or revoke a tolerance, the Agency consider ''available information'' concerning the cumulative effects of a particular pesticide's residues and ''other substances that have a common mechanism of toxicity.''

Unlike the *N*-methyl carbamate pesticides, EPA has not found thiram (a dithiocarbamate) to share a common mechanism of toxicity with any other

substances, and thiram does not appear to produce a toxic metabolite produced by other substances. For the purposes of this tolerance action, therefore, EPA has assumed that thiram does not have a common mechanism of toxicity with other substances. For information regarding EPA's efforts to determine which chemicals have a common mechanism of toxicity and to evaluate the cumulative effects of such chemicals, see EPA's Web site at *http://www.epa.gov/pesticides/cumulative*.

*D. Safety Factor for Infants and Children*

1. *In general.* Section 408(b)(2)(C) of FFDCA provides that EPA shall apply an additional tenfold (10X) margin of safety for infants and children in the case of threshold effects to account for prenatal and postnatal toxicity and the completeness of the database on toxicity and exposure unless EPA determines based on reliable data that a different margin of safety will be safe for infants and children. This additional margin of safety is commonly referred to as the Food Quality Protection Act Safety Factor (FQPA SF). In applying this provision, EPA either retains the default value of 10X, or uses a different additional safety factor when reliable data available to EPA support the choice of a different factor.

2. *Prenatal and postnatal sensitivity.* There was no evidence of increased susceptibility following *in utero* exposure to rats or rabbits or following prenatal and postnatal exposures to rats. There is evidence of quantitative susceptibility in the DNT study. However, there is low concern for the enhanced susceptibility seen in the DNT study because:

i. Clear NOAELs/LOAELs were established for the offspring effects.

ii. The dose-response is well defined.

iii. The behavioral effect of concern were observed only in females on one evaluation time period.

iv. The dose/endpoint is used for acute dietary risk for the most sensitive population subgroup (females 13–49 years old). Consequently, there are no residual uncertainties for prenatal and postnatal toxicity.

Consequently, there are no residual uncertainties for prenatal and postnatal toxicity.

3. *Conclusion.* EPA has determined that reliable data show the safety of infants and children would be adequately protected if the FQPA SF were reduced to 1X. That decision is based on the following findings:

i. The toxicity database for thiram is complete with acceptable neurotoxicity, developmental, and reproductive toxicity studies.

ii. As explained in this unit, there are no residual uncertainties for prenatal and postnatal toxicity.

iii. There are no residual uncertainties identified in the exposure databases.

EPA made conservative (protective) assumptions in the ground and surface water modeling used to assess exposure to thiram in drinking water. In addition, the acute dietary exposure analysis used field trial data along with the 100 PCT. The chronic dietary exposure analysis used tolerance level residues or average field residues along with the 100 PCT. In addition, washing studies were incorporated into the dietary analyses since thiram is not a systemic pesticide and will wash off during normal washing procedures. These assessments will not underestimate the exposure and risks posed by thiram. These assessments will not underestimate the exposure and risks posed by thiram.

*E. Aggregate Risks and Determination of Safety*

EPA determines whether acute and chronic dietary pesticide exposures are safe by comparing aggregate exposure estimates to the acute PAD (aPAD) and chronic PAD (cPAD). For linear cancer risks, EPA calculates the lifetime probability of acquiring cancer given the estimated aggregate exposure. Short-, intermediate-, and chronic-term risks are evaluated by comparing the estimated aggregate food, water, and residential exposure to the appropriate PODs to ensure that an adequate MOE exists.

1. *Acute risk.* An acute aggregate risk assessment takes into account acute exposure estimates from dietary consumption of food and drinking water. The acute dietary risk estimates are not of concern to EPA (<100% aPAD) at the 95th exposure percentile for the general U.S. population and all other population subgroups. The acute dietary exposure was 62% of the aPAD for females 13–49 years old, the population subgroup with the highest percent aPAD. Therefore, the acute aggregate risk associated with the proposed uses of thiram is not of concern to EPA for the general U.S. population or any population subgroups.

2. *Chronic risk.* The chronic aggregate risk assessment takes into account exposure estimates from dietary consumption of thiram (food and drinking water). The chronic dietary risk estimates are not of concern to EPA (<100% cPAD) for the general U.S. population and all other population subgroups. The chronic dietary exposure was 70% of the cPAD for children 1–2 years old, the population subgroup with the highest estimated chronic dietary exposure. Therefore, the chronic aggregate risk associated with the proposed uses of thiram is not of concern to EPA for the general U.S. population or any population subgroups.

3. *Short-term and intermediate-term risk.* In aggregating short- and intermediate-term risk, the Agency routinely combines background chronic dietary exposure (food + water) with short/intermediate-term residential exposure (dermal only). The combined exposure may then be used to calculate an MOE for aggregate risk. Using the golfer scenario for adult males, adult females, and children >6 years old, combined with the applicable subpopulation with the greatest dietary exposure, the total short/intermediate-term food and residential aggregate MOEs are 570, 540, and 280, respectively. As these MOEs are above the target MOE of 100, the short- and intermediate-term aggregate risks are not of concern. For children <6 years old, there is no residential exposure, therefore, a short/intermediate term aggregate risk assessment is not required for this population.

4. *Aggregate cancer risk for U.S. population.* Based on the lack of evidence of carcinogenicity in two adequate rodent carcinogenicity studies, thiram is not expected to pose a cancer risk to humans.

5. *Determination of safety.* Based on these risk assessments, EPA concludes that there is a reasonable certainty that no harm will result to the general population, or to infants and children from aggregate exposure to thiram residues.

## IV. Other Considerations

*A. Analytical Enforcement Methodology*

Adequate enforcement methodology (colorimetric analytical method) is available to enforce the tolerance expression. The method may be requested from: Chief, Analytical Chemistry Branch, Environmental Science Center, 701 Mapes Rd., Ft. Meade, MD 20755–5350; telephone number: (410) 305–2905; email address: *residuemethods@epa.gov.*

*B. International Residue Limits*

In making its tolerance decisions, EPA seeks to harmonize U.S. tolerances with international standards whenever possible, consistent with U.S. food safety standards and agricultural practices. EPA considers the international maximum residue limits

(MRLs) established by the Codex Alimentarius Commission (Codex), as required by FFDCA section 408(b)(4). The Codex Alimentarius is a joint United Nations Food and Agriculture Organization/World Health Organization food standards program, and it is recognized as an international food safety standards-setting organization in trade agreements to which the United States is a party. EPA may establish a tolerance that is different from a Codex MRL; however, FFDCA section 408(b)(4) requires that EPA explain the reasons for departing from the Codex level. The Codex has not established a MRL for thiram in or on banana.

### V. Conclusion

Therefore, EPA is removing the expiration/revocation date for the current tolerance for residues of thiram, in or on banana at 0.80 ppm.

### VI. Statutory and Executive Order Reviews

This action establishes a tolerance under FFDCA section 408(d) in response to a petition submitted to the Agency. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled ''Regulatory Planning and Review'' (58 FR 51735, October 4, 1993). Because this action has been exempted from review under Executive Order 12866, this action is not subject to Executive Order 13211, entitled ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001) or Executive Order 13045, entitled ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997). This action does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA) (44 U.S.C. 3501 *et seq.*), nor does it require any special considerations under Executive Order 12898, entitled ''Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations'' (59 FR 7629, February 16, 1994).

Since tolerances and exemptions that are established on the basis of a petition under FFDCA section 408(d), such as the tolerance in this final rule, do not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*), do not apply.

This action directly regulates growers, food processors, food handlers, and food retailers, not States or tribes, nor does this action alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of FFDCA section 408(n)(4). As such, the Agency has determined that this action will not have a substantial direct effect on States or tribal governments, on the relationship between the national government and the States or tribal governments, or on the distribution of power and responsibilities among the various levels of government or between the Federal Government and Indian tribes. Thus, the Agency has determined that Executive Order 13132, entitled ''Federalism'' (64 FR 43255, August 10, 1999) and Executive Order 13175, entitled ''Consultation and Coordination with Indian Tribal Governments'' (65 FR 67249, November 9, 2000) do not apply to this action. In addition, this action does not impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act (UMRA) (2 U.S.C. 1501 *et seq.*).

This action does not involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note).

### VII. Congressional Review Act

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

### List of Subjects in 40 CFR Part 180

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

Dated: March 19, 2015.

**Susan Lewis,**

*Director, Registration Division, Office of Pesticide Programs.*

Therefore, 40 CFR chapter I is amended as follows:

## PART 180—[AMENDED]

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

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

■ 2. In § 180.132, the table in paragraph (a) is revised to read as follows:

**§ 180.132 Thiram; tolerances for residues.**

(a) * * *

| Commodity | Parts per million |
|---|---|
| Apple | 7.0 |
| Banana [1] | 0.80 |
| Peach | 7.0 |
| Strawberry | 20 |

[1] No U.S. registrations as of September 23, 2009.

* * * * *

[FR Doc. 2015–06981 Filed 3–26–15; 8:45 am]

BILLING CODE 6560–50–P

## DEPARTMENT OF COMMERCE

## National Oceanic and Atmospheric Administration

## 50 CFR Part 622

**[Docket No. 130403320–4891–02]**

**RIN 0648–XD828**

## Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Snapper-Grouper Resources of the South Atlantic; 2015–2016 Recreational Fishing Season for Black Sea Bass

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

**ACTION:** Temporary rule; recreational season length.

**SUMMARY:** NMFS announces that the length of the recreational season for black sea bass in the exclusive economic zone (EEZ) of the South Atlantic will extend throughout the fishing year. Announcing the length of recreational season for black sea bass is one of the accountability measures (AMs) for the recreational sector. This announcement allows recreational fishermen to maximize their opportunity to harvest the recreational annual catch limit (ACL) for black sea bass during the fishing season while managing harvest to protect the black sea bass resource.

**DATES:** This rule is effective from 12:01 a.m., local time, April 1, 2015, until 12:01 a.m., local time, April 1, 2016, unless changed by subsequent notification in the **Federal Register**.

**FOR FURTHER INFORMATION CONTACT:** Nikhil Mehta, NMFS Southeast Regional Office, telephone: 727–824–5305, email: *nikhil.mehta@noaa.gov.*

**SUPPLEMENTARY INFORMATION:** The snapper-grouper fishery includes black sea bass in the South Atlantic and is managed under the Fishery Management Plan for the Snapper-

Grouper Fishery of the South Atlantic Region (FMP). The South Atlantic Fishery Management Council prepared the FMP and the FMP is implemented by NMFS under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) by regulations at 50 CFR part 622.

The final rule implementing Regulatory Amendment 14 to the FMP changed the recreational fishing season for black sea bass from June 1–May 31 to April 1–March 31 (79 FR 66316, November 7, 2014). The final rule also revised the recreational AMs for black sea bass. Prior to the start of each recreational fishing year on April 1, NMFS will project the length of the recreational fishing season based on when NMFS projects the recreational ACL to be met and will announce the recreational season end date in the **Federal Register** (50 CFR 622.193(e)(2)). The purpose of this revised AM is to implement a more predictable recreational season length while still constraining harvest at or below the recreational ACL to protect the stock from experiencing adverse biological consequences.

An increased recreational ACL of 1,033,980 lb (469,005 kg), round weight, was established through the final rule for Regulatory Amendment 19 to the FMP on September 23, 2013 (78 FR 58249). Harvest levels of black sea bass were not close to reaching the recreational ACL of 1,033,980 lb (469,005 kg) round weight during the 2012/2013 through 2014/2015 fishing years, and therefore, NMFS estimates that the recreational ACL will not be met in the 2015–2016 fishing season. Accordingly, the season end date for recreational fishing for black sea bass in the South Atlantic EEZ is March 31, 2016.

## Classification

The Regional Administrator, Southeast Region, NMFS, has determined this temporary rule is necessary for the conservation and management of South Atlantic black sea bass and is consistent with the Magnuson-Stevens Act and other applicable laws.

This action is taken under 50 CFR 622.193(e)(2) and is exempt from review under Executive Order 12866.

These measures are exempt from the procedures of the Regulatory Flexibility Act because the temporary rule is issued without opportunity for prior notice and comment.

This action responds to the best scientific information available. The Assistant Administrator for Fisheries, NOAA (AA), finds that the need to immediately implement the recreational season length constitutes good cause to waive the requirements to provide prior notice and opportunity for public comment pursuant to the authority set forth in 5 U.S.C. 553(b)(B), because prior notice and opportunity for public comment on this temporary rule is unnecessary. Such procedures are unnecessary, because the rule establishing the AM has already been subject to notice and comment, and all that remains is to notify the public of the recreational season length.

For the aforementioned reasons, the AA also finds good cause to waive the 30-day delay in the effectiveness of this action under 5 U.S.C. 553(d)(3).

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

Dated: March 24, 2015.

**Emily H. Menashes,**

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

[FR Doc. 2015–07093 Filed 3–24–15; 4:15 pm]

BILLING CODE 3510–22–P

# Proposed Rules

Federal Register
Vol. 80, No. 59
Friday, March 27, 2015

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.

## NUCLEAR REGULATORY COMMISSION

### 10 CFR Part 50

**[Docket No. PRM–50–110; NRC–2015–0028]**

## Applicability of Risk-Informed Categorization Regulation to Combined Licenses

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** Petition for rulemaking; notice of docketing.

**SUMMARY:** The U.S. Nuclear Regulatory Commission (NRC) has received a petition for rulemaking from Michael D. Tschiltz, on behalf of the Nuclear Energy Institute (NEI or the petitioner), dated January 15, 2015, requesting that the NRC clarify the applicability of an NRC regulation to combined licenses (COLs). The NRC regulation allows structures, systems, and components (SSCs) of nuclear power reactors to be re-categorized based upon risk-informed considerations. Such re-categorization would result in changes in which NRC requirements would apply to those SSCs. The petition was docketed by the NRC on February 6, 2015, and has been assigned Docket No. PRM–50–110. The NRC is not requesting public comment on PRM–50–110 at this time.

**DATES:** The PRM is available on March 27, 2015.

**ADDRESSES:** Please refer to Docket ID NRC–2015–0028 when contacting the NRC about the availability of information for this petition. You may obtain publicly-available information related to this petition by any of the following methods:

- *Federal rulemaking Web site:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2015–0028. Address questions about NRC dockets to Carol Gallagher; telephone: 301–415–3463; email: *Carol.Gallagher@nrc.gov.* For technical questions, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.
- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly-available documents online in the ADAMS Public Documents collection at *http://www.nrc.gov/reading-rm/adams.html.* To begin the search, select ''*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.

**FOR FURTHER INFORMATION CONTACT:** Yanely Malave-Velez, Office of New Reactors, U.S. Nuclear Regulatory Commission, Washington DC, 20555–0001; telephone: 301–415–1519; email: *Yanely.Malave@nrc.gov.*

**SUPPLEMENTARY INFORMATION:**

### I. The Petitioner

The petition states that ''NEI is the organization responsible for establishing unified nuclear industry policy on matters affecting the nuclear energy industry, including the regulatory aspects of generic operational and technical issues'' (ADAMS Accession No. ML15037A481). The petition further states that ''NEI's members include all entities licensed to operate commercial nuclear power plants in the United States, nuclear plant designers, major architect/engineering firms, fuel fabrication facilities, nuclear material licensees, and other organizations and individuals involved in the nuclear energy industry. NEI asserts that it is responsible for coordinating the combined efforts of licensed facilities on matters involving generic NRC regulatory policy issues and generic operational and technical regulatory issues.''

### II. The Petition

Michael D. Tschiltz, Director, Risk Assessment, NEI, submitted the petition for rulemaking dated January 15, 2015, requesting that the NRC amend its regulations in § 50.69 of Title 10 of the *Code of Federal Regulations* (10 CFR), ''Risk-Informed Categorization and Treatment of Structures, Systems, and Components for Nuclear Power Reactors,'' to clarify the scope of applicability to include holders of COLs. The NRC has determined that the petition meets the threshold sufficiency requirements for a petition for rulemaking under § 2.802, ''Petition for rulemaking,'' and the petition has been docketed as PRM–50–110.

### III. Discussion of the Petition

The entities that may use § 50.69, as set forth in paragraph (b)(1), are holders of a license to operate a light-water reactor (LWR) under 10 CFR part 50; holders of a renewed LWR license under 10 CFR part 54; applicants for a construction permit or operating license under 10 CFR part 50; and applicants for a design approval, a combined license, or manufacturing license under 10 CFR part 52. The regulation does not apply to holders of COLs.

The petitioner is requesting that § 50.69 be amended to clarify the scope of its applicability to include holders of COLs.

### IV. Background Information

Section 50.69 provides an alternative set of requirements for the treatment of SSCs. Under this framework, licensees (or applicants), using a risk-informed process to categorize SSCs according to their safety significance, can remove SSCs of low safety significance from the scope of certain identified special treatment requirements. For SSCs of safety significance, existing requirements are retained, and § 50.69 would add requirements that ensure SSC performance remains consistent with that relied upon in the categorization process for beyond design basis conditions. These requirements can be voluntarily adopted by LWR licensees and applicants. Section 50.69 was most recently amended by the NRC in a rulemaking titled, ''Risk-Informed Categorization and Treatment of Structures, Systems and Components for Nuclear power Reactors,'' published in the **Federal Register** as a proposed rule on May 16, 2003 (68 FR 26511), and later as a final rule on November 22, 2004 (69 FR 68008). The final rule became effective on December 22, 2004.

The applicability and scope of the NRC's regulations in § 50.69 currently

applies to a holder of a license to operate a LWR under 10 CFR part 50; a holder of a renewed LWR license under 10 CFR part 54; an applicant for a construction permit or operating license under 10 CFR part 50; or an applicant for a design approval, a COL, or manufacturing license under 10 CFR part 52. A holder of a COL issued under 10 CFR part 52 is not included in the group of entities that may take advantage of the provisions of § 50.69.

The specific reasons for excluding COL holders from the group of entities that may take advantage of the provisions of § 50.69 were not discussed in the **Federal Register** notice for either the proposed or final ''Risk-Informed Categorization and Treatment of Structures, Systems and Components for Nuclear Power Reactors'' rule. However, as discussed at a public meeting on October 17, 2012 (ADAMS Accession No. ML12341A153), the NRC staff provided the following reasons:

1. After issuance of the COL, the staff was concerned primarily that implementation of the provisions of § 50.69 in the midst of construction and Inspections, Tests, Analysis, and Acceptance Criteria (ITAAC) closure would lead to proposed changes in the NRC's approved requirements on some SSCs prior to the Commission making a finding regarding the COL ITAAC acceptance criteria in accordance with § 52.103(g). Such a situation could create an unexpected budget shortfall related to a higher resource burden for the NRC due to an increased number of license amendments submitted for review concurrent with supporting construction and ITAAC completion and complicate the NRC's ability to reach a finding under § 52.103(g).

2. Since the proposed rule allowed for the provisions of § 50.69 to be adopted as part of the COL application, COL applicants could take advantage of these provisions as part of the COL review. This approach would be consistent with the NRC's Principles of Good Regulation regarding efficiency, since the staff believed that implementation of the provisions of § 50.69 following the Commission's making a finding per § 52.103(g) would require substantial additional resources to conduct the review of license amendments necessary to implement the provisions of § 50.69.

The NRC did not receive any comments from the nuclear industry nor the general public on the absence of COL holders from the applicability provisions of the proposed rule. The final rule, as issued, retained this feature of the proposed rule.

The NRC is examining the issues raised in PRM–50–110 to determine whether they should be considered in rulemaking. The NRC is not requesting public comment at this time.

Dated at Rockville, Maryland, this 20th day of March, 2015.

For the Nuclear Regulatory Commission.

**Kenneth R. Hart,**

*Acting, Secretary of the Commission.*

[FR Doc. 2015–07092 Filed 3–26–15; 8:45 am]

BILLING CODE 7590–01–P

## DEPARTMENT OF ENERGY

### 10 CFR Part 431

**[Docket Number EERE–2014–BT–STD–0058]**

### Energy Conservation Program: Energy Conservation Standards for Residential Clothes Dryers

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

**ACTION:** Request for information (RFI).

**SUMMARY:** The U.S. Department of Energy (DOE) is initiating an effort to determine whether to amend the current energy conservation standards for residential clothes dryers. According to the Energy Policy and Conservation Act's 6-year review requirement, DOE must publish a notice of proposed rulemaking to propose amended standards for residential clothes dryers or a notice of determination that the existing standards do not need to be amended by August 24, 2017. This notice seeks to solicit information from the public to help DOE determine whether amended standards for residential clothes dryers would result in a significant amount of additional energy savings and whether those standards would be technologically feasible and economically justified.

**DATES:** Written comments and information are requested on or before May 11, 2015.

**ADDRESSES:** Interested parties are encouraged to submit comments electronically. Comments may be submitted by any of the following methods:

- *Federal eRulemaking Portal: www.regulations.gov.* Follow the instructions for submitting comments.
- *Email: ResClothesDryers2014STD0058@ee.doe.gov.* Include docket number EERE–2014–BT–STD–0058 in the subject line of the message. All comments should clearly identify the name, address, and, if appropriate, organization of the commenter.
- *Postal Mail:* Ms. Brenda Edwards, U.S. Department of Energy, Building Technologies Office, Mailstop EE–5B, Request for Information for Energy Conservation Standards for Residential Clothes Dryers, Docket No. EERE–2014–BT–STD–0058, 1000 Independence Avenue SW., Washington, DC 20585–0121. If possible, please submit all items on a compact disc (CD), in which case it is not necessary to include printed copies.
- *Hand Delivery/Courier:* Ms. Brenda Edwards, U.S. Department of Energy, Building Technologies Office, 950 L'Enfant Plaza SW., Suite 600, Washington, DC 20024. Telephone: (202) 586–2945. If possible, please submit all items on a CD, in which case it is not necessary to include printed copies.

*Instructions:* All submissions received must include the agency name and docket number for this rulemaking. No telefacsimiles (faxes) will be accepted.

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

A link to the docket Web page can be found at: *http://www.regulations.gov/#!docketDetail;D=EERE-2014-BT-STD-0058.* This Web page contains a link to the docket for this notice on the *www.regulations.gov* Web site. The *www.regulations.gov* Web page contains simple instructions on how to access all documents, including public comments, in the docket.

**FOR FURTHER INFORMATION CONTACT:**

Mr. Bryan Berringer, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Building Technologies Office, EE–5B, 1000 Independence Avenue SW., Washington, DC 20585–0121. Telephone: (202) 586–0371. Email: *ResClothesDryers2014STD0058@ee.doe.gov.*

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For information on how to submit or review public comments, contact Ms. Brenda Edwards at (202) 586–2945 or by email: *Brenda.Edwards@ee.doe.gov.*

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## I. Introduction

### *A. Authority and Background*

Title III, Part B [1] of the Energy Policy and Conservation Act of 1975 (EPCA or the Act), Public Law 94–163 (42 U.S.C. 6291–6309, as codified), established the Energy Conservation Program for Consumer Products Other Than Automobiles.[2] These products include residential clothes dryers, the subject of this Request for Information (RFI).

Pursuant to EPCA, any new or amended energy conservation standard must be designed to achieve the maximum improvement in energy efficiency that is technologically feasible and economically justified. (42 U.S.C. 6295(o)(2)(A)) Furthermore, the new or amended standard must result in a significant conservation of energy. (42 U.S.C. 6295(o)(3)(B)) EPCA also provides that not later than 6 years after issuance of any final rule establishing or amending a standard, DOE must publish either a notice of determination that standards for the product do not need to be amended, or a notice of proposed rulemaking (NOPR) including new proposed energy conservation standards. (42 U.S.C. 6295(m)(1))

On April 21, 2011, DOE published a direct final rule (2011 Direct Final Rule) amending the energy conservation standards for residential clothes dryers. 76 FR 22454. The amended energy conservation standards were based on a new metric, the combined energy factor (CEF), that incorporates energy use in active mode, standby mode, and off mode. DOE established an initial compliance date of April 24, 2014 for the amended standards. Subsequently, DOE amended the compliance date for the new standards to January 1, 2015. 76 FR 52852 (Aug. 24, 2011).

Thus, DOE must publish either a NOPR proposing amended standards for residential clothes dryers or a notice of determination that the existing standards do not need to be amended by August 24, 2017. This RFI seeks input from the public to assist DOE with its determination on whether new or amended standards pertaining to residential clothes dryers are warranted. In making this determination, DOE must evaluate whether amended standards would: (1) Yield a significant savings in energy use; and (2) be both technologically feasible and economically justified. (42 U.S.C. 6295(o)(3)(B))

### *B. Rulemaking Process*

DOE must follow specific statutory criteria for prescribing new or amended standards for covered products, including residential clothes dryers. Any new or amended standard for a covered product must be designed to achieve the maximum improvement in energy efficiency that is technologically feasible and economically justified. (42 U.S.C. 6295(o)(2)(A)) Furthermore, DOE may not adopt any standard that would not result in the significant conservation of energy. (42 U.S.C. 6295(o)(3)(B)) In deciding whether a proposed standard is economically justified, DOE must determine whether the benefits of the standard exceed its burdens. (42 U.S.C. 6295(o)(2)(B)(i)) DOE must make this determination after receiving comments on the proposed standard, and by considering, to the greatest extent practicable, the following seven statutory factors:

1. The economic impact of the standard on the manufacturers and consumers of the affected products;
2. The savings in operating costs throughout the estimated average life of the affected products compared to any increases in the initial cost, or maintenance expenses;
3. The total projected amount of energy and water (if applicable) savings likely to result directly from the imposition of the standard;
4. Any lessening of the utility or the performance of the affected products likely to result from the imposition of the standard;
5. The impact of any lessening of competition, as determined in writing by the Attorney General, that is likely to result from the imposition of the standard;
6. The need for national energy and water conservation; and
7. Other factors the Secretary of Energy (Secretary) considers relevant. (42 U.S.C. 6295 (o)(2)(B)(i))

DOE fulfills these and other applicable requirements by conducting a series of analyses throughout the rulemaking process. Table I.1 shows the individual analyses that are performed to satisfy each of the requirements within EPCA.

TABLE I.1—EPCA REQUIREMENTS AND CORRESPONDING DOE ANALYSIS

| EPCA requirement | Corresponding DOE analysis |
|---|---|
| Technological Feasibility | • Market and Technology Assessment.<br>• Screening Analysis.<br>• Engineering Analysis. |
| Economic Justification: | |
| 1. Economic impact on manufacturers and consumers | • Manufacturer Impact Analysis.<br>• Life-Cycle Cost and Payback Period Analysis.<br>• Life-Cycle Cost Subgroup Analysis.<br>• Shipments Analysis. |
| 2. Lifetime operating cost savings compared to increased cost for the product. | • Markups for Product Price Determination.<br>• Energy and Water Use Determination.<br>• Life-Cycle Cost and Payback Period Analysis. |
| 3. Total projected energy savings | • Shipments Analysis.<br>• National Impact Analysis. |
| 4. Impact on utility or performance | • Screening Analysis.<br>• Engineering Analysis. |
| 5. Impact of any lessening of competition | • Manufacturer Impact Analysis. |

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

[2] All references to EPCA in this document refer to the statute as amended through the American Energy Manufacturing Technical Corrections Act (AEMTCA), Public Law 112–210 (Dec. 18, 2012).

TABLE I.1—EPCA REQUIREMENTS AND CORRESPONDING DOE ANALYSIS—Continued

| EPCA requirement | Corresponding DOE analysis |
|---|---|
| 6. Need for national energy and water conservation | • Shipments Analysis.<br>• National Impact Analysis.<br>• Emissions Analysis.<br>• Utility Impact Analysis.<br>• Employment Impact Analysis.<br>• Monetization of Emission Reductions Benefits.<br>• Regulatory Impact Analysis. |
| 7. Other factors the Secretary considers relevant | |

As detailed throughout this RFI, DOE is publishing this notice as the first step in the analysis process and is requesting input and data from interested parties to aid in the development of the technical analyses.

## II. Request for Information and Comments

In the next section, DOE has identified a variety of questions that DOE would like to receive input on to aid in the development of the technical and economic analyses regarding whether amended standards for residential clothes dryers may be warranted. In addition, DOE welcomes comments on other issues relevant to the conduct of this rulemaking that may not be identified specifically in this notice. As part of the process for soliciting information, DOE is providing a document titled ''APPENDIX—EXAMPLES OF RESIDENTIAL CLOTHES DRYER DATA'' (available at *http://www.regulations.gov/#!docketDetail;D=EERE-2014-BT-STD-0058*) to provide examples of the type of data needed for the rulemaking analyses.

### *A. Products Covered by This Rulemaking*

DOE defines an electric clothes dryer to mean ''a cabinet-like appliance designed to dry fabrics in a tumble-type drum with forced air circulation. The heat source is electricity and the drum and blower(s) are driven by an electric motor(s).'' (10 CFR 430.2) Similarly, DOE defines a gas clothes dryer to mean ''a cabinet-like appliance designed to dry fabrics in a tumble-type drum with forced air circulation. The heat source is gas and the drum and blower(s) are driven by an electric motor(s).'' (10 CFR 430.2) As part of this rulemaking, DOE intends to address energy conservation standards for both electric and gas clothes dryers.

### *B. Test Procedure*

DOE's test procedures for clothes dryers are codified in appendix D1 and appendix D2 to subpart B of Title 10 of the Code of Federal Regulations (CFR). On January 6, 2011, DOE issued an amended test procedure for residential clothes dryers, in which it (1) adopted the provisions for the measurement of standby mode and off mode energy use along with a new energy efficiency metric, Combined Energy Factor (CEF), that incorporates energy use in active mode, standby mode, and off mode; and (2) adopted several amendments to the clothes dryer test procedure concerning active mode. 76 FR 972. DOE created a new appendix D1 in 10 CFR part 430 subpart B that contained the amended test procedure for clothes dryers.

DOE issued a final rule on August 14, 2013 (August 2013 TP Final Rule), to amend the clothes dryer test procedure, in which it: (1) Updated appendix D1 to reference the latest edition of the International Electrotechnical Commission (IEC) Standard 62301, ''Household electrical appliances—Measurement of standby power,'' Edition 2.0 2011–01; (2) amended appendix D1 to clarify the cycle settings used for the test cycle, the requirements for the gas supply for gas clothes dryers, the installation conditions for console lights, the method for measuring the drum capacity, the maximum allowable weighing scale range, and the allowable use of a relative humidity meter; and (3) created a new appendix D2 that includes, in addition to the amendments discussed above, testing methods for measuring the effects of automatic cycle termination. 78 FR 49608. Manufacturers must use either the test procedures in appendix D1 or D2 to demonstrate compliance with energy conservation standards for clothes dryers as of January 1, 2015. Manufacturers must use a single appendix for all representations, including certifications of compliance, and may not use appendix D1 for certain representations and appendix D2 for other representations.

DOE may consider energy conservation standards using the new appendix D2 test method to more accurately account for the effects of automatic cycle termination.

Interested parties have commented publicly, as part of the previous test procedure rulemaking process and more recently through other public channels, that the DOE clothes dryer test procedures may not produce results that are representative of consumer use with regards to test load size and composition, cycle settings for the test cycle, and other provisions in the test procedure. DOE also notes that Oak Ridge National Laboratory (ORNL) and Pacific Northwest National Laboratory (PNNL) recently published reports evaluating clothes dryer performance using the new appendix D2 test method and investigating new automatic cycle termination concepts for improving clothes dryer efficiency.[3] In consideration of these concerns regarding the test procedure and the recent clothes dryer automatic cycle termination research, DOE initiated an effort to determine whether amendments to the test procedure are warranted. DOE held a public meeting on November 13, 2014, to solicit comments from interested parties on potential changes to the clothes dryer test procedure.[4]

### *C. Market Assessment*

The market and technology assessment provides information about the residential clothes dryer industry that will be used throughout the rulemaking process. For example, this

[3] K. Gluesenkamp, *Residential Clothes Dryer Performance Under Timed and Automatic Cycle Termination Test Procedures,* Oak Ridge National Laboratory Report No. ORNL/TM–2014/431 (2014) (''ORNL/TM–2014/431 Report'') (Available at: *http://web.ornl.gov/sci/buildings/docs/2014-10-09-ORNL-DryerFinalReport-TM-2014-431.pdf);* W. TeGrotenhuis, *Clothes Dryer Automatic Termination Sensor Evaluation. Volume 1: Characterization of Energy Use in Residential Clothes Dryers,* Pacific Northwest National Laboratory Report No. PNNL–23621 (2014) (''PNNL–23621 Report'') (Available at: *http://www.pnnl.gov/main/publications/external/technical_reports/PNNL-23621.pdf*); W. TeGrotenhuis, *Clothes Dryer Automatic Termination Sensor Evaluation. Volume 2: Improved Sensor and Control Designs,* Pacific Northwest National Laboratory Report No. PNNL–23616 (2014) (Available at: *http://www.pnnl.gov/main/publications/external/technical_reports/PNNL-23616.pdf*).

[4] The docket for this test procedure rulemaking is available at: *http://www.regulations.gov/#!docketDetail;D=EERE-2014-BT-TP-0034.*

information will be used to determine whether the existing product class structure requires modification based on technological improvements in the design and manufacturing of such products. DOE uses qualitative and quantitative information to analyze the residential clothes dryer industry and market. DOE will identify and characterize the manufacturers of clothes dryers, estimate market shares and trends, address regulatory and non-regulatory initiatives intended to improve energy efficiency or reduce energy consumption, and explore the potential for technological improvements in the design and manufacturing of clothes dryers. DOE will also review product literature, industry publications, and company Web sites. Additionally, DOE will consider conducting interviews with manufacturers to assess the overall market for residential clothes dryers.

Product Classes

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

During the previous energy conservation standards rulemaking for residential clothes dryers, DOE established four product classes for vented clothes dryers and two product classes for ventless clothes dryers. DOE established separate product classes for ventless clothes dryers because of the unique utility they offer consumers, *i.e.,* the ability to have a clothes dryer in a living area where vents are impossible to install, such as an apartment in a high-rise building, where venting dryers would be precluded due to venting restrictions. As part of the previous rulemaking, DOE established product classes for ventless electric compact (240V) clothes dryers and ventless electric combination washer/dryers.[5] The product classes established in the previous energy conservation standards rulemaking are presented in Table II.1.

[5] A ventless combination washer/dryer is a device that washes and then dries clothes in the same basket/cavity in a combined cycle.

TABLE II.1—EXISTING CLOTHES DRYER PRODUCT CLASSES

| |
|---|
| **Vented dryers** |
| 1. Electric, Standard (4.4 cubic feet ($ft^3$) or greater capacity). |
| 2. Electric, Compact (120 volts (V)) (less than 4.4 $ft^3$ capacity). |
| 3. Electric, Compact (240 V) (less than 4.4 $ft^3$ capacity). |
| 4. Gas. |
| **Ventless dryers** |
| 5. Electric, Compact (240 V) (less than 4.4 $ft^3$ capacity). |
| 6. Electric, Combination Washer/Dryer. |

Based on DOE's review of products available on market, DOE notes that at least one manufacturer offers a ventless clothes dryers with a drum capacity greater than 4.4 cubic feet. As a result, DOE tentatively proposes to establish an additional product class for ventless electric standard clothes dryers listed in Table II.2.

TABLE II.2—PROPOSED CLOTHES DRYER PRODUCT CLASSES

| |
|---|
| **Vented dryers** |
| 7. Electric, Standard (4.4 cubic feet ($ft^3$) or greater capacity). |
| 8. Electric, Compact (120 volts (V)) (less than 4.4 $ft^3$ capacity). |
| 9. Electric, Compact (240 V) (less than 4.4 $ft^3$ capacity). |
| 10. Gas. |
| **Ventless dryers** |
| 11. Electric, Standard (4.4 $ft^3$ or greater capacity). |
| 12. Electric, Compact (240 V) (less than 4.4 $ft^3$ capacity). |
| 13. Electric, Combination Washer/Dryer. |

*Issue C.1* DOE requests feedback on the proposed product classes and seeks information regarding other product classes it should consider for inclusion in its analysis. In particular, DOE requests comment on the determination to consider a separate product class for ventless electric clothes dryers with drum capacities of 4.4 cubic feet or greater. If commenters believe that additional product classes are warranted, DOE requests comment as to how those classes should be configured, as well as energy use data and utility or performance-related information justifying the need for a separate class.

Technology Assessment and Screening Analysis

The purpose of the technology assessment is to develop a preliminary list of technologies that could potentially be used to improve the efficiency of residential clothes dryers. The purpose of the screening analysis is to screen out technologies that are not appropriate for consideration in the engineering analysis due to the following four factors: (1) Technological feasibility, (2) practicability to manufacture, install, and service, (3) impacts on product utility to consumers, and (4) health and safety. (10 CFR part 430, subpart C, appendix A, section (4)(a)(4)) The technologies that pass the screening are considered in the engineering analysis.

DOE uses information about existing and past technology options and prototype designs to help identify technologies that manufacturers could use to meet and/or exceed energy conservation standards. In consultation with interested parties, DOE intends to develop a list of technologies to consider in its analysis. Initially, this list will include the technology options considered during the most recent residential clothes dryer standards rulemaking, including those that were screened out in the previous rulemaking.

DOE plans to initially consider all of the technologies for residential clothes dryers identified in the previous standards rulemaking. These technology options are listed in Table II.3.

TABLE II.3—TECHNOLOGY OPTIONS FOR RESIDENTIAL CLOTHES DRYERS

| |
|---|
| **Dryer Control or Drum Upgrades** |
| 1. Improved termination. |
| 2. Increased insulation. |
| 3. Modified operating conditions. |
| 4. Improved air circulation. |
| 5. Improved drum design. |
| **Methods of Exhaust Heat Recovery (Vented Models Only)** |
| 6. Recycle exhaust heat. |
| 7. Inlet air preheat. |
| 8. Inlet air preheat, condensing mode. |
| **Heat Generation Options** |
| 9. Heat pump, electric only. |
| 10. Microwave, electric only. |
| 11. Modulating heat. |
| 12. Indirect heating. |
| **Component Improvements** |
| 13. Improved motor efficiency. |
| 14. Improved fan efficiency. |
| **Standby Power Improvements** |
| 15. Switching Power Supply. |
| 16. Transformerless Power Supply with Auto-Powerdown. |

Based on a preliminary review of the clothes dryer market and information published in recent trade publications, technical reports, and manufacturer literature, DOE has observed that the results of the technology screening analysis performed during the previous

rulemaking remain largely relevant for this rulemaking.

*Issue C.2* DOE seeks information on how the above technologies, and any other technologies that may improve clothes dryer efficiency: (1) Apply to the current market; and (2) improve efficiency of clothes dryers as measured according to the DOE test procedure under appendix D2.

*D. Engineering Analysis*

The engineering analysis estimates the cost-efficiency relationship of products at different levels of increased energy efficiency. This relationship serves as the basis for the cost-benefit calculations for consumers, manufacturers, and the nation. In determining the cost-efficiency relationship, DOE estimates the increase in manufacturer cost associated with increasing the efficiency of products above the baseline to the maximum technologically feasible (''max-tech'') efficiency level for each product class. The baseline model is used as a reference point for each product class in the engineering analysis and the life-cycle cost and payback-period analyses.

Baseline Models

For each established product class, DOE selects a baseline model as a reference point against which any changes resulting from energy conservation standards can be measured. The baseline model in each product class represents the characteristics of common or typical products in that class. Typically, a baseline model is one that just meets the current minimum energy conservation standards by a small margin.

In developing the baseline efficiency levels, DOE initially considered the current standards for residential clothes dryers manufactured on or after January 1, 2015 presented in Table II.4.

TABLE II.4—JANUARY 1, 2015 CLOTHES DRYER ENERGY CONSERVATION STANDARD LEVELS

| Product class | CEF (lb/kWh) |
|---|---|
| **Vented dryers** | |
| 1. Electric, Standard (4.4 ft³ or greater capacity) | 3.73 |
| 2. Electric, Compact (120 v) (less than 4.4 ft³ capacity) | 3.61 |
| 3. Electric, Compact (240 v) (less than 4.4 ft³ capacity) | 3.27 |
| 4. Gas | 3.30 |
| **Ventless dryers** | |
| 5. Electric, Compact (240 v) (less than 4.4 ft³ capacity) | 2.55 |
| 6. Electric, Combination Washer/Dryer | 2.08 |

Since the last standards rulemaking, DOE amended the clothes dryer test procedures as part of the August 2013 TP Final Rule to create a new appendix D2 that includes testing methods for more accurately measuring the effects of automatic cycle termination. Because DOE is proposing to consider energy conservation standards based on the appendix D2 test method, DOE would have to establish baseline efficiency levels considering this new test procedure.

As part of the August 2013 TP Final Rule, DOE presented test data for each product class comparing the efficiencies measured under the appendix D1 and D2 test procedures. 78 FR 49614–15. In addition, ORNL and PNNL conducted testing on separate models according to the appendix D1 and the new appendix D2 test procedures.[6] Table II.5 presents the average measured CEF values using appendix D1 and D2 for each product class using the test data from DOE, ORNL, and PNNL.

TABLE II.5—CLOTHES DRYER TEST DATA USING APPENDIX D1 AND D2

| Product class | Number of test units | Appendix D1 | Appendix D2 | |
|---|---|---|---|---|
| | | Average CEF (lb/kWh) | Average CEF (lb/kWh) | % Change |
| Vented Electric Standard | 12 | 3.83 | 3.19 | −16.7 |
| Vented Electric Compact (240V) | 4 | 3.65 | 3.06 | −16.2 |
| Vented Electric Compact (120V) | 1 | 3.75 | 2.18 | −41.9 |
| Vented Gas | 8 | 3.43 | 2.87 | −16.2 |
| Ventless Electric Compact (240V) | 1 | 2.98 | 2.73 | −8.4 |
| Ventless Electric Combination Washer/Dryer | 2 | 2.55 | 2.45 | −3.9 |

Using these data, DOE developed tentative baseline efficiency levels by applying the percentage difference in efficiency between appendix D1 and D2, as presented in Table II.5, to the energy conservation standards for clothes dryers required on January 1, 2015, presented in Table II.4. The proposed baseline efficiency levels are presented in Table II.6. DOE did not have sufficient data to characterize the baseline efficiency level for the newly proposed product class, ventless electric standard clothes dryers.

TABLE II.6—PROPOSED BASELINE EFFICIENCY LEVELS

| Product class | Current Standard CEF (Appendix D1) (lb/kWh) | Proposed Baseline CEF (Appendix D2) (lb/kWh) |
|---|---|---|
| Vented dryers: | | |
| 1. Electric, Standard (4.4 ft³ or greater capacity) | 3.73 | 3.11. |
| 2. Electric, Compact (120 v) (less than 4.4 ft³ capacity) | 3.61 | 3.03. |
| 3. Electric, Compact (240 v) (less than 4.4 ft³ capacity) | 3.27 | 1.90. |

[6] ORNL/TM–2014/431 Report at 12; PNNL–23621 Report at 2.1–2.3.

TABLE II.6—PROPOSED BASELINE EFFICIENCY LEVELS—Continued

| Product class | Current Standard CEF (Appendix D1) (lb/kWh) | Proposed Baseline CEF (Appendix D2) (lb/kWh) |
|---|---|---|
| 4. Gas | 3.30 | 2.77. |
| Ventless dryers: | | |
| 5. Electric, Standard (4.4 ft³ or greater capacity) | Not Applicable | Not Available. |
| 6. Electric, Compact (240 V) (less than 4.4 ft³ capacity) | 2.55 | 2.33. |
| 7. Electric, Combination Washer/Dryer | 2.08 | 2.00. |

*Issue D.1* DOE requests comment on approaches that it should consider when determining the baseline efficiency levels for each product class, including information regarding the merits and/or limitations of such approaches. DOE also requests additional test data to characterize the baseline efficiency levels for each product class. In particular, DOE requests appendix D2 test data broken down by standby/off mode and active mode energy use for each product class, including the newly proposed product class for ventless electric standard dryers. DOE requests additional test data for residential clothes dryers showing the difference in measured efficiency using the appendix D1 test procedure and the appendix D2 test procedure.

Higher Efficiency Levels

DOE will analyze each product class to determine the relevant trial standard levels (TSLs) and to develop incremental manufacturing cost data at each higher efficiency level. DOE generally selects incremental efficiency levels based on a review of industry standards and the efficiency of products available on the market.

For the vented clothes dryer product classes, DOE tentatively plans to consider an efficiency level associated with the current standard level nominal values without the adjustment used to develop the baseline efficiency levels discussed above. Because there is a large gap between these two efficiency levels, DOE is tentatively planning to consider evenly spaced gap fill efficiency levels. DOE also plans to consider efficiency levels corresponding to the Environmental Protection Agency's (EPA) Version 1.0 ENERGY STAR performance specification requirements [7] and the ENERGY STAR 2014 Emerging Technology Award criteria for advanced clothes dryers.[8] Table II.7 shows the proposed efficiency levels for the vented clothes dryer product classes.

TABLE II.7—EFFICIENCY LEVELS UNDER CONSIDERATION FOR VENTED CLOTHES DRYERS

| Level | Efficiency level description | Integrated efficiency level (CEF) (lb/kWh) | | | |
|---|---|---|---|---|---|
| | | Electric standard | Electric compact (120V) | Electric compact (240V) | Gas |
| Baseline | DOE Standard w/Adjusted Appendix D2 Energy Use. | 3.11 | 2.10 | 2.74 | 2.77 |
| 1 | Gap Fill | 3.31 | 2.60 | 2.92 | 2.94 |
| 2 | Gap Fill | 3.52 | 3.11 | 3.09 | 3.12 |
| 3 | DOE Standard | 3.73 | 3.61 | 3.27 | 3.30 |
| 4 | ENERGY STAR Performance Specification. | 3.93 | 3.80 | 3.45 | 3.48 |
| 5 | ENERGY STAR 2014 Emerging Technology Award. | 4.3 | 4.3 | 4.3 | 4.0 |

For the ventless electric compact (240V) clothes dryer and ventless electric combination washer/dryer product classes, DOE is again proposing an incremental efficiency level associated with the current standard level nominal values. For ventless electric compact (240V) clothes dryers, DOE is proposing an additional gap fill level between the baseline and the current standard level nominal value. DOE also plans to consider efficiency levels corresponding to the Version 1.0 ENERGY STAR performance specification requirements and the ENERGY STAR 2014 Emerging Technology Award criteria. For ventless electric combination washer/dryers, because limited data are available regarding the efficiency of products measured according to the new appendix D2 test procedure, DOE is tentatively proposing to consider efficiency levels corresponding to the relative increase in efficiency levels considered for the 2011 Direct Final Rule analysis. For ventless electric standard clothes dryers, DOE notes that one recently introduced ventless electric standard clothes dryer qualifies for the ENERGY STAR 2014 Emerging Technology Award. DOE plans to consider an efficiency level associated with this unit. However, DOE is unaware of any data to determine other incremental efficiency levels for ventless electric standard clothes dryers. The proposed efficiency levels for the ventless clothes dryer product classes are presented in Table II.8 and Table II.9.

[7] *ENERGY STAR Program Requirements Product Specification for Clothes Dryers: Eligibility Criteria Version 1.0,* (May 19, 2014) (Available at: *http://www.energystar.gov//products/certified-products/detail/17517/partners).*

[8] *ENERGY STAR 2014 Emerging Technology Award Criteria for Advanced Clothes Dryers,* (May 13, 2014) (Available at: *http://www.energystar.gov/about/awards/energy-star-emerging-technology-award/2014-emerging-technology-award-advanced-clothes-dryers).*

TABLE II.8—EFFICIENCY LEVELS UNDER CONSIDERATION FOR VENTLESS ELECTRIC STANDARD AND COMPACT (240V) CLOTHES DRYERS

| Level | Efficiency level description | Integrated efficiency level (CEF) (lb/kWh) | |
|---|---|---|---|
| | | Electric standard | Electric compact (240V) |
| Baseline | DOE Standard w/Adjusted Appendix D2 Energy Use | N/A | 2.33 |
| 1 | Gap Fill | N/A | 2.44 |
| 2 | DOE Standard | N/A | 2.55 |
| 3 | ENERGY STAR Performance Specification | N/A | 2.68 |
| 4 | ENERGY STAR 2014 Emerging Technology Award | 4.5 | 4.3 |

TABLE II.9—EFFICIENCY LEVELS UNDER CONSIDERATION FOR VENTLESS ELECTRIC COMBINATION WASHER/DRYERS

| Level | Efficiency level description | Integrated efficiency level (CEF) (lb/kWh) |
|---|---|---|
| | | Electric combination washer/dryer |
| Baseline | DOE Standard w/Adjusted Appendix D2 Energy Use | 2.00 |
| 1 | DOE Standard | 2.08 |
| 2 | 2011 Direct Final Rule Analysis Gap Fill | 2.26 |
| 3 | EL 2 + 1.5 Watt Standby | 2.29 |
| 4 | EL 3 + 0.08 Watt Standby | 2.36 |
| 5 | Gap Fill | 2.46 |
| 6 | Max-Tech (Heat Pump) | 3.55 |

*Issue D.3* DOE seeks input concerning the efficiency levels it tentatively plans to use for each product class for collecting incremental cost data from manufacturers of residential clothes dryers. In particular, DOE seeks additional data on the efficiency of products measured according to the new appendix D2 test procedure to characterize the range of efficiencies available on the market for each product class. DOE also seeks input on appropriate maximum technologically feasible efficiency levels whether any additional intermediate efficiency levels should be considered and the basis for why those levels should be selected.

Approach for Determining the Cost-Efficiency Relationship

In order to create the cost-efficiency relationship, DOE intends to use an efficiency-level approach, supplemented with reverse engineering (physical teardowns and testing of existing products in the market), to identify the incremental cost and efficiency improvement associated with each efficiency level.

DOE will analyze technologies and associated costs representative of baseline units as part of the reverse-engineering process. DOE intends to perform reverse engineering for each product class being analyzed. Whenever possible, DOE will attempt to reverse engineer test units that share similar platforms to better identify the efficiency benefits and costs of design options. As units are torn down, all design options used in them are noted and reviewed. Prior to tear down, DOE also plans to conduct limited testing to establish what control strategies are being used by manufacturers in conjunction with design options and platform design. Unit testing may include the measurement of disaggregated energy consumption to identify the relationship between particular components and control strategies taken by manufacturers to achieve higher efficiency levels. As part of the reverse-engineering process, DOE will attempt to generate a cost-efficiency relationship for each efficiency level identified. DOE also requests incremental cost data for each efficiency level. DOE intends the data to represent the average industry-wide incremental production cost for each technology.

To be useful in the manufacturer impact analysis, manufacturer cost information should reflect the variability in baseline models, design strategies, and cost structures that can exist among manufacturers. This information allows DOE to better understand the industry and its associated cost structure, and helps DOE predict the most likely impact of new energy efficiency regulations. For example, the reverse-engineering methodology allows DOE to estimate the ''green-field'' costs of building new facilities, yet the majority of plants in any given industry are comprised of a mix of assets in different stages of depreciation. Interviews with manufacturers not only help DOE refine its capital expenditure estimates, but they also allow DOE to refine its estimates regarding depreciation and other financial parameters.

DOE will refine the cost-efficiency data it generates through the reverse-engineering activities with information obtained through follow-up manufacturer interviews and, as necessary, information contained in the market and technology assessment and further review of publicly available cost and performance information.

*Issue D.5* DOE requests feedback on using an efficiency-level approach supplemented with reverse engineering to determine the relationship between manufacturer cost and energy efficiency for residential clothes dryers.

*Issue D.6* DOE also requests incremental cost data for each clothes dryer efficiency level as well as information about the design options associated with each efficiency level. DOE intends the data to represent the

average industry-wide incremental production cost for each technology.

EPCA also requires DOE to consider any lessening of the utility or the performance of a covered product likely to result from the imposition of a new standard. (42 U.S.C. 6295(o)(2)(B)(i)(IV)) As part of its analysis of higher efficiency levels, DOE will consider whether new standards may impact the utility of residential clothes dryers.

*Issue D.7* DOE seeks comment on whether any new standards may impact the utility of clothes dryers. If such impacts exist, can the effects be quantified? If so, how?

*E. Markups Analysis*

To carry out the life-cycle cost (LCC) and payback period (PBP) calculations, DOE needs to determine the cost to the residential consumer of baseline products that satisfies the currently applicable standards, and the cost of the more-efficient unit the consumer would purchase under potential amended standards. By applying a multiplier called a ''markup'' to the manufacturer's selling price, DOE is able to estimate the residential consumer's price.

For the 2011 Direct Final Rule, DOE used distribution channels, based on data from the Association of Home Appliance Manufacturers (AHAM), to characterize how products pass to the consumer. For clothes dryers, the main actors are manufacturers and retailers. Thus, DOE analyzed a manufacturer-to-consumer distribution channel consisting of three parties: (1) The manufacturers producing the products; (2) the retailers purchasing the products from manufacturers and selling them to consumers; and (3) the consumers who purchase the products. DOE plans to use the same approach in the current rulemaking.

As was done in the last rulemaking and consistent with the approach followed for other energy consuming products, DOE will determine an average manufacturer markup by considering the annual Securities and Exchange Commission (SEC) 10–K reports filed by publicly traded manufacturers of appliances whose product range includes clothes dryers. DOE then revises the initial manufacturer markup estimate based on feedback received during manufacturer interviews. DOE will determine an average retailer markup by analyzing both economic census data from the U.S. Census Bureau and the annual SEC 10–K reports filed by publicly traded retailers.

In addition to manufacturer and retailer markups, DOE will include sales tax in its retail price calculations. DOE will use an Internet source, the Sales Tax Clearinghouse, to calculate applicable sales taxes.

*Issue E.1* DOE seeks input from stakeholders on whether the distribution channels described above are still relevant for residential clothes dryers. DOE also welcomes comments concerning its proposed approach to developing estimates of markups for clothes dryers.

*F. Energy Use Analysis*

The purpose of the energy analysis is to assess the energy-savings potential of different product efficiencies. DOE uses the annual energy consumption and energy-savings potential in the LCC and PBP analyses to establish the savings in consumer operating costs at various product efficiency levels. In contrast to the DOE test procedure, which provides a measure of the energy use, energy efficiency or annual operating cost of a covered product during a representative average use cycle, the energy use analysis captures a range of operating conditions for clothes dryers in U.S. homes.

For the 2011 Direct Final Rule, DOE developed distributions of values for several operating conditions, including number of cycles, remaining moisture content (RMC), and load weights that reflect its best estimate of the range of practices found in U.S. homes. 76 FR 22508. DOE also evaluated the indirect impact of a clothes dryer standard on heating and cooling loads in a household. To calculate this impact, DOE first characterized the location of the clothes dryers in a conditioned space based on the Energy Information Administration's (EIA's) 2005 *Residential Energy Consumption Survey* (*RECS*), and the 2009 American Housing Survey (AHS). For these installations, DOE utilized the results from a European Union study about the impacts of clothes dryers on home heating and cooling loads to determine the appropriate factor to apply to the total clothes dryer energy use.[9]

To determine the field energy use of products that would be required to meet amended standard levels, DOE proposes to use data from the EIA's 2009 *RECS,* or the most recent such survey available from EIA.[10] *RECS* is a national sample survey of housing units that collects statistical information on the consumption of and expenditures for energy in housing units along with data on energy-related characteristics of the housing units and occupants. *RECS* provides sufficient information to establish the type (product class) of clothes dryer used in each household. As a result, DOE will be able to develop household samples for each of the considered product classes.

DOE requests comment or seeks input from stakeholders on the following issues pertaining to the energy use analysis:

*Issue F.1* Approaches for specifying the typical annual energy consumption of residential clothes dryers;

*Issue F.2* Data sources that DOE can use to characterize the variability in annual energy consumption of clothes dryers.

*Issue F.3* Data sources to characterize the indirect impact of dryer energy use on heating and cooling loads of a household.

*G. Life-Cycle Cost and Payback Period Analysis*

The purpose of the LCC and PBP analysis is to analyze the effects of potential amended energy conservation standards on consumers of residential clothes dryers by determining how a potential amended standard affects the consumers' operating expenses (usually decreased) and total installed costs (usually increased).

DOE intends to analyze data input variability and uncertainty by performing the LCC and PBP calculations on a representative sample of households from RECS for the considered product classes using Monte Carlo simulations and probability distributions. The analysis results are a distribution of results showing the range of LCC savings and PBPs for a given efficiency level relative to the baseline level.

Inputs to the LCC and PBP analysis are categorized as: (1) Inputs for establishing the purchase expense, otherwise known as the total installed cost, and (2) inputs for calculating the operating expense. The primary inputs for establishing the total installed cost are the baseline consumer price, standard-level consumer price increases, and installation costs. Baseline consumer prices and standard-level consumer price increases will be determined by applying markups to manufacturer price estimates. The installation cost is added to the

[9] I. Rüdenauer and C.O. Gensch, *Energy demand of tumble dryers with respect to differences in technology and ambient conditions.* Report commissioned by European Committee of Domestic Equipment Manufacturers (CECED) (January 13, 2004) (Available at: *www.oeko.de/oekodoc/202/2004-009-en.pdf).*

[10] U.S. Department of Energy: Energy Information Administration, *Residential Energy Consumption Survey: 2009 RECS Survey Data* (2013) (Available at: *http://www.eia.gov/consumption/residential/data/2009/*).

consumer price to arrive at a total installed cost.

In the 2011 Direct Final Rule, DOE derived the installation costs from RS Means 2008. 76 FR 22513. DOE plans to use similar data sources for this rulemaking, with adjustments to reflect current-day labor and material prices as well as to scale installation cost for higher-efficiency products based on equipment weight and/or dimensions.

*Issue G.1* DOE seeks input on whether clothes dryer installation costs scale with equipment weight and/or dimensions.

The primary inputs for calculating the operating costs are product energy consumption, product efficiency, electricity prices and forecasts, maintenance and repair costs, product lifetime, and discount rates.

Repair costs are associated with repairing or replacing components that have failed in the appliance, whereas maintenance costs are associated with maintaining the operation of the equipment. In the 2011 Direct Final Rule, DOE derived annualized maintenance and repair frequencies based on Consumer Reports data on repair and maintenance issues for clothes dryers during the first 4 years of ownership. DOE estimated that on average 1.5 percent of electric and 1.75 percent of gas clothes dryers are maintained or repaired each year. Based on RS Means Facilities Maintenance & Repair 2010 Cost Data,[11] DOE also estimated that an average service call and any necessary repair or maintenance takes about 2.5 hours. DOE further estimated that the average material cost is equal to one-half of the equipment cost. The values for cost per service call were then annualized by multiplying by the frequencies and dividing by the average equipment lifetime of 16 years. 76 FR 22514. DOE plans to use similar data sources for this rulemaking.

In the 2011 Direct Final Rule, DOE also assumed that repair costs vary in direct proportion with the product price at higher efficiency levels as replacement costs for more-efficient components are likely to be greater than replacement costs for components in baseline products.

*Issue G.2* DOE seeks stakeholder input on the approach for estimating repair and maintenance costs for more efficient clothes dryers. DOE also seeks stakeholder comment on the assumption that repair costs vary in direct proportion to product price as well as historical repair cost data as a function of efficiency.

DOE measures LCC and PBP impacts of potential standard levels relative to a base case that reflects the market in the absence of amended standards. DOE plans to develop market-share efficiency data (*i.e.,* the distribution of product shipments by efficiency) for the product classes DOE is considering, for the year in which compliance with any amended or new standards would be required. By accounting for consumers who already purchase more efficient products, DOE avoids overstating the potential benefits from new or amended standards.

*Issue G.4* DOE seeks stakeholder input and data on the fraction of clothes dryers sold that exceed the minimum energy efficiency standards. DOE also requests information on expected trends in product efficiency over the next five years.

*H. Shipments Analysis*

DOE uses shipment projections by product class and efficiency level in its analysis of the national impacts of potential standards, as well as in the manufacturer impact analysis.

In the 2011 Direct Final Rule, DOE developed a shipments model for clothes dryers driven by historical shipments data. 76 FR 22516. The key drivers of the shipments model included the new owner and replacement markets.

*Issue H.1* DOE seeks stakeholder input and data showing the distribution of shipments by product class.

In the 2011 Direct Final Rule, DOE modeled the decision to repair or replace equipment for existing owners and the impact that decision would have on the shipments model. DOE estimated how increases in product purchase price and decreases in product operating costs due to standards affect product shipments.[12]

*Issue H.2* DOE seeks input and data on factors that influence a consumer's decisions to repair or replace failed products.

*I. National Impact Analysis*

The purpose of the national impact analysis (NIA) is to estimate aggregate impacts of potential efficiency standards at the national level. Impacts reported by DOE include the national energy savings (NES) from potential standards and the national net present value (NPV) of the total consumer benefits. The NIA considers lifetime impacts of potential standards on clothes dryers shipped in a 30-year period that begins with the expected compliance date for new or amended standards.

To develop the NES, DOE calculates annual energy consumption of clothes dryers in households for the base case and each standards case. To develop the national NPV of consumer benefits from potential standards, DOE calculates national annual energy expenditures and annual product expenditures for the base case and the standards cases. DOE calculates total annual energy expenditures using data on annual energy consumption in each case, forecasted average annual energy prices, and shipment projections. The difference each year between operating cost savings and increased product expenditures is the net savings or net costs.

A key component of DOE's estimates of NES and NPV is the product energy efficiency forecasted over time for the base case and for each of the standards cases. In the 2011 Direct Final Rule, DOE based projections of base-case shipment-weighted efficiency (SWEF) for the clothes dryer product classes on growth rates determined from historical data provided by AHAM.[13] For this rulemaking, DOE plans on considering recent trends in efficiency and input from stakeholders to update product energy efficiency forecasts.

*Issue I.1* DOE seeks historical SWEF data for residential clothes dryers by product class and stakeholder input regarding future trends in efficiency.

*J. Manufacturer Impact Analysis*

The purpose of the manufacturer impact analysis (MIA) is to estimate the financial impact of potential energy conservation standards on manufacturers of residential clothes dryers and to evaluate the potential impact of such standards on competition, employment and manufacturing capacity. The MIA includes both quantitative and qualitative aspects. The quantitative part of the MIA primarily relies on the Government Regulatory Impact Model (GRIM), an industry cash-flow model used to estimate a range of potential impacts on manufacturer profitability. The qualitative part of the MIA addresses a proposed standard's potential impacts on manufacturing capacity and industry competition, as well as factors such as product characteristics, impacts on particular

[11] Available at: *http://rsmeans.reedconstructiondata.com/60300.aspx.*

[12] DOE-Energy Efficiency and Renewable Energy, Energy Conservation Program for Consumer Products, *Technical Support Document: Energy Efficiency Program for Consumer Products and Commercial and Industrial Equipment, Residential Clothes Dryers and Room Air Conditioners, chapter 9* (2011) (Available at: *http://www.regulations.gov/#!documentDetail;D=EERE-2007-BT-STD-0010-0053*).

[13] *Id.* chapter 10.

subgroups of firms, and key issues from the manufacturers' perspective.

As part of the MIA, DOE intends to analyze impacts of potential energy conservation standards on small business manufacturers of covered products. DOE intends to use the Small Business Administration's (SBA) small business size standards to determine whether manufacturers qualify as small businesses. The size standards are listed by North American Industry Classification System (NAICS) code and industry description.[14] Manufacturing of residential clothes dryers is classified under NAICS 335224, ''Household Laundry Equipment Manufacturing.'' The SBA sets a threshold of 1,000 employees or less for an entity to be considered as a small business for this category. This 1,000-employee threshold would include all employees in a business's parent company and any other subsidiaries.

DOE intends to conduct a market survey using publicly available information to identify potential small manufacturers using the above-mentioned size threshold. In identifying potential small businesses, DOE generally uses its Compliance Certification Management System (CCMS), industry trade association membership directories (including AHAM), individual company Web sites, and market research tools (*e.g.,* Hoovers reports) to create a list of companies that manufacture or sell products covered by this rulemaking.

*Issue J.1* DOE requests comment on whether there are any small business manufacturers of residential clothes dryers that it should consider in its analysis.

## III. Submission of Comments

DOE invites all interested parties to submit in writing by May 11, 2015, comments and information on matters addressed in this notice and on other matters relevant to DOE's consideration of new or amended energy conservations standards for residential clothes dryers. After the close of the comment period, DOE will collect data, conduct analyses, and review public comments, as needed. These actions will aid in the development of a NOPR for residential clothes dryers if DOE decides to amend the standards for such products.

DOE considers public participation to be a very important part of the process for developing test procedures and energy conservation standards. DOE actively encourages the participation and interaction of the public during the comment period in each stage of the rulemaking process. Interactions with and between members of the public provide a balanced discussion of the issues and assist DOE in the rulemaking process. Anyone who wishes to be added to the DOE mailing list to receive future notices and information about this rulemaking should contact Ms. Brenda Edwards at (202) 586–2945, or via email at *Brenda.Edwards@ee.doe.gov.*

Issued in Washington, DC, on March 23, 2015.

**Kathleen B. Hogan,**

*Deputy Assistant Secretary for Energy Efficiency, Energy Efficiency and Renewable Energy.*

[FR Doc. 2015–07058 Filed 3–26–15; 8:45 am]

**BILLING CODE 6450–01–P**

[14] Available at: *http://www.sba.gov/content/small-business-size-standards.*

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## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

## 14 CFR Part 39

**[Docket No. FAA–2015–0496; Directorate Identifier 2014–NM–101–AD]**

**RIN 2120–AA64**

## Airworthiness Directives; The Boeing Company Airplanes

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Notice of proposed rulemaking (NPRM).

**SUMMARY:** We propose to supersede Airworthiness Directive (AD) 2005–18–18, which applies to certain The Boeing Company Model 757 airplanes. AD 2005–18–18 currently requires inspections of certain wire bundles in the left and right engine-to-wing aft fairings for discrepancies; installation of back-to-back p-clamps between the wire and hydraulic supply tube at the aft end of the right-hand strut only; and associated re-routing of the wire bundles, if necessary. Since we issued AD 2005–18–18, we have determined that the service information referenced in AD 2005–18–18 did not adequately address fuel shutoff valve (FSV) wires at the aft end of the struts. This proposed AD would add an installation of spiral cable wrap on FSV wires at the aft end of the strut, for both left and right engines, and related investigative and corrective actions. We are proposing this AD to prevent chafing between the wire bundle and the structure of the aft fairing, which could result in electrical arcing and subsequent ignition of flammable vapors and possible uncontrollable fire.

**DATES:** We must receive comments on this proposed AD by May 11, 2015.

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

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

For service information identified in this proposed AD, contact Boeing Commercial Airplanes, Attention: Data & Services Management, P.O. Box 3707, MC 2H–65, Seattle, WA 98124–2207; telephone 206–544–5000, extension 1; fax 206–766–5680; Internet *https://www.myboeingfleet.com.* You may view this referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA 98057. For information on the availability of this material at the FAA, call 425–227–1221. It is also available on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2015–0496.

### Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2015–0496; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this proposed AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket Office (phone: 800–647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

**FOR FURTHER INFORMATION CONTACT:** Christopher Baker, Aerospace Engineer, Propulsion Branch, ANM–140S, FAA, Seattle Aircraft Certification Office (ACO), 1601 Lind Avenue SW., Renton, WA 98057–3356; phone: 425–917–6498; fax: 425–917–6590; email: *christopher.r.baker@faa.gov.*

**SUPPLEMENTARY INFORMATION:**

**Comments Invited**

We invite you to send any written relevant data, views, or arguments about this proposed AD. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2015–0496; Directorate Identifier 2014–NM–101–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD because of those comments.

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

**Discussion**

On August 31, 2005, we issued AD 2005–18–18, Amendment 39–14258 (70 FR 53554, September 9, 2005), for certain The Boeing Company Model 757–200, –200PF, –200CB, and –300 series airplanes. AD 2005–18–18 requires inspections of certain wire bundles in the left and right engine-to-wing aft fairings for discrepancies; installation of back-to-back p-clamps between the wire and hydraulic supply tube at the aft end of the right-hand strut only; and associated re-routing of the wire bundles, if necessary. AD 2005–18–18 resulted from a report indicating that a circuit breaker for the fuel shutoff valve tripped due to a wire that chafed against the structure in the flammable leakage zone of the aft fairing, causing a short circuit. We issued AD 2005–18–18 to prevent chafing between the wire bundle and the structure of the aft fairing, which could result in electrical arcing and subsequent ignition of flammable vapors and possible uncontrollable fire.

**Actions Since AD 2005–18–18, Amendment 39–14258 (70 FR 53554, September 9, 2005), Was Issued**

Since we issued AD 2005–18–18, Amendment 39–14258 (70 FR 53554, September 9, 2005), we received a report that the service information referenced in AD 2005–18–18 did not adequately address FSV wires at the aft end of the strut, for both left and right engine struts. The proposed installation of tetrafluoroethylene spiral cable wrap on the FSV wires at the aft end of the strut would provide additional wiring protection.

**Related Service Information Under 1 CFR Part 51**

We reviewed Boeing Alert Service Bulletins 757–28A0073 and 757–28A0074, both Revision 2, both dated June 4, 2009. The service information describes procedures for inspecting certain wire bundles in the left and right engine-to-wing aft fairings for discrepancies; installing back-to-back p-clamps between the wire and hydraulic supply tube at the aft end of the right-hand strut only; associated re-routing of the wire bundles, if necessary; and installing spiral cable wrap on FSV wires on the aft ends of the left and right engine struts, and related investigative and corrective actions. Refer to this service information for information on the procedures and compliance times. This service information is reasonably available; see **ADDRESSES** for ways to access this service information.

**FAA's Determination**

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

**Proposed AD Requirements**

This proposed AD would retain all requirements of AD 2005–18–18, Amendment 39–14258 (70 FR 53554, September 9, 2005). This proposed AD would add a requirement to install spiral cable wrap on FSV wires at the aft end of the strut, for both left and right engines, and related investigative and corrective actions. This proposed AD would require accomplishing the actions specified in the service information identified previously.

The phrase ''related investigative actions'' is used in this proposed AD. ''Related investigative actions'' are follow-on actions that (1) are related to the primary action, and (2) further investigate the nature of any condition found. Related investigative actions in an AD could include, for example, inspections.

The phrase ''corrective actions'' is used in this proposed AD. ''Corrective actions'' are actions that correct or address any condition found. Corrective actions in an AD could include, for example, repairs.

**Costs of Compliance**

We estimate that this proposed AD affects 346 airplanes of U.S. registry.

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

ESTIMATED COSTS

| Action | Labor cost | Parts cost | Cost per product | Cost on U.S. operators |
|---|---|---|---|---|
| Inspection of certain wire bundles, and p-clamp installation [retained actions from AD 2005–18–18, Amendment 39–14258 (70 FR 53554, September 9, 2005)]. | Between 16 and 44 work-hours × $85 per hour = Between $1,360 and $3,740. | $600 | Between $1,960 and $4,340 | Between $678,160 and $1,501,640. |
| Installation of spiral cable wrap [new proposed action]. | 10 work-hours × $85 per hour = $850. | $10 | $860 | $297,560. |

**Authority for This Rulemaking**

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

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

## Regulatory Findings

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

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

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

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

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

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

## List of Subjects in 14 CFR Part 39

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

## The Proposed Amendment

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

## PART 39—AIRWORTHINESS DIRECTIVES

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

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

### § 39.13 [Amended]

■ 2. The FAA amends § 39.13 by removing Airworthiness Directive (AD) 2005–18–18, Amendment 39–14258 (70 FR 53554, September 9, 2005), and adding the following new AD:

**The Boeing Company:** Docket No. FAA–2015–0496; Directorate Identifier 2014–NM–101–AD.

**(a) Comments Due Date**

The FAA must receive comments on this AD action by May 11, 2015.

**(b) Affected ADs**

This AD replaces AD 2005–18–18, Amendment 39–14258 (70 FR 53554, September 9, 2005).

**(c) Applicability**

This AD applies to The Boeing Company Model 757–200, –200PF, –200CB, and –300 series airplanes; certificated in any category; equipped with Rolls-Royce engines; as identified in Boeing Alert Service Bulletins 757–28A0073 and 757–28A0074, both Revision 2, both dated June 4, 2009.

**(d) Subject**

Air Transport Association (ATA) of America Code 28, Fuel.

**(e) Unsafe Condition**

This AD was prompted by a report that the service information referenced in AD 2005–18–18, Amendment 39–14258 (70 FR 53554, September 9, 2005), did not adequately address fuel shutoff valve (FSV) wires at the aft end of the strut, for both left and right engine struts. We are issuing this AD to prevent chafing between the wire bundle and the structure of the aft fairing, which could result in electrical arcing and subsequent ignition of flammable vapors and possible uncontrollable fire.

**(f) Compliance**

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

**(g) Retained One-Time Inspections/Related Investigative and Corrective Actions**

This paragraph restates the requirements of paragraph (f) of AD 2005–18–18, Amendment 39–14258 (70 FR 53554, September 9, 2005), with new service information. Within 60 months after October 14, 2005 (the effective date of AD 2005–18–18), do the actions required by paragraphs (g)(1) and (g)(2) of this AD.

(1) Accomplish the detailed inspections for discrepancies of the wire bundles in the left and right engine-to-wing aft fairings, and applicable and related investigative and corrective actions if necessary, as applicable, by doing all the actions specified in the Accomplishment Instructions of the applicable service bulletins listed in Table 1 to paragraph (g)(1) of this AD. As of the effective date of this AD, use only Boeing Alert Service Bulletin 757–28A0073 or 757–28A0074, both Revision 2, both dated June 4, 2009, as applicable. Accomplish any related investigative and corrective actions before further flight, in accordance with the applicable service bulletin. For the purposes of this AD, a detailed inspection is: ''An intensive examination of a specific item, installation, or assembly to detect damage, failure, or irregularity. Available lighting is normally supplemented with a direct source of good lighting at an intensity deemed appropriate. Inspection aids such as mirror, magnifying lenses, etc., may be necessary. Surface cleaning and elaborate procedures may be required.''

TABLE 1 TO PARAGRAPH (G)(1) OF THIS AD—AIRPLANE MODELS AND SERVICE BULLETINS

| Boeing airplanes | Boeing alert service bulletin | Revision level | Date |
|---|---|---|---|
| Model 757–200, –200CB, and –200PF series airplanes | 757–28A0073 | Original | November 20, 2003. |
| Model 757–200, –200CB, and –200PF series airplanes | 757–28A0073 | 1 | February 24, 2005. |
| Model 757–200, –200CB, and –200PF series airplanes | 757–28A0073 | 2 | June 4, 2009. |
| Model 757–300 series airplanes | 757–28A0074 | Original | November 20, 2003. |
| Model 757–300 series airplanes | 757–28A0074 | 1 | February 24, 2005. |
| Model 757–300 series airplanes | 757–28A0074 | 2 | June 4, 2009. |

(2) Install back-to-back p-clamps between the wire and hydraulic supply tube at the aft end of the right-hand strut only; and re-route the wire bundles, if necessary; by doing all the applicable actions specified in the Accomplishment Instructions of the applicable service information identified in paragraphs (g)(2)(i) through (g)(2)(iv) of this AD. As of the effective date of this AD, use only the service information identified in paragraphs (g)(2)(ii) and (g)(2)(iv) of this AD, as applicable.

(i) Boeing Alert Service Bulletin 757–28A0073, Revision 1, dated February 24, 2005.

(ii) Boeing Alert Service Bulletin 757–28A0073, Revision 2, dated June 4, 2009.

(iii) Boeing Alert Service Bulletin 757–28A0074, Revision 1, dated February 24, 2005.

(iv) Boeing Alert Service Bulletin 757–28A0074, Revision 2, dated June 4, 2009.

**(h) New Spiral Cable Wrap Installation**

Within 60 months after the effective date of this AD, install spiral cable wrap on FSV wires at the aft end of the strut, for both left and right engines, and do all applicable related investigative and corrective actions, in accordance with the Accomplishment Instructions of Boeing Alert Service Bulletin 757–28A0073 (for Model 757–200, –200CB, and –200PF series airplanes) or 757–28A0074 (for Model 757–300 series airplanes), both Revision 2, both dated June 4, 2009. Do the related investigative and corrective actions before further flight.

**(i) Alternative Methods of Compliance (AMOCs)**

(1) The Manager, Seattle Aircraft Certification Office (ACO), FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19,

send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the manager of the ACO, send it to the attention of the person identified in paragraph (j)(1) of this AD. Information may be emailed to: *9-ANM-Seattle-ACO-AMOC-Requests@faa.gov.*

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

(3) AMOCs approved for AD 2005–18–18, Amendment 39–14258 (70 FR 53554, September 9, 2005), are approved as AMOCs for paragraph (g) of this AD.

**(j) Related Information**

(1) For more information about this AD, contact Christopher Baker, Aerospace Engineer, Propulsion Branch, ANM–140S, FAA, Seattle ACO, 1601 Lind Avenue SW., Renton, WA 98057–3356; phone: 425–917–6498; fax: 425–917–6590; email: *christopher.r.baker@faa.gov.*

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

Issued in Renton, Washington, on March 12, 2015.

**Jeffrey E. Duven,**

*Manager, Transport Airplane Directorate, Aircraft Certification Service.*

[FR Doc. 2015–06782 Filed 3–26–15; 8:45 am]

BILLING CODE 4910–13–P

## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

## 14 CFR Part 39

**[Docket No. FAA–2015–0248; Directorate Identifier 2014–NM–143–AD]**

**RIN 2120–AA64**

## Airworthiness Directives; The Boeing Company Airplanes

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Notice of proposed rulemaking (NPRM).

**SUMMARY:** We propose to supersede Airworthiness Directive (AD) 2013–08–23, which applies to all The Boeing Company Model DC–10–10, DC–10–10F, DC–10–15, DC–10–30, DC–10–30F (KC–10A and KDC–10), DC–10–40, DC–10–40F, MD–10–10F, MD–10–30F, MD–11, and MD–11F airplanes. AD 2013–08–23 currently requires adding design features to detect electrical faults and to detect a pump running in an empty fuel tank. Since we issued AD 2013–08–23, we have determined that it is necessary to clarify the requirements for the design features and to remove a terminating action for certain inspections. This proposed AD would clarify certain requirements and remove a terminating action. This proposed AD would also provide an optional method of compliance for the proposed actions. We are proposing this AD to reduce the potential of ignition sources inside fuel tanks, which, in combination with flammable fuel vapors, could result in fuel tank explosions and consequent loss of the airplane.

**DATES:** We must receive comments on this proposed AD by May 11, 2015.

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

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

For service information identified in this proposed AD, contact Boeing Commercial Airplanes, Attention: Data & Services Management, 3855 Lakewood Boulevard, MC D800–0019, Long Beach, CA 90846–0001; telephone 206–544–5000, extension 2; fax 206–766–5683; Internet *https://www.myboeingfleet.com.* You may view this referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221. It is also available on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2015–0248.

### Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2015–0248; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this proposed AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket Office (phone: 800–647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

**FOR FURTHER INFORMATION CONTACT:** Serj Harutunian, Aerospace Engineer, Propulsion Branch, ANM–140L, FAA, Los Angeles Aircraft Certification Office (ACO), 3960 Paramount Boulevard, Lakewood, California 90712–4137; phone: 562–627–5254; fax: 562–627–5210; email: *serj.harutunian@faa.gov.*

**SUPPLEMENTARY INFORMATION:**

### Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposed AD. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2015–0248; Directorate Identifier 2014–NM–143–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD because of those comments.

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

### Discussion

On April 10, 2013, we issued AD 2013–08–23, Amendment 39–17441 (78 FR 24037, April 24, 2013), for all The Boeing Company Model DC–10–10, DC–10–10F, DC–10–15, DC–10–30, DC–10–30F (KC–10A and KDC–10), DC–10–40, DC–10–40F, MD–10–10F, MD–10–30F, MD–11, and MD–11F airplanes. AD 2013–08–23 requires adding design features to detect electrical faults and to detect a pump running in an empty fuel tank. AD 2013–08–23 resulted from fuel system reviews conducted by the manufacturer. We issued AD 2013–08–23 to reduce the potential of ignition sources inside fuel tanks, which, in combination with flammable fuel vapors, could result in fuel tank explosions and consequent loss of the airplane.

### Actions Since AD 2013–08–23, Amendment 39–17441 (78 FR 24037, April 24, 2013), Was Issued

Since we issued AD 2013–08–23, Amendment 39–17441 (78 FR 24037, April 24, 2013), we have determined

that it is necessary to clarify the requirements for the design features and to remove a terminating action for certain inspections. In addition, The Boeing Company has issued new service information, which provides optional alternative methods of compliance for the actions required by AD 2013–08–23.

**Related Service Information Under 1 CFR Part 51**

We reviewed the following service information, which describes procedures for changing the fuel pump control and indication system wiring:

- Boeing Service Bulletin DC10–28–256, dated June 24, 2014; and
- Boeing Service Bulletin MD11–28–137, dated June 24, 2014.

We have also reviewed Appendixes B, C, and D of Boeing Special Compliance Item Report MDC–02K1003, Revision M, dated July 25, 2014, which include Critical Design Configuration Control Limitations (CDCCLs), Airworthiness Limitations Instructions (ALIs), and short-term extensions.

Boeing Service Bulletin MD11–28–137, dated June 24, 2014, specifies prior or concurrent accomplishment of Boeing Alert Service Bulletin MD11–28A133, dated June 5, 2014. Boeing Alert Service Bulletin MD11–28A133, dated June 5, 2014, describes procedures for replacing the fuel pump control relays with fault current detectors and changing the fuel tank boost/transfer pump wire termination.

Boeing Service Bulletin DC10–28–256, dated June 24, 2014, specifies prior or concurrent accomplishment of Boeing Alert Service Bulletin DC10–28A253, dated June 5, 2014. Boeing Alert Service Bulletin DC10–28A253, dated June 5, 2014, describes procedures for replacing the fuel pump control relays with fault current detectors and changing the fuel tank boost/transfer pump wire termination.

This service information is reasonably available; see **ADDRESSES** for ways to access this service information.

**Clarification of the Requirements for the Design Features**

In the introductory text of paragraph (g) of this proposed AD, we have added the text ''for the auxiliary fuel tank'' to the last sentence to clarify that, for airplanes on which Boeing-installed auxiliary fuel tanks are removed, only the actions specified in this AD for the auxiliary fuel tanks are not required.

In paragraph (g)(1) of this proposed AD, we have added the text ''and each pump that is partially covered by a lowering fuel level'' and ''main tanks'' to the first sentence to clarify the pumps that must have a protective device installed.

**Removal of a Terminating Action for Certain Actions**

Paragraph (h) of AD 2013–08–23, Amendment 39–17441 (78 FR 24037, April 24, 2013), specifies, in part, that accomplishing the actions required by paragraph (g)(1) of that AD terminates certain inspections and tests required by paragraph (a) of AD 2002–13–10, Amendment 39–12798 (67 FR 45053, July 8, 2002), and repetitive inspections required by paragraph (j) of AD 2011–11–05, Amendment 39–16704 (76 FR 31462, June 1, 2011), for pumps affected by those ADs. However, we have determined that accomplishing the actions required by paragraph (g)(1) of AD 2013–08–23 (which is restated in paragraph (g)(1) of this proposed AD) does not terminate those actions and, therefore, we have not retained the terminating action in this proposed AD. The actions specified in paragraph (h) of this proposed AD (*i.e.,* a new optional method of compliance in lieu of paragraph (g) of this proposed AD) would extend the compliance times for certain inspections and tests required by paragraph (a) of AD 2002–13–10, and repetitive inspections required by paragraph (j) of AD 2011–11–05, from 18-month intervals to 24-month intervals. We have added paragraph (j) to this proposed AD to specify that accomplishing the actions in paragraph (h) of this proposed AD would extend certain repetitive intervals.

**Revised Compliance Time**

We have determined that it is appropriate to allow additional time to accomplish the design features and requirements specified in this proposed AD. Therefore, we have added a compliance time ''as of 48 months after the effective date of this AD'' to paragraph (g) of this proposed AD. We have determined that this extension of the compliance time will provide an acceptable level of safety.

**Related AD**

On November 12, 2009, we issued AD 2008–06–21 R1, Amendment 39–16100 (74 FR 61504, November 25, 2009), for all McDonnell Douglas Corporation Model DC–10–10 and DC–10–10F airplanes, Model DC–10–15 airplanes, Model DC–10–30 and DC–10–30F (KC–10A and KDC–10) airplanes, Model DC–10–40 and DC–10–40F airplanes, Model MD–10–10F and MD–10–30F airplanes, and Model MD–11 and MD–11F airplanes. AD 2008–06–21 R1 requires revising the maintenance program or the Airworthiness Limitations (AWLs) section of the Instructions for Continued Airworthiness to incorporate inspections and CDCCLs.

**FAA's Determination**

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

**Proposed AD Requirements**

This proposed AD would retain certain requirements of AD 2013–08–23, Amendment 39–17441 (78 FR 24037, April 24, 2013), clarify certain requirements, and remove a certain terminating action. This proposed AD would also provide a new optional method of compliance for the actions required by AD 2013–08–23.

This proposed AD specifies to revise certain operator maintenance documents to include new actions (*e.g.,* inspections) and Critical Design Configuration Control Limitations (CDCCLs). Compliance with these actions and CDCCLs is required by 14 CFR 91.403(c). For airplanes that have been previously modified, altered, or repaired in the areas addressed by this proposed AD, the operator may not be able to accomplish the actions described in the revisions. In this situation, to comply with 14 CFR 91.403(c), the operator must request approval for an alternative method of compliance according to paragraph (k) of this proposed AD. The request should include a description of changes to the required actions and CDCCLs that will ensure the continued operational safety of the airplane.

**Costs of Compliance**

We estimate that this proposed AD affects 341 airplanes of U.S. registry.

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

ESTIMATED COSTS

| Action | Labor cost | Parts cost | Cost per product | Cost on U.S. operators |
|---|---|---|---|---|
| Installing design features using a method approved by the FAA [retained action from AD 2013-08–23, Amendment 39-17441 (78 FR 24037, April 24, 2013)]. | 152 work-hours × $85 per hour = $12,920. | $137,500 | $150,420 | $51,923,220 |
| Installing design features using service information specified in paragraph (h) of this proposed AD (including revising the maintenance/inspection program) [new option of this proposed AD]. | 98 work-hours × $85 per hour = $8,330. | 109,000 | 117,330 | 40,478,850 |

## Authority for This Rulemaking

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

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

## Regulatory Findings

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

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

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

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

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

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

## List of Subjects in 14 CFR Part 39

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

## The Proposed Amendment

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

## PART 39—AIRWORTHINESS DIRECTIVES

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

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

### § 39.13 [Amended]

■ 2. The FAA amends § 39.13 by removing Airworthiness Directive (AD) 2013–08–23, Amendment 39–17441 (78 FR 24037, April 24, 2013), and adding the following new AD:

**The Boeing Company:** Docket No. FAA–2015–0248; Directorate Identifier 2014–NM–143–AD.

**(a) Comments Due Date**

The FAA must receive comments on this AD action by May 11, 2015.

**(b) Affected ADs**

(1) This AD replaces AD 2013–08–23, Amendment 39–17441 (78 FR 24037, April 24, 2013).

(2) This AD affects AD 2008–06–21 R1, Amendment 39–16100 (74 FR 61504, November 25, 2009).

(3) This AD affects AD 2002–13–10, Amendment 39–12798 (67 FR 45053, July 8, 2002).

(4) This AD affects AD 2011–11–05, Amendment 39–16704 (76 FR 31462, June 1, 2011).

**(c) Applicability**

This AD applies to all The Boeing Company Model airplanes identified in paragraphs (c)(1) and (c)(2) of this AD, certificated in any category.

(1) DC–10–10, DC–10–10F, DC–10–15, DC–10–30, DC–10–30F (KC–10A and KDC–10), DC–10–40, DC–10–40F airplanes.

(2) MD–10–10F, MD–10–30F, MD–11, and MD–11F airplanes.

**(d) Subject**

Air Transport Association (ATA) of America Code 28, Fuel.

**(e) Unsafe Condition**

This AD was prompted by a fuel system review conducted by the manufacturer. We are issuing this AD to reduce the potential of ignition sources inside fuel tanks, which, in combination with flammable fuel vapors, could result in fuel tank explosions and consequent loss of the airplane.

**(f) Compliance**

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

**(g) Retained Criteria for Operation, With Clarifications and New Compliance Time**

This paragraph restates the actions required by paragraph (g) of AD 2013–08–23, Amendment 39–17441 (78 FR 24037, April 24, 2013), with clarification of actions for airplanes with auxiliary fuel tanks removed, clarification of the pumps that must have a protective device installed, and a new compliance time. Except as provided by paragraph (h) of this AD: As of 48 months after the effective date of this AD, no person may operate any airplane affected by this AD unless an amended type certificate or supplemental type certificate that incorporates the design features and requirements described in paragraphs (g)(1) through (g)(4) of this AD has been approved by the Manager, Los Angeles Aircraft Certification Office (ACO), FAA, and those design features are installed on the airplane to meet the criteria specified in 14 CFR Section 25.981(a) and (d), at Amendment level 25–125. For airplanes on which Boeing-installed auxiliary fuel tanks are removed, the actions specified in this AD for the auxiliary fuel tanks are not required.

(1) For all airplanes: Each electrically powered alternating current (AC) fuel pump installed in any fuel tank that normally empties during flight and each pump that is partially covered by a lowering fuel level—such as main tanks, center wing tanks, auxiliary fuel tanks installed by the airplane manufacturer, and tail tanks—must have a protective device installed to detect electrical faults that can cause arcing and burn through of the fuel pump housing and pump electrical connector. The same device must shut off the pump by automatically removing electrical power from the pump when such faults are detected. When a fuel pump is shut off resulting from detection of an electrical fault, the device must stay latched off, until

the fault is cleared through maintenance action and the pump is verified safe for operation.

(2) For airplanes with a 2-person flight crew: Additional design features, if not originally installed by the airplane manufacturer, must be installed to meet 3 criteria: To detect a running fuel pump in a tank that is normally emptied during flight, to provide an indication to the flight crew that the tank is empty, and to automatically shut off that fuel pump. The prospective pump indication and shutoff system must automatically shut off each pump in case the flight crew does not shut off a pump running dry in an empty tank within 60 seconds after each fuel tank is emptied. An airplane flight manual supplement (AFMS) that includes flight crew manual pump shutoff procedures in the Limitations Section of the AFMS must be submitted to the Los Angeles ACO, FAA, for approval.

(3) For airplanes with a 3-person flight crew: Additional design features, if not originally installed by the airplane manufacturer, must be installed to detect when a fuel pump in a tank that is normally emptied during flight is running in an empty fuel tank, and provide an indication to the flight crew that the tank is empty. The flight engineer must manually shut off each pump running dry in an empty tank within 60 seconds after the tank is emptied. The AFMS Limitations section must be revised to specify that this pump shutoff must be done by the flight engineer.

(4) For all airplanes with tanks that normally empty during flight: Separate means must be provided to detect and shut off a pump that was previously commanded to be shut off automatically or manually but remained running in an empty tank during flight.

**(h) New Optional Method of Compliance**

In lieu of doing the requirements of paragraph (g) of this AD, do the applicable actions specified in paragraphs (h)(1), (h)(2), and (h)(3) of this AD.

(1) For MD–11 and MD–11F airplanes: Do the actions specified in paragraphs (h)(1)(i) and (h)(1)(ii) of this AD.

(i) As of 48 months after the effective date of this AD, change the fuel pump control and indication system wiring, in accordance with the Accomplishment Instructions of Boeing Alert Service Bulletin MD11–28–137, dated June 24, 2014.

(ii) Prior to or concurrently with accomplishing the actions specified in paragraph (h)(1)(i) of this AD: Replace the fuel pump control relays with fault current detectors, and change the fuel tank boost/transfer pump wire termination, in accordance with Accomplishment Instructions of Boeing Alert Service Bulletin MD11–28A133, dated June 5, 2014.

(2) For Model DC–10–10, DC–10–10F, DC–10–15, DC–10–30, DC–10–30F (KC–10A and KDC–10), DC–10–40, DC–10–40F, MD–10–10F, and MD–10–30F airplanes: Do the actions specified in paragraphs (h)(2)(i) and (h)(2)(ii) of this AD.

(i) As of 48 months after the effective date of this AD, change the fuel pump control and indication system wiring, in accordance with the Accomplishment Instructions of Boeing Service Bulletin DC10–28–256, dated June 24, 2014.

(ii) Prior to or concurrently with accomplishing the actions specified in paragraph (h)(2)(i) of this AD: Replace the fuel pump control relays with fault current detectors, and change the fuel tank boost/transfer pump wire termination, in accordance with the Accomplishment Instructions of Boeing Alert Service Bulletin DC10–28A253, dated June 5, 2014.

(3) For all airplanes: Within 30 days after accomplishing the actions required by paragraph (h)(1) or (h)(2) of this AD, or within 30 days after the effective date of this AD, whichever occurs later, revise the maintenance or inspection program, as applicable, to incorporate the Critical Design Configuration Control Limitations (CDCCLs), Airworthiness Limitations Instructions (ALIs), and short-term extensions specified in Appendix B, C, and D of Special Compliance Item (SCI) Report MDC–02K1003, Revision M, dated July 25, 2014. The initial compliance time for accomplishing the actions specified in the ALIs is at the later of the times specified in paragraphs (h)(3)(i) and (h)(3)(ii) of this AD. Revising of the maintenance or inspection program required by this paragraph terminates the requirements in paragraph (g) and (h) of AD 2008–06–21 R1, Amendment 39–16100 (74 FR 61504, November 25, 2009).

(i) At the applicable time specified in Appendix C of SCI Report MDC–02K1003, Revision M, dated July 25, 2014, except as provided by Appendix D of SCI Report MDC–02K1003, Revision M, dated July 25, 2014.

(ii) Within 30 days after accomplishing the actions required by paragraph (h)(1) or (h)(2) of this AD, or within 30 days after the effective date of this AD, whichever occurs later.

**(i) No Alternative Actions, Intervals, or CDCCLs**

If the option in paragraph (h)(3) of this AD is accomplished: After the maintenance or inspection program has been revised, as provided by paragraph (h)(3) of this AD, no alternative actions (*e.g.,* inspections), intervals, or CDCCLs may be used unless the actions, intervals, or CDCCLs are approved as an alternative method of compliance (AMOC) in accordance with the procedures specified in paragraph (k) of this AD.

**(j) Compliance Time Extension in Related ADs**

Accomplishment of the actions specified in paragraphs (h)(1), (h)(2), and (h)(3) of this AD, as applicable, extends the 18-month repetitive inspections and tests required by paragraph (a) of AD 2002–13–10, Amendment 39–12798 (67 FR 45053, July 8, 2002), and the 18-month repetitive inspections required by paragraph (j) of AD 2011–11–05, Amendment 39–16704 (76 FR 31462, June 1, 2011), to 24-month intervals for pumps affected by those ADs, regardless if the pump is installed in a tank that normally empties, provided the remaining actions required by those two ADs have been accomplished.

**(k) Alternative Methods of Compliance (AMOCs)**

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

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

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

(4) AMOCs approved for AD 2013–08–23, Amendment 39–17441 (78 FR 24037, April 24, 2013), are approved as AMOCs for the corresponding provisions of this AD.

**(l) Related Information**

(1) For more information about this AD, contact Serj Harutunian, Aerospace Engineer, Propulsion Branch, ANM–140L, FAA, Los Angeles Aircraft Certification Office (ACO), 3960 Paramount Boulevard, Lakewood, California 90712–4137; phone: 562–627–5254; fax: 562–627–5210; email: *serj.harutunian@faa.gov.*

(2) For service information identified in this AD, contact Boeing Commercial Airplanes, Attention: Data & Services Management, 3855 Lakewood Boulevard, MC D800–0019, Long Beach, CA 90846–0001; telephone 206–544–5000, extension 2; fax 206–766–5683; Internet *https://www.myboeingfleet.com.* You may view this referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221.

Issued in Renton, Washington, on February 11, 2015.

**Jeffrey E. Duven,**

*Manager, Transport Airplane Directorate, Aircraft Certification Service.*

[FR Doc. 2015–06746 Filed 3–26–15; 8:45 am]

**BILLING CODE 4910–13–P**

**DEPARTMENT OF TRANSPORTATION**

**Federal Aviation Administration**

**14 CFR Part 39**

**[Docket No. FAA–2015–0673; Directorate Identifier 2014–SW–034–AD]**

**RIN 2120–AA64**

## Airworthiness Directives; Airbus Helicopters (Previously Eurocopter France)

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Notice of proposed rulemaking (NPRM).

**SUMMARY:** We propose to adopt a new airworthiness directive (AD) for Airbus Helicopters Model AS350B, AS350BA, AS350B1, AS350B2, AS350B3, AS350C, AS350D, AS350D1, AS355E, AS355F, AS355F1, AS355F2, AS355N, AS355NP, EC130B4, and EC130T2 helicopters. This proposed AD would require inspecting the swashplate assembly rotating star to determine whether a ferrule was installed. If a ferrule exists, this proposed AD would require inspecting the rotating star for a crack and removing any cracked rotating star. This proposed AD is prompted by a report that reconditioning the rotating swashplate per a certain repair procedure could result in the rotating star cracking. The proposed actions are intended to detect a crack in the rotating star and prevent failure of the rotating star and subsequent loss of control of the helicopter.

**DATES:** We must receive comments on this proposed AD by May 26, 2015.

**ADDRESSES:** You may send comments by any of the following methods:

- *Federal eRulemaking Docket:* Go to *http://www.regulations.gov.* Follow the online instructions for sending your comments electronically.
- *Fax:* 202–493–2251.
- *Mail:* Send comments to the U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590–0001.
- *Hand Delivery:* Deliver to the ''Mail'' address between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

### Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov* or in person at the Docket Operations Office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this proposed AD, the European Aviation Safety Agency (EASA) AD, the economic evaluation, any comments received, and other information. The street address for the Docket Operations Office (telephone 800–647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

For service information identified in this proposed AD, contact Airbus Helicopters, Inc., 2701 N. Forum Drive, Grand Prairie, TX 75052; telephone (972) 641–0000 or (800) 232–0323; fax (972) 641–3775; or at *http://www.airbushelicopters.com/techpub.* You may review the referenced service information at the FAA, Office of the Regional Counsel, Southwest Region, 2601 Meacham Blvd., Room 663, Fort Worth, Texas 76137. It is also available on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2015–0673.

**FOR FURTHER INFORMATION CONTACT:** Robert Grant, Aviation Safety Engineer, Safety Management Group, FAA, 2601 Meacham Blvd., Fort Worth, Texas 76137; telephone (817) 222–5110; email *robert.grant@faa.gov.*

**SUPPLEMENTARY INFORMATION:**

### Comments Invited

We invite you to participate in this rulemaking by submitting written comments, data, or views. We also invite comments relating to the economic, environmental, energy, or federalism impacts that might result from adopting the proposals in this document. The most helpful comments reference a specific portion of the proposal, explain the reason for any recommended change, and include supporting data. To ensure the docket does not contain duplicate comments, commenters should send only one copy of written comments, or if comments are filed electronically, commenters should submit only one time.

We will file in the docket all comments that we receive, as well as a report summarizing each substantive public contact with FAA personnel concerning this proposed rulemaking. Before acting on this proposal, we will consider all comments we receive on or before the closing date for comments. We will consider comments filed after the comment period has closed if it is possible to do so without incurring expense or delay. We may change this proposal in light of the comments we receive.

### Discussion

EASA, which is the Technical Agent for the Member States of the European Union, issued EASA AD No. 2014–0132R1, dated June 2, 2014, to correct an unsafe condition for Airbus Helicopters (previously Eurocopter France) Model AS 350 B, BA, BB, B1, B2, B3, D, AS 355 E, F, F1, F2, N, NP, EC 130 B4, and T2 helicopters if equipped with a swashplate assembly with a rotating star, part number (P/N) 350A371003–04, P/N 350A371003–05, P/N 350A371003–06, P/N 350A371003–07, or P/N 350A371003–08. EASA advises that during a repair of a helicopter, it was discovered that rotating swashplates reconditioned in accordance with a certain repair procedure could experience a high stress level. This condition, if not corrected, could affect the service life of the part. To address this unsafe condition, EASA AD No. 2014–0132R1 requires repetitive inspections and replacement of the rotating star.

### FAA's Determination

These helicopters have been approved by the aviation authority of France and are approved for operation in the United States. Pursuant to our bilateral agreement with France, EASA, its technical representative, has notified us of the unsafe condition described in its AD. We are proposing this AD because we evaluated all known relevant information and determined that an unsafe condition is likely to exist or develop on other products of the same type design.

### Related Service Information Under 1 CFR Part 51

We reviewed Airbus Helicopters Alert Service Bulletin (ASB) No. EC130 62A010 for Model EC130B4 and EC130T2 helicopters; ASB No. AS355 62.00.33 for Model AS355E, AS355F, AS355F1, AS355F2, AS355N, and AS355NP helicopters; and ASB No. AS350 62.00.34 for Model AS350B, AS350BA, AS350BB, AS350B1, AS350B2, AS350B3, AS350D, and military version AS350L1 helicopters; all Revision 0 and all dated April 28, 2014.

The ASBs report that a certain repair sheet instruction, which requires reconditioning the rotating swashplate by machining and adding a steel ferrule to accommodate a swashplate bearing, potentially affects the service life limit specified in the airworthiness limitations section. The ASBs provide procedures for inspecting the swashplate assembly's rotating star for a ferrule and if a ferrule exists, inspecting

for a crack. The ASBs call for replacing the rotating star before further flight if a crack exists, and before December 31, 2014, if a ferrule is present and there are no cracks. If there is no ferrule, the ASBs require no additional action. This service information is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section of this NPRM.

**Proposed AD Requirements**

This proposed AD would require, within 165 hours time-in-service (TIS), visually inspecting the swashplate assembly to determine whether a ferrule is installed with the rotating star. If no ferrule exists, no further action would be needed. If a ferrule is installed, the proposed AD would require, before further flight, dye-penetrant inspecting the rotating star for a crack. The proposed AD would also require removing the rotating star and all attachment hardware before further flight if the rotating star has a crack, or within 160 hours TIS if the rotating star has a ferrule installed but does not have a crack.

This proposed AD would also prohibit installing a rotating star with a ferrule.

**Differences Between This Proposed AD and the EASA AD**

The EASA AD requires reporting inspection findings to Airbus Helicopters. This proposed AD would make no such requirement. The EASA AD does not apply to Airbus Model AS350C and AS350D1 helicopters, whereas this proposed AD would apply to those models. The EASA AD applies to Model AS350BB helicopters, and this proposed AD would not because that model is not type certificated in the United States. The EASA AD would require replacing the rotating star, unless already accomplished, by December 31, 2014, while we would require replacing the rotating star within 160 hours TIS, unless already accomplished.

**Costs of Compliance**

We estimate that this proposed AD would affect 1,132 helicopters of U.S. Registry and that labor costs would average $85 a work hour. Based on these estimates, we would expect the following costs:

- Visually inspecting the swashplate assembly would require 0.25 work-hour for a labor cost of about $21 per inspection. No parts would be needed for a total cost of about $21 per inspection per helicopter, or about $23,772 for the U.S. fleet.
- Dye-penetrant inspecting the rotating star would require 1 work-hour for a labor cost of about $85 per helicopter. No parts would be needed for a total cost of $85 per inspection helicopter and $96,220 for the U.S. fleet.
- Replacing the rotating star, ferrule, and associated parts would require 16 work hours and parts would cost $8,354, for a total cost of $9,714 per helicopter.

**Authority for This Rulemaking**

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

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

**Regulatory Findings**

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

For the reasons discussed, I certify this proposed regulation:

1. Is not a ''significant regulatory action'' under Executive Order 12866;
2. Is not a ''significant rule'' under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979);
3. Will not affect intrastate aviation in Alaska to the extent that it justifies making a regulatory distinction; and
4. Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

We prepared an economic evaluation of the estimated costs to comply with this proposed AD and placed it in the AD docket.

**List of Subjects in 14 CFR Part 39**

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

**The Proposed Amendment**

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

## PART 39—AIRWORTHINESS DIRECTIVES

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

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

**§ 39.13 [Amended]**

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

**Airbus Helicopters:** Docket No. FAA–2015–0673; Directorate Identifier 2014–SW–034–AD.

**(a) Applicability**

This AD applies to Airbus Helicopters Model AS350B, AS350BA, AS350B1, AS350B2, AS350B3,AS350C, AS350D, AS350D1, AS355E, AS355F, AS355F1, AS355F2, AS355N, AS355NP, EC130B4, and EC130T2 helicopters with a swashplate assembly with rotating star, part number (P/N) 350A371003–04, 350A371003–05, 350A371003–06, 350A371003–07, or 350A371003–08, certificated in any category.

**(b) Unsafe Condition**

This AD defines the unsafe condition as a crack in a rotating star in a main rotor blade (M/R) swashplate assembly. This condition could result in loss of the M/R pitch control and subsequent loss of helicopter control.

**(c) Comments Due Date**

We must receive comments by May 26, 2015.

**(d) Compliance**

You are responsible for performing each action required by this AD within the specified compliance time unless it has already been accomplished prior to that time.

**(e) Required Actions**

(1) Within 165 hours time-in-service (TIS), visually inspect the swashplate assembly to determine whether a ferrule is installed on the rotating star. If the ferrule is not visible, use a magnetic retriever positioned in Area (X) as shown in the pictures under paragraph 3.B.2.b., Accomplishment Instructions, of Airbus Helicopters Alert Service Bulletin (ASB) No. EC130 62A010, ASB No. AS350 62.00.34, or ASB No. AS355 62.00.33, all Revision 0, and all dated April 28, 2014, whichever is applicable to your helicopter, to determine whether the ferrule is installed. The magnetic retriever will be magnetized if a ferrule is installed.

(2) If a ferrule is not installed, no further action is needed.

(3) If a ferrule is installed on the rotating star, before further flight, dye-penetrant inspect the rotating star for a crack in areas ''Z'' depicted in Figure 1 of Airbus Helicopters ASB No. EC130 62A010, ASB No. AS350 62.00.34, or ASB No. AS355 62.00.33, all Revision 0, and all dated April 28, 2014, as applicable to your model helicopter.

(i) If the rotating star has a crack, before further flight, remove from service the rotating star; ferrule; and the screws, washers and nuts used to attach the pitch change rods, compass, and the rotating star deflector.

(ii) If the rotating star does not have a crack, within 160 hours TIS, remove from service the rotating star; ferrule; and the screws, washers and nuts used to attach the pitch change rods, compass, and the rotating star deflector.

(4) Do not install a rotating star P/N 350A371003–04, 350A371003–05, 350A371003–06, 350A371003–07, or 350A371003–08 with a ferrule.

**(f) Special Flight Permit**

Special flight permits are prohibited.

**(g) Alternative Methods of Compliance (AMOCs)**

(1) The Manager, Safety Management Group, FAA, may approve AMOCs for this AD. Send your proposal to: Robert Grant, Aviation Safety Engineer, Safety Management Group, FAA, 2601 Meacham Blvd., Fort Worth, Texas 76137; telephone (817) 222–5110; email *robert.grant@faa.gov.*

(2) For operations conducted under a 14 CFR part 119 operating certificate or under 14 CFR part 91, subpart K, we suggest that you notify your principal inspector, or lacking a principal inspector, the manager of the local flight standards district office or certificate holding district office before operating any aircraft complying with this AD through an AMOC.

**(h) Additional Information**

The subject of this AD is addressed in the European Aviation Safety Agency (EASA) AD No. 2014–0132R1, dated June 2, 2014. You may view the EASA AD on the Internet at *http://www.regulations.gov* in the AD Docket.

**(i) Subject**

Joint Aircraft Service Component (JASC) Code: 6200, Main Rotor System.

Issued in Fort Worth, Texas, on March 18, 2015.

**Lance T. Gant,**

*Acting Directorate Manager, Rotorcraft Directorate, Aircraft Certification Service.*

[FR Doc. 2015–06805 Filed 3–26–15; 8:45 am]

BILLING CODE 4910–13–P

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

### 21 CFR Part 15

**[Docket No. FDA–2015–N–0540]**

## Homeopathic Product Regulation: Evaluating the Food and Drug Administration's Regulatory Framework After a Quarter-Century; Public Hearing

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Notice of public hearing; request for comments.

**SUMMARY:** The Food and Drug Administration (FDA) is announcing a public hearing to obtain information and comments from stakeholders about the current use of human drug and biological products labeled as homeopathic, as well as the Agency's regulatory framework for such products. These products include prescription drugs and biological products labeled as homeopathic and over-the-counter (OTC) drugs labeled as homeopathic. FDA is seeking participants for the public hearing and written comments from all interested parties, including, but not limited to, consumers, patients, caregivers, health care professionals, patient groups, and industry. FDA is seeking input on a number of specific questions, but is interested in any other pertinent information participants would like to share.

**DATES:** The public hearing will be held on April 20 and 21, 2015, from 9 a.m. to 4 p.m. The meeting may be extended or may end early depending on the level of public participation. Register to attend or provide oral testimony at the hearing by April 13, 2015. See Registration and Request to Provide Oral Testimony for information on how to register or make an oral presentation at the hearing. Written or electronic comments will be accepted until June 22, 2015.

**ADDRESSES:** The public hearing will be held at FDA's White Oak Campus, 10903 New Hampshire Ave., Bldg. 31, rm. 1503A, Silver Spring, MD, 20993–0002. Participants must enter through Building 1 and undergo security screening. For parking and security information, please refer to *http://www.fda.gov/AboutFDA/WorkingatFDA/BuildingsandFacilities/WhiteOakCampusInformation/ucm241740.htm.*

**FOR FURTHER INFORMATION CONTACT:** Lesley DeRenzo, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Silver Spring, MD 20903–0002, 240–402–4612, FAX: 301–847–8747, *Lesley.derenzo@fda.hhs.gov;* or Cynthia Ng, Center for Drug Evaluation and Research, 10903 New Hampshire Ave., Silver Spring, MD 20903–0002, 301–796–7512, FAX: 301–847–8747, *cynthia.ng.@fda.hhs.gov.*

*Registration and Request to Provide Oral Testimony:* The public hearing is free and seating will be on a first-come, first-served basis. If you wish to attend or make an oral presentation, see section III (Attendance and/or Participation in the Public Hearing) for information on how to register and the deadline for registration. If you cannot attend in person, information about how you can access a live Webcast will be located at *https://collaboration.fda.gov/hprapril2015/.*

*Comments and Transcripts:* You may submit either electronic comments regarding this document to *http://www.regulations.gov* or written comments to the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. You should annotate and organize your comments to identify the specific questions or topic to which they refer. It is only necessary to send one set of comments. Please identify your comments with the docket number found in brackets in the heading of this document. Received comments may be seen in the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday, and will be posted to the docket at *http://www.regulations.gov.*

Transcripts of the hearing will be available for review at the Division of Dockets Management and at *http://www.regulations.gov* approximately 45 days after the hearing. You may submit a request to obtain a hard copy or CD–ROM transcript. Send your request to the Division of Freedom of Information (ELEM–1029), Office of Management Programs, Food and Drug Administration, 12420 Parklawn Dr., Element Bldg., Rockville, MD 20857.

**SUPPLEMENTARY INFORMATION:** FDA is evaluating its current enforcement policies for drug products labeled as homeopathic from scientific, risk, and process perspectives. The Agency is now soliciting opinions about whether and how to adjust the current enforcement policies to reflect changes in the homeopathic product marketplace over the last approximately 25 years.

## I. Background

### *A. Homeopathic Products and the Federal Food, Drug, and Cosmetic Act*

The definition of a ''drug'' under the Federal Food, Drug, and Cosmetic Act (FD&C Act) includes: (1) Articles recognized in the official United States Pharmacopoeia (USP), official Homoeopathic Pharmacopoeia of the United States (HPUS); (2) articles intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man or other animals; and (3) articles (other than food) intended to affect the structure or any function of the body of man or other animals. See section 201(g)(1)(A) to (C) of the FD&C Act (21 U.S.C. 321(g)(1)(A) to(C)). Accordingly, an article that meets this definition of a ''drug'' is subject to regulation under the FD&C Act, regardless of whether it is labeled as homeopathic. An article that also meets the definition of a ''biological product'' (as defined in section 351(i) of the Public Health Service Act (PHS Act) (42 U.S.C 262(i))) is subject to regulation under both the FD&C Act and the PHS Act.

The FD&C Act recognizes the HPUS, along with the USP, as an official compendium. See section 201(j) of the FD&C Act. The HPUS is produced by a non-governmental organization known as the Homeopathic Pharmacopœia Convention of the United States (HPCUS) and has been in continuous publication since 1897 (Ref. 1). The HPCUS determines which ingredients, including permissible potency levels, are officially monographed homeopathic ingredients. To date, there are over 1200 officially monographed ingredients in the HPUS. Since 2004, the HPCUS has added over 500 new ingredient monographs. The standards set forth in the HPUS and the USP affect the naming, quality, and labeling of drug products. See *e.g.,* sections 501(b) and 502(g) of the FD&C Act (21 U.S.C. 351(b) and 352(g)).

Nothing in the FD&C Act exempts drugs labeled as homeopathic from any of the requirements related to approval, adulteration, and misbranding, including labeling requirements. If a drug labeled as homeopathic is a new drug under the FD&C Act, it is subject to the same premarket approval requirements and the same standards for safety and efficacy as all new drugs. A new drug is defined, in part, as any drug that is not generally recognized, among experts qualified by scientific training and experience to evaluate the safety and effectiveness of drugs, as safe and effective for use under the condition prescribed, recommended, or suggested in the labeling thereof. See section 201(p) of the FD&C Act).

### *B. Homeopathic Drugs and the OTC Drug Review*

In 1972, FDA initiated rulemaking procedures (the OTC Drug Review) to determine which OTC drugs are generally recognized among qualified experts as safe and effective and not misbranded under prescribed, recommended, or suggested conditions of use. See ''Procedures for Classification of Over-the-Counter Drugs'' (37 FR 9464, May 11, 1972). FDA deferred review of drugs labeled as homeopathic due to the uniqueness of homeopathic medicine and stated that FDA would review them as a separate category at a later time (37 FR 9464 at 9466). To date, FDA has not reviewed this class of products for safety and efficacy. Accordingly, there are currently no FDA monographs for drug products labeled as homeopathic.

### *C. FDA's Compliance Policy Guide*

Since 1988, prescription and nonprescription drug products labeled as homeopathic have been manufactured and distributed without FDA approval under the enforcement policies set forth in FDA's Compliance Policy Guide (CPG) 400.400 entitled ''Conditions Under Which Homeopathic Drugs May be Marketed'' (see 53 FR 21728, June 9, 1988). The CPG defines a homeopathic drug as any drug labeled as being homeopathic which is listed in the HPUS, an addendum to it, or its supplements. The CPG includes conditions specific to ingredients, labeling, prescription status, and current good manufacturing practice. The CPG can be found at *http://www.fda.gov/iceci/compliancemanuals/compliancepolicyguidancemanual/ucm074360.htm.*

### *D. Growth in the Sale of Drugs Labeled as ''Homeopathic''*

The homeopathic drug industry has continued on an upward growth trajectory since FDA issued its CPG in 1988, especially with respect to OTC drug products labeled as homeopathic. The CPG noted that, at the time of original publication in 1988, the homeopathic drug market was a multimillion dollar industry in the United States. In 2007, the National Health Interview Survey, conducted by the Centers for Disease Control and Prevention's National Center for Health Statistics, estimated that adults spent about $2.9 billion on the purchase of homeopathic medicine (Ref. 2). Many drugs labeled as homeopathic are sold OTC in major retail stores and are often marketed as natural, safe, and effective alternatives to other prescription and nonprescription products.

### *E. Safety of Drug Products Labeled as Homeopathic*

Drugs products labeled as homeopathic can contain a wide range of substances, including ingredients derived from plants, healthy or diseased animal or human sources, minerals, and chemicals (either as active or inactive ingredients). As with ingredients in other drug and biological products, homeopathic ingredients, even if highly diluted, can cause side effects, drug interactions, and allergic or other adverse reactions. Negative health effects from drug products labeled as homeopathic have been reported through the FDA's Adverse Event Reporting System and the National Poison Data System (NPDS), which is maintained by the American Association of Poison Control Centers and tracks human poison exposure cases. Data in the NPDS pertaining to homeopathic drug products is tracked under the category ''Homeopathic Agents.'' The 2012 American Association of Poison Control Center Annual Report indicated that there were 10,311 reported poison exposure cases related to ''Homeopathic Agents,'' with 8,788 of those reported cases attributed to children 5 years of age and younger (Ref. 3). Of the 10,311 reported cases, 697 required treatment in a health care facility (Id.).

## II. Scope of the Public Hearing

FDA is seeking broad public input on the current enforcement policies related to drug products labeled as homeopathic in an effort to better promote and protect the public health. FDA has developed a list of questions to facilitate a more productive discussion at the public hearing. This list is not intended to be exclusive, and FDA encourages comments on other matters related to the development and regulation of drug and biological products labeled as homeopathic. Issues that are of specific interest to the Agency include the following:

- What are consumer and health care provider attitudes towards human drug and biological products labeled as homeopathic?
- What data sources can be identified or shared with FDA so that the Agency can better assess the risks and benefits of drug and biological products labeled as homeopathic?
- Are the current enforcement policies under the CPG appropriate to protect and promote public health in light of the tremendous growth in the

homeopathic drug market? Are there alternatives to the current enforcement policies of the CPG that would inform FDA's regulatory oversight of drugs labeled as homeopathic? If so, please explain.

- Are there areas of the current CPG that could benefit from additional clarity? If so, please explain.
- Is there information regarding the regulation of homeopathic products in other countries that could inform FDA's thinking in this area?
- A large majority of human drug products labeled as homeopathic are marketed as OTC drugs. These products are available for a wide variety of indications, and many of these indications have never been considered for OTC use under a formal regulatory process. What would be an appropriate regulatory process for evaluating such indications for OTC use?
- Given the wide range of indications on drug products labeled as homeopathic and available OTC, what processes do companies currently use to evaluate whether such products, including their indications for use, are appropriate for marketing as an OTC drug?
- Do consumers and health care providers have adequate information to make informed decisions about drug products labeled as homeopathic? If not, what information, including, for example, information in labeling, would allow consumers and health care providers to be better informed about products labeled as homeopathic?

## III. Attendance and/or Participation in the Public Hearing

The public hearing is free and seating will be on a first-come, first-served basis. If you wish to make an oral presentation during the hearing, you must register by submitting either an electronic or a written request by 5 p.m. on April 13, 2015, to Lesley DeRenzo or Cynthia Ng (see **FOR FURTHER INFORMATION CONTACT**). Submit electronic requests to *CDERHOMEOPATHICPRODUCT@fda.hhs.gov.* You must provide your name, title, business affiliation (if applicable), address, telephone and fax numbers, email address, and type of organization you represent (*e.g.,* industry, consumer organization, etc.). You also should submit a brief summary of the presentation, including the discussion topic(s) that will be addressed and the approximate time requested for your presentation. FDA encourages individuals and organizations with common interests to coordinate and give a joint, consolidated presentation. Registrants will receive confirmation once they have been accepted to attend the meeting. FDA may limit both the number of participants from individual organizations and the total number of attendees based on space limitations. Registered presenters should check in before the hearing.

Participants should submit a copy of each presentation to Lesley DeRenzo or Cynthia Ng (see **FOR FURTHER INFORMATION CONTACT**) no later than 5 p.m. on April 13, 2015. We will file the hearing schedule, indicating the order and time allotted for each presenter, with the Division of Dockets Management (see COMMENTS AND TRANSCRIPTS). FDA will post an agenda of the public hearing and other background material at least 3 days before the public hearing, along with additional information, at: *http://www.fda.gov/Drugs/NewsEvents/ucm132703.htm* (select this hearing from the events list).

We will mail, email, or telephone the schedule to each participant before the hearing. In anticipation of the hearing presentations moving ahead of schedule, participants are encouraged to arrive early to ensure their designated order of presentation. Participants who are not present when called risk forfeiting their scheduled time.

If you need special accommodations due to a disability, contact Lesley DeRenzo or Cynthia Ng (see **FOR FURTHER INFORMATION CONTACT**) at least 7 days in advance of the hearing.

## IV. Notice of Hearing Under 21 CFR Part 15

The Commissioner of Food and Drugs is announcing that the public hearing will be held in accordance with part 15 (21 CFR part 15). A presiding officer, who will be accompanied by FDA senior management from the Office of the Commissioner and the relevant centers, will conduct the hearing.

Under § 15.30(f), the hearing is informal and the rules of evidence do not apply. Only the presiding officer and panel members may question any person during or at the conclusion of each presentation (§ 15.30(e)). Public hearings under part 15 are subject to FDA's policy and procedures for electronic media coverage of FDA's public administrative proceedings (21 CFR part 10, subpart C) (§ 10.203(a)). Under § 10.205, representatives of the electronic media may be permitted, subject to certain limitations, to videotape, film, or otherwise record FDA's public administrative proceedings, including presentations by participants. The hearing will be transcribed as stipulated in § 15.30(b). To the extent that the conditions for the hearing as described in this document conflict with any provisions set out in part 15, this notice acts as a waiver of those provisions as specified in § 15.30(h).

## V. References

The following references have been placed on display in the Division of Dockets Management (see **ADDRESSES**) and may be seen by interested persons between 9 a.m. and 4 p.m., Monday through Friday, and are available electronically at *http://www.regulations.gov.* (FDA has verified all the Web site addresses in this reference section, but we are not responsible for any subsequent changes to the Web sites after this document publishes in the **Federal Register**.)


1. The Homeopathic Pharmacopoeia of the United States (HPUS), ''What is the HPUS?'', available at *http://www.hpus.com/what-is-the-hpus.php* (last visited Dec. 23, 2014).
2. Nahin, R. L., P. M. Barnes, B. J. Stussman, and B. Bloom, ''Costs of Complementary and Alternative Medicine (CAM) and Frequency of Visits to CAM Practitioners: United States, 2007.'' *National Health Statistics Reports;* no 18. Hyattsville, MD: National Center for Health Statistics, 2009.
3. James B. Mowry, et al., ''2012 Annual Report of the American Association of Poison Control Centers' National Poison Data System (NPDS): 30th Annual Report,'' 51 *Clinical Toxicology,* 949, 1188 (2013).


Dated: March 20, 2015.

**Leslie Kux,**

*Associate Commissioner for Policy.*

[FR Doc. 2015–07018 Filed 3–26–15; 8:45 am]

BILLING CODE 4164–01–P

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## ENVIRONMENTAL PROTECTION AGENCY

## 40 CFR Part 52

**[EPA–R09–OAR–2015–0083; FRL–9924–74–Region 9]**

## Revisions to the California State Implementation Plan, Placer County Air Pollution Control District and the Ventura 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 Placer County Air Pollution Control District (PCAPCD) and the Ventura County Air Pollution Control District (VCAPCD) portion of

the California State Implementation Plan (SIP). These revisions concern volatile organic compound (VOC) emissions from the surface coating of plastic parts and products, metalworking fluids and direct-contact lubricants. We are proposing to approve local rules to regulate these emission sources under the Clean Air Act (CAA or the Act).

**DATE:** Any comments on this proposal must arrive by April 27, 2015.

**ADDRESSES:** Submit comments, identified by docket number: EPA–R09–OAR–2015–0083 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:** Arnold Lazarus, EPA Region IX, (415) 972–3024, *lazarus.arnold@epa.gov.*

**SUPPLEMENTARY INFORMATION:** This proposal addresses the following local rules: PCAPCD Rule 249 and VCAPCD Rule 74.31. 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: February 27, 2015.

**Jared Blumenfeld,**

*Regional Administrator, Region IX.*

[FR Doc. 2015–06857 Filed 3–26–15; 8:45 am]

BILLING CODE 6560–50–P

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## ENVIRONMENTAL PROTECTION AGENCY

## 40 CFR Part 52

**[EPA–R03–OAR–2014–0634; FRL–9925–18–Region 3]**

## Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; Plan Approval and Operating Permit Fees

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Proposed rule.

**SUMMARY:** The Environmental Protection Agency (EPA) proposes to approve the State Implementation Plan (SIP) revision submitted by the Comonwealth of Pennsylvania pertaining to minor editorial revisions to Pennsylvania's existing plan approval and operating permit fee rules. 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 action, 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.

**DATES:** Comments must be received in writing by April 27, 2015.

**ADDRESSES:** Submit your comments, identified by Docket ID Number EPA–R03–OAR–2014–0634, by one of the following methods:

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

B. *Email: Campbell.Dave@epa.gov.*

C. *Mail:* EPA–R03–OAR–2014–0634, Dave Campbell, Associate Director, Office of Permits and Air Toxics, Mailcode 3AP10, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103.

D. *Hand Delivery:* At the previously-listed EPA Region III address. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

*Instructions:* Direct your comments to Docket ID No. EPA–R03–OAR–2014–0634. EPA's policy is that all comments received will be included in the public docket without change, and may be made available online at *www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *www.regulations.gov* or email. The *www.regulations.gov* Web site is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to EPA without going through *www.regulations.gov,* your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact

information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

*Docket:* All documents in the electronic docket are listed in the *www.regulations.gov* index. Although listed in the index, some information is not publicly available, *i.e.,* CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in *www.regulations.gov* or in hard copy during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of the State submittal are available at the Pennsylvania Department of Environmental Protection, Bureau of Air Quality Control, P.O. Box 8468, 400 Market Street, Harrisburg, Pennsylvania 17105.

**FOR FURTHER INFORMATION CONTACT:** Gerallyn Duke, (215) 814–2084, or by email at *Duke.Gerallyn@epa.gov.*

**SUPPLEMENTARY INFORMATION:** For further information, please see the information provided in the direct final action, with the same title, that is located in the ''Rules and Regulations'' section of this **Federal Register** publication.

Dated: March 10, 2015.

**William C. Early,**

*Acting Regional Administrator, Region III.*

[FR Doc. 2015–06964 Filed 3–26–15; 8:45 am]

**BILLING CODE 6560–50–P**

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Parts 52 and 81

**[EPA–R04–OAR–2014–0904; FRL–9925–14–Region 4]**

### Approval of Implementation Plans and Designation of Areas; Tennessee; Redesignation of the Tennessee Portion of the Chattanooga, 1997 $PM_{2.5}$ Nonattainment Area to Attainment

**AGENCY:** Environmental Protection Agency.

**ACTION:** Proposed rule.

**SUMMARY:** On November 13, 2014, the State of Tennessee, through the Tennessee Department of Environment and Conservation (TDEC), submitted a request to redesignate the Tennessee portion of the Chattanooga, TN-GA-AL fine particulate matter ($PM_{2.5}$) nonattainment area (hereafter referred to as the ''Chattanooga TN-GA-AL Area'' or ''Area'') to attainment for the 1997 Annual $PM_{2.5}$ national ambient air quality standards (NAAQS) and to approve a state implementation plan (SIP) revision containing a maintenance plan for the Tennessee portion of the Chattanooga TN-GA-AL Area. The Tennessee portion of the Chattanooga TN-GA-AL Area is comprised of Hamilton County in Tennessee. The Environmental Protection Agency (EPA) is proposing to approve the redesignation request and the related SIP revision, including TDEC's plan for maintaining attainment of the $PM_{2.5}$ standard, for the Tennessee portion of the Chattanooga TN-GA-AL Area. EPA is also proposing to approve into the Tennessee SIP the motor vehicle emission budgets (MVEBs) for nitrogen oxides ($NO_X$) and $PM_{2.5}$ for the year 2025 for the Tennessee portion of the Chattanooga TN-GA-AL Area. In separate actions, EPA approved the redesignation requests and associated maintenance plans for the Alabama and Georgia portions of this Area.

**DATES:** Comments must be received on or before April 27, 2015.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA–R04–OAR–2014–0904, by one of the following methods:

1. *www.regulations.gov:* Follow the on-line instructions for submitting comments.
2. *Email: R4-ARMS@epa.gov.*
3. *Fax:* (404) 562–9019.
4. *Mail:* EPA–R04–OAR–2014–0904, Air Regulatory Management Section (formerly the Regulatory Development Section), Air Planning and Implementation Branch (formerly the Air Planning Branch), Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW., Atlanta, Georgia 30303–8960.
5. *Hand Delivery or Courier:* Ms. Lynorae Benjamin, Chief, Air Regulatory Management Section, Air Planning and Implementation Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW., Atlanta, Georgia 30303–8960. Such deliveries are only accepted during the Regional Office's normal hours of operation. The Regional Office's 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–R04–OAR–2014–0904. EPA policy is that all comments received will be included in the public docket without change and may be made available online at *www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit through *www.regulations.gov* or email, information that you consider to be CBI or otherwise protected. The *www.regulations.gov* Web site is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to EPA without going through *www.regulations.gov,* your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information about EPA's public docket visit the EPA Docket Center homepage at *http://www.epa.gov/epahome/dockets.htm.*

*Docket:* All documents in the electronic docket are listed in the *www.regulations.gov* index. Although listed in the index, some information is not publicly available, *i.e.,* CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in *www.regulations.gov* or in hard copy at the Air Regulatory Management Section, Air Planning and Implementation Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW., Atlanta, Georgia 30303–8960. EPA requests that if at all possible, you contact the person listed in the **FOR**

**FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday, 8:30 a.m. to 4:30 p.m., excluding Federal holidays.

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

**SUPPLEMENTARY INFORMATION:**

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## I. What are the actions EPA is proposing to take?

In this action, EPA is proposing to make a determination that the Chattanooga TN-GA-AL Area is continuing to attain the 1997 Annual $PM_{2.5}$ NAAQS [1] and to take additional actions related to Tennessee's request to redesignate the Tennessee portion of the Chattanooga TN-GA-AL Area, which is summarized as follows and described in greater detail throughout this notice of proposed rulemaking. EPA proposes: (1) To redesignate the Tennessee portion of the Chattanooga TN-GA-AL Area to attainment for the 1997 Annual $PM_{2.5}$ NAAQS; and (2) to approve, under section 175A of the Clean Air Act (CAA or Act), Tennessee's 1997 Annual $PM_{2.5}$ NAAQS maintenance plan, including the associated MVEBs, for the Tennessee portion of the Chattanooga TN-GA-AL Area into the Tennessee SIP.

First, EPA proposes to determine that the Tennessee portion of the Chattanooga TN-GA-AL Area has met the requirements for redesignation under section 107(d)(3)(E) of the CAA. In this action, EPA is proposing to approve a request to change the legal designation of Hamilton County in Tennessee, located within the Chattanooga TN-GA-AL Area, from nonattainment to attainment for the 1997 Annual $PM_{2.5}$ NAAQS.

Second, EPA is proposing to approve Tennessee's 1997 Annual $PM_{2.5}$ NAAQS maintenance plan for the Tennessee portion of the Chattanooga TN-GA-AL Area (such approval being one of the CAA criteria for redesignation to attainment status). The maintenance plan is designed to help keep the Chattanooga TN-GA-AL Area in attainment for the 1997 Annual $PM_{2.5}$ NAAQS through 2025. The maintenance plan that EPA is proposing to approve today includes on-road MVEBs for direct $PM_{2.5}$ and $NO_X$ for the Tennessee portion of the Chattanooga TN-GA-AL Area for transportation conformity purposes. EPA is proposing to approve the 2025 MVEBs into the Tennessee SIP that are included as part of Tennessee's maintenance plan for the 1997 Annual $PM_{2.5}$ NAAQS.

Further, EPA proposes to make the determination that the Chattanooga TN-GA-AL Area is continuing to attain the 1997 Annual $PM_{2.5}$ NAAQS and that all other redesignation criteria have been met for the Tennessee portion of the Chattanooga TN-GA-AL Area. The bases for EPA's determination for the Area are discussed in greater detail below. EPA is also providing the public an update of the status of EPA's adequacy process for the 2025 MVEBs for $PM_{2.5}$ and $NO_X$ for the Tennessee portion of the Chattanooga TN-GA-AL Area. Please see Section VIII of this proposed rulemaking for further explanation of this process and for more details.

Today's notice of proposed rulemaking is in response to Tennessee's November 13, 2014, SIP revision, which requests redesignation of the Tennessee portion of the Chattanooga TN-GA-AL Area to attainment for the 1997 Annual $PM_{2.5}$ NAAQS and addresses the specific issues summarized above and the necessary elements for redesignation described in section 107(d)(3)(E) of the CAA. In separate actions, EPA approved the redesignation requests and associated maintenance plans for the Alabama and Georgia portions of the Area. *See* 79 FR 76235 (December 22, 2014) and 79 FR 75748 (December 19, 2014), respectively.

## II. What is the background for EPA's proposed actions?

Fine particle pollution can be emitted directly or formed secondarily in the atmosphere. The main precursors of secondary $PM_{2.5}$ are sulfur dioxide ($SO_2$), $NO_X$, ammonia, and volatile organic compounds (VOC). *See* 72 FR 20586, 20589 (April 25, 2007). Sulfates are a type of secondary particle formed from $SO_2$ emissions of power plants and industrial facilities. Nitrates, another common type of secondary particle, are formed from $NO_X$ emissions of power plants, automobiles, and other combustion sources.

On July 18, 1997, EPA promulgated the first air quality standards for $PM_{2.5}$. EPA promulgated an annual standard at a level of 15 micrograms per cubic meter ($\mu g/m^3$), based on a 3-year average of annualmean $PM_{2.5}$ concentrations. In the same rulemaking, EPA promulgated a 24-hour standard of 65 $\mu g/m^3$, based on a 3-year average of the 98th percentile of 24-hour concentrations. On October 17, 2006, EPA retained the annual average NAAQS at 15 $\mu g/m^3$ but revised the 24-hour NAAQS to 35 $\mu g/m^3$, based again on the 3-year average of the 98th percentile of 24-hour concentrations.[2] *See* 71 FR 61144. Under EPA regulations at 40 CFR part 50, the primary and secondary 1997 Annual $PM_{2.5}$ NAAQS are attained when the annual arithmetic mean concentration, as determined in accordance with 40 CFR part 50, appendix N, is less than or equal to 15.0 $\mu g/m^3$ at all relevant monitoring sites in the subject area over a 3-year period.

On January 5, 2005, and supplemented on April 14, 2005, EPA designated Hamilton County in Tennessee, in association with counties in Alabama and Georgia in the Chattanooga TN-GA-AL Area, as nonattainment for the 1997 $PM_{2.5}$ NAAQS. *See* 70 FR 944 and 70 FR 19844, respectively. On November 13, 2009, EPA promulgated designations for the 24-hour standard established in

[1] On September 8, 2011, at 76 FR 55774, EPA determined that the Chattanooga TN-GA-AL Area attained the 1997 $PM_{2.5}$ NAAQS by its applicable attainment date of April 5, 2010, and that the Area was continuing to attain the $PM_{2.5}$ standard with monitoring data that was currently available.

[2] In response to legal challenges of the annual standard promulgated in 2006, the United States Court of Appeals for the District of Columbia Circuit (D.C. Cir.) remanded that NAAQS to EPA for further consideration. *See American Farm Bureau Federation and National Pork Producers Council, et al.* v. *EPA,* 559 F.3d 512 (D.C. Cir. 2009). However, given that the 1997 and 2006 Annual NAAQS are essentially identical, attainment of the 1997 Annual NAAQS would also indicate attainment of the remanded 2006 Annual NAAQS.

2006, designating counties in the Chattanooga TN-GA-AL Area as unclassifiable/attainment for the 2006 24-hour $PM_{2.5}$ NAAQS. *See* 74 FR 58688. That action also clarified that Hamilton County in the Chattanooga TN-GA-AL Area was classified unclassifiable/attainment for the 1997 24-hour $PM_{2.5}$ NAAQS. EPA did not promulgate designations for the 2006 annual $PM_{2.5}$ NAAQS because that NAAQS was essentially identical to the 1997 Annual $PM_{2.5}$ NAAQS. Therefore, Hamilton County in the Chattanooga TN-GA-AL Area is designated nonattainment for the Annual $PM_{2.5}$ NAAQS promulgated in 1997, and today's action only addresses this designation.

All 1997 $PM_{2.5}$ NAAQS areas were designated under subpart 1 of title I, part D, of the CAA. Subpart 1 contains the general requirements for nonattainment areas for any pollutant governed by a NAAQS and is less prescriptive than the other subparts of title I, part D. On April 25, 2007, EPA promulgated its $PM_{2.5}$ Implementation Rule, codified at 40 CFR part 51, subpart Z, in which the Agency provided guidance for state and tribal plans to implement the 1997 $PM_{2.5}$ NAAQS. *See* 72 FR 20664. This rule, at 40 CFR 51.1004(c), specifies some of the regulatory results of attaining the NAAQS, as discussed below. The United States Court of Appeals for the District of Columbia Circuit (D.C. Circuit) remanded the Clean Air Fine Particle Implementation Rule and the final rule entitled ''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'') to EPA on January 4, 2013, in *Natural Resources Defense Council* v. *EPA,* 706 F.3d 428 (D.C. Cir. 2013). The court found that EPA erred in implementing the 1997 $PM_{2.5}$ NAAQS pursuant to the general implementation provisions of subpart 1 of Part D of Title I of the CAA, rather than the particulate matter-specific provisions of subpart 4 of part D of title I. The effect of the court's ruling on this proposed redesignation action is discussed in detail in Section VI of this document.

The 3-year ambient air quality data for 2007–2009 indicated no violations of the 1997 $PM_{2.5}$ NAAQS for the Chattanooga TN-GA-AL Area. As a result, on November 13, 2014, Tennessee requested redesignation of the Tennessee portion of the Chattanooga TN-GA-AL Area to attainment for the 1997 Annual $PM_{2.5}$ NAAQS. The redesignation request includes three years of complete, quality-assured ambient air quality data for the 1997 Annual $PM_{2.5}$ NAAQS for 2007–2009, indicating that the 1997 $PM_{2.5}$ NAAQS had been achieved for the Chattanooga TN-GA-AL Area. Under the CAA, nonattainment areas may be redesignated to attainment if sufficient, complete, quality-assured data is available for the Administrator to determine that the area has attained the standard and the area meets the other CAA redesignation requirements in section 107(d)(3)(E). The Chattanooga TN-GA-AL Area's design value, based on data from 2007 through 2009, is below 15.0 $\mu g/m^3$, which demonstrates attainment of the standard. While Annual $PM_{2.5}$ concentrations are dependent on a variety of conditions, the overall improvement in annual $PM_{2.5}$ concentrations in the Tennessee portion of the Chattanooga TN-GA-AL Area can be attributed to the reduction of pollutant emissions, as discussed in more detail in Section V of this proposed rulemaking.

The D.C. Circuit and the United States Supreme Court have issued a number of decisions and orders regarding the status of EPA's regional trading programs for transported air pollution, CAIR and CSAPR, that impact this proposed redesignation action. The effect of those court actions on this rulemaking is discussed in detail in Section V of this document.

## III. What are the criteria for redesignation?

The CAA provides the requirements for redesignating a nonattainment area to attainment. Specifically, section 107(d)(3)(E) of the CAA allows for redesignation provided the following criteria are met: (1) The Administrator determines that the area has attained the applicable NAAQS; (2) the Administrator has fully approved the applicable implementation plan for the area under section 110(k); (3) the Administrator determines that the improvement in air quality is due to permanent and enforceable reductions in emissions resulting from implementation of the applicable SIP and applicable Federal air pollutant control regulations and other permanent and enforceable reductions; (4) the Administrator has fully approved a maintenance plan for the area as meeting the requirements of section 175A; and (5) the state containing such area has met all requirements applicable to the area under section 110 and part D of title I of the CAA.

EPA has provided guidance on redesignation in the General Preamble for the Implementation of title I of the CAA Amendments of 1990 (April 16, 1992 (57 FR 13498), and supplemented on April 28, 1992 (57 FR 18070)) and has provided further guidance on processing redesignation requests in the following documents:

1. ''Procedures for Processing Requests to Redesignate Areas to Attainment,'' Memorandum from John Calcagni, Director, Air Quality Management Division, September 4, 1992 (hereafter referred to as the ''Calcagni Memorandum'');
2. ''State Implementation Plan (SIP) Actions Submitted in Response to Clean Air Act (CAA) Deadlines,'' Memorandum from John Calcagni, Director, Air Quality Management Division, October 28, 1992; and
3. ''Part D New Source Review (Part D NSR) Requirements for Areas Requesting Redesignation to Attainment,'' Memorandum from Mary D. Nichols, Assistant Administrator for Air and Radiation, October 14, 1994.

## IV. Why is EPA proposing these actions?

On November 13, 2014, TDEC requested the redesignation of the Tennessee portion of the Chattanooga TN-GA-AL Area to attainment for the 1997 Annual $PM_{2.5}$ NAAQS. The Chattanooga TN-GA Area has attained the 1997 Annual $PM_{2.5}$ NAAQS, and EPA's preliminary evaluation indicates that the Tennessee portion of this Area has met the requirements for redesignation set forth in section 107(d)(3)(E), including the maintenance plan requirements under section 175A of the CAA. EPA is also announcing the status of its adequacy determination for both the $NO_X$ and direct $PM_{2.5}$ MVEBs for the Tennessee portion of the Chattanooga TN-GA-AL Area. Additionally, EPA is also proposing to approve the MVEBs for both $NO_X$ and direct $PM_{2.5}$ that were included in Tennessee's maintenance plan.

## V. What is EPA's analysis of the request?

As stated above, in accordance with the CAA, EPA proposes in today's action to: (1) Redesignate the Tennessee portion of the Chattanooga TN-GA-AL Area to attainment for the 1997 Annual $PM_{2.5}$ NAAQS; and (2) approve into the Tennessee SIP the 1997 Annual $PM_{2.5}$ NAAQS maintenance plan, including the associated MVEBs, for the Tennessee portion of the Chattanooga TN-GA-AL Area. Further, EPA proposes to make the determination that the Chattanooga TN-GA-AL Area continues to attain the 1997 Annual $PM_{2.5}$ NAAQS and that all other redesignation criteria have been met for the Tennessee portion

of the Chattanooga TN-GA-AL Area. The five redesignation criteria provided under CAA section 107(d)(3)(E) are discussed in greater detail for the Area in the following paragraphs of this section.

*Criteria (1)—The Chattanooga TN-GA-AL Area Has Attained the 1997 Annual $PM_{2.5}$ NAAQS*

For redesignating a nonattainment area to attainment, the CAA requires EPA to determine that the area has attained the applicable NAAQS (CAA section 107(d)(3)(E)(i)). EPA is proposing to determine that the Chattanooga TN-GA-AL Area continues to attain the 1997 Annual $PM_{2.5}$ NAAQS since the May 31, 2011, attainment determination. *See* 76 FR 31239. For $PM_{2.5,}$ an area may be considered to be attaining the 1997 Annual $PM_{2.5}$ NAAQS if it meets the 1997 Annual $PM_{2.5}$ NAAQS, as determined in accordance with 40 CFR 50.13 and appendix N of part 50, based on three complete, consecutive calendar years of quality-assured air quality monitoring data. To attain these NAAQS, the 3-year average of the annual arithmetic mean concentration, as determined in accordance with 40 CFR part 50, appendix N, must be less than or equal to 15.0 μg/m³ at all relevant monitoring sites in the subject area over a 3-year period. The relevant data must be collected and quality-assured in accordance with 40 CFR part 58 and recorded in the EPA Air Quality System (AQS) database. The monitors generally should have remained at the same location for the duration of the monitoring period required for demonstrating attainment.

On May 31, 2011, EPA determined that the Chattanooga TN-GA-AL Area was attaining the 1997 Annual $PM_{2.5}$ NAAQS. *See* 76 FR 31239. For that action, EPA reviewed $PM_{2.5}$ monitoring data from monitoring stations in the Chattanooga TN-GA-AL Area for the 1997 Annual $PM_{2.5}$ NAAQS for 2007–2009. These data had been quality-assured by the respective state agencies and are recorded in AQS. In addition, on September 8, 2011, at 76 FR 55774, EPA finalized a determination that the Chattanooga TN-GA-AL Area attained the 1997 Annual $PM_{2.5}$ NAAQS by the applicable attainment date of April 5, 2010. As summarized in Table 1, below, the 3-year averages of annual arithmetic mean concentrations (*i.e.,* design values) for the years 2009 through 2013 for the Chattanooga TN-GA-AL Area are below the 1997 Annual $PM_{2.5}$ NAAQS.

TABLE 1—DESIGN VALUE CONCENTRATIONS FOR THE CHATTANOOGA TN-GA-AL AREA FOR THE 1997 ANNUAL $PM_{2.5}$ NAAQS

[μg/m³]

| Location | County | Site ID | 3-Year design values | | | | |
|---|---|---|---|---|---|---|---|
| | | | 2007–2009 | 2008–2010 | 2009–2011 | 2010–2012 | 2011–2013 |
| Rossville—Maple St., Georgia. | Walker County, Georgia .... | 132950002 | * 12.5 | 10.6 | 10.1 | 10.0 | 10.5 |
| Siskin Drive/UTC, Tennessee. | Hamilton County, Tennessee. | 470654002 | 12.9 | 11.6 | 11.1 | 10.9 | 10.0 |
| Maxwell Road/East Ridge, Tennessee. | Hamilton County, Tennessee. | 470650031 | 12.7 | 11.6 | 11.2 | 11.1 | 10.1 |
| Soddy-Daisy High School, Tennessee. | Hamilton County, Tennessee. | 470651011 | 11.1 | 10.7 | 11.0 | 11.2 | 9.8 |

* Values subject to data substitution (76 FR 15895 (March 22, 2011)).

As discussed above, the design value for an area is the highest 3-year average of annual mean concentrations recorded at any monitor in the area. Therefore, the 3-year design value for the period on which Tennessee based its redesignation request (2007–2009) for the Chattanooga TN-GA-AL Area is 12.9 μg/m³, which is below the 1997 Annual $PM_{2.5}$ NAAQS. Additional details can be found in EPA's final clean data determination for the Chattanooga TN-GA-AL Area. *See* 76 FR 31239 (May 31, 2011). EPA has reviewed more recent data which indicate that the Chattanooga TN-GA-AL Area continues to attain the 1997 Annual $PM_{2.5}$ NAAQS beyond the submitted 3-year attainment period of 2007–2009. If the Area does not continue to attain before EPA finalizes the redesignation, EPA will not go forward with the redesignation. As discussed in more detail below, TDEC has committed to continue monitoring in this Area in accordance with 40 CFR part 58.

*Criteria (5) —Tennessee Has Met All Applicable Requirements Under Section 110 and Part D of the CAA; and Criteria (2)—Tennessee Has a Fully Approved SIP Under Section 110(k) for the Tennessee Portion of the Chattanooga TN-GA-AL Area*

For redesignating a nonattainment area to attainment, the CAA requires EPA to determine that the state has met all applicable requirements under section 110 and part D of title I of the CAA (CAA section 107(d)(3)(E)(v)) and that the state has a fully approved SIP under section 110(k) for the area (CAA section 107(d)(3)(E)(ii)). EPA proposes to find that Tennessee has met all applicable SIP requirements for the Tennessee portion of the Chattanooga TN-GA-AL Area under section 110 of the CAA (general SIP requirements) for purposes of redesignation. Additionally, EPA proposes to find that the Tennessee SIP satisfies the criterion that it meets applicable SIP requirements for purposes of redesignation under part D of title I of the CAA (requirements specific to 1997 Annual $PM_{2.5}$ nonattainment areas) in accordance with section 107(d)(3)(E)(v). Further, EPA proposes to determine that the SIP is fully approved with respect to all requirements applicable for purposes of redesignation in accordance with section 107(d)(3)(E)(ii). In making these determinations, EPA ascertained which requirements are applicable to the Area and, if applicable, that they are fully approved under section 110(k). SIPs must be fully approved only with respect to requirements that were applicable prior to submittal of the complete redesignation request.

a. The Tennessee Portion of the Chattanooga TN-GA-AL Area Has Met All Applicable Requirements Under Section 110 and Part D of the CAA

*General SIP requirements.* Section 110(a)(2) of title I of the CAA delineates the general requirements for a SIP, which include enforceable emissions limitations and other control measures, means, or techniques; provisions for the

establishment and operation of appropriate devices necessary to collect data on ambient air quality; and programs to enforce the limitations. General SIP elements and requirements are delineated in section 110(a)(2) of title I, part A of the CAA. These requirements include, but are not limited to, the following: Submittal of a SIP that has been adopted by the state after reasonable public notice and hearing; provisions for establishment and operation of appropriate procedures needed to monitor ambient air quality; implementation of a source permit program; provisions for the implementation of part C requirements (Prevention of Significant Deterioration (PSD)) and provisions for the implementation of part D requirements (New Source Review (NSR) permit programs); provisions for air pollution modeling; and provisions for public and local agency participation in planning and emission control rule development.

Section 110(a)(2)(D) requires that SIPs contain certain measures to prevent sources in a state from significantly contributing to air quality problems in another state. To implement this provision, EPA has required certain states to establish programs to address the interstate transport of air pollutants. The section 110(a)(2)(D) requirements for a state are not linked with a particular nonattainment area's designation and classification in that state. EPA believes that the requirements linked with a particular nonattainment area's designation and classifications are the relevant measures to evaluate in reviewing a redesignation request. The transport SIP submittal requirements, where applicable, continue to apply to a state regardless of the designation of any one particular area in the state. Thus, EPA does not believe that the CAA's interstate transport requirements should be construed to be applicable requirements for purposes of redesignation.

In addition, EPA believes other section 110 elements that are neither connected with nonattainment plan submissions nor linked with an area's attainment status are not applicable requirements for purposes of redesignation. The area will still be subject to these requirements after the area is redesignated. The section 110 and part D requirements which are linked with a particular area's designation and classification are the relevant measures to evaluate in reviewing a redesignation request. This approach is consistent with EPA's existing policy on applicability (*i.e.,* for redesignations) of conformity and oxygenated fuels requirements, as well as with section 184 ozone transport requirements. *See* Reading, Pennsylvania, proposed and final rulemakings (61 FR 53174–53176, October 10, 1996), (62 FR 24826, May 7, 1997); Cleveland-Akron-Loraine, Ohio, final rulemaking (61 FR 20458, May 7, 1996); and Tampa, Florida, final rulemaking at (60 FR 62748, December 7, 1995). *See also* the discussion on this issue in the Cincinnati, Ohio, redesignation (65 FR 37890, June 19, 2000), and in the Pittsburgh, Pennsylvania, redesignation (66 FR 50399, October 19, 2001).

On August 2, 2012, EPA approved all infrastructure SIP elements required under section 110(a)(2) for the 1997 Annual $PM_{2.5}$ NAAQS with the exception of the visibility element under section 110(a)(2)(D)(i)(II) (also known as ''prong 4''). *See* 77 FR 45958. EPA approved prong 4 for the 1997 Annual $PM_{2.5}$ NAAQS on May 7, 2014. See 79 FR 26143. These requirements are, however, statewide requirements that are not linked to the $PM_{2.5}$ nonattainment status of the Area. As stated above, EPA believes that section 110 elements not linked to an area's nonattainment status are not applicable for purposes of redesignation. Therefore, EPA believes it has approved all SIP elements under section 110 that must be approved as a prerequisite for the redesignation to attainment of the Tennessee portion of the Chattanooga TN-GA-AL Area.

*Title I, Part D, subpart 1 applicable SIP requirements.* EPA proposes to determine that the Tennessee SIP meets the applicable SIP requirements for the Tennessee portion of the Chattanooga TN-GA-AL Area for purposes of redesignation under part D of the CAA. Subpart 1 of part D, found in sections 172–176 of the CAA, sets forth the basic nonattainment requirements applicable to all nonattainment areas. All areas that were designated nonattainment for the 1997 Annual $PM_{2.5}$ NAAQS were designated under subpart 1 of the CAA. For purposes of evaluating this redesignation request, the applicable part D, subpart 1 SIP requirements for all nonattainment areas are contained in sections 172(c)(1)–(9) and in section 176. A thorough discussion of the requirements contained in section 172 can be found in the General Preamble for Implementation of title I. *See* 57 FR 13498 (April 16, 1992). Section VI of this proposed rulemaking notice discusses the relationship between this proposed redesignation action and subpart 4 of Part D.

*Subpart 1 Section 172 Requirements.* Section 172(c)(1) requires the plans for all nonattainment areas to provide for the implementation of all reasonably available control measures (RACM) as expeditiously as practicable and to provide for attainment of the NAAQS. EPA interprets this requirement to impose a duty on all nonattainment areas to consider all available control measures and to adopt and implement such measures as are reasonably available for implementation in each area as components of the area's attainment demonstration. Under section 172, states with nonattainment areas must submit plans providing for timely attainment and meeting a variety of other requirements.

EPA's longstanding interpretation of the nonattainment planning requirements of section 172 is that once an area is attaining the NAAQS, those requirements are not ''applicable'' for purposes of CAA section 107(d)(3)(E)(ii) and therefore need not be approved into the SIP before EPA can redesignate the area. In the 1992 General Preamble for Implementation of Title I, EPA set forth its interpretation of applicable requirements for purposes of evaluating redesignation requests when an area is attaining a standard. *See* 57 FR 13498, 13564 (April 16, 1992). EPA noted that the requirements for reasonable further progress and other measures designed to provide for attainment do not apply in evaluating redesignation requests because those nonattainment planning requirements ''have no meaning'' for an area that has already attained the standard. *Id.* This interpretation was also set forth in the Calcagni Memorandum. EPA's understanding of section 172 also forms the basis of its Clean Data Policy, which was articulated with regard to $PM_{2.5}$ in 40 CFR 51.1004(c), and suspends a state's obligation to submit most of the attainment planning requirements that would otherwise apply, including an attainment demonstration and planning SIPs to provide for reasonable further progress (RFP), RACM, and contingency measures under section 172(c)(9).[3] Courts have upheld EPA's interpretation of section 172(c)(1)'s ''reasonably available'' control measures and control technology as meaning only those controls that advance attainment, which precludes the need to require additional measures where an area is already attaining. *NRDC* v. *EPA,* 571 F.3d 1245, 1252 (D.C. Cir. 2009); *Sierra Club* v. *EPA,* 294 F.3d 155, 162 (D.C. Cir. 2002);

[3] This regulation was promulgated as part of the 1997 $PM_{2.5}$ NAAQS implementation rule that was subsequently challenged and remanded in *NRDC* v. *EPA,* 706 F.3d 428 (D.C. Cir. 2013), as discussed in Section VI of this document. However, the Clean Data Policy portion of the implementation rule was not at issue in that case.

*Sierra Club* v. *EPA,* 314 F.3d 735, 744 (5th Cir. 2002).

Therefore, because attainment has been reached in the Chattanooga TN-GA-AL Area, no additional measures are needed to provide for attainment, and section 172(c)(1) requirements for an attainment demonstration and RACM are no longer considered to be applicable for purposes of redesignation as long as the Area continues to attain the standard until redesignation. The section 172(c)(2) requirement that nonattainment plans contain provisions promoting reasonable further progress toward attainment is also not relevant for purposes of redesignation because EPA has determined that the Chattanooga TN-GA-AL Area has monitored attainment of the 1997 Annual $PM_{2.5}$ NAAQS. In addition, because the Chattanooga TN-GA-AL Area has attained the 1997 Annual $PM_{2.5}$ NAAQS and is no longer subject to a RFP requirement, the requirement to submit the section 172(c)(9) contingency measures is not applicable for purposes of redesignation. Section 172(c)(6) requires the SIP to contain control measures necessary to provide for attainment of the NAAQS. Because attainment has been reached, no additional measures are needed to provide for attainment.

Section 172(c)(3) requires submission and approval of a comprehensive, accurate, and current inventory of actual emissions. On February 8, 2012, EPA approved Tennessee's 2002 base-year emissions inventory for the Tennessee portion of the Chattanooga TN-GA-AL Area as part of the SIP revision submitted by TDEC to provide for attainment of the 1997 $PM_{2.5}$ NAAQS in the Area. *See* 77 FR 6467.

Section 172(c)(4) requires the identification and quantification of allowable emissions for major new and modified stationary sources to be allowed in an area, and section 172(c)(5) requires source permits for the construction and operation of new and modified major stationary sources anywhere in the nonattainment area. EPA has determined that, since PSD requirements will apply after redesignation, areas being redesignated need not comply with the requirement that a NSR program be approved prior to redesignation, provided that the area demonstrates maintenance of the NAAQS without part D NSR. A more detailed rationale for this view is described in a memorandum from Mary Nichols, Assistant Administrator for Air and Radiation, dated October 14, 1994, entitled ''Part D New Source Review Requirements for Areas Requesting Redesignation to Attainment.'' Tennessee has demonstrated that the Tennessee portion of the Chattanooga TN-GA-AL Area will be able to maintain the NAAQS without part D NSR in effect, and therefore Tennessee need not have fully approved part D NSR programs prior to approval of the redesignation request. Tennessee's PSD program will become effective in the Tennessee portion of the Chattanooga TN-GA-AL Area upon redesignation to attainment.

Section 172(c)(7) requires the SIP to meet the applicable provisions of section 110(a)(2). As noted above, EPA believes the Tennessee SIP meets the requirements of section 110(a)(2) applicable for purposes of redesignation.

*176 Conformity Requirements.* Section 176(c) of the CAA requires states to establish criteria and procedures to ensure that federally-supported or funded projects conform to the air quality planning goals in the applicable SIP. The requirement to determine conformity applies to transportation plans, programs, and projects that are developed, funded, or approved under title 23 of the United States Code (U.S.C.) and the Federal Transit Act (transportation conformity) as well as to all other federally-supported or funded projects (general conformity). State transportation conformity SIP revisions must be consistent with federal conformity regulations relating to consultation, enforcement, and enforceability that EPA promulgated pursuant to its authority under the CAA.

EPA believes that it is reasonable to interpret the conformity SIP requirements [4] as not applying for purposes of evaluating the redesignation request under section 107(d) because state conformity rules are still required after redesignation and federal conformity rules apply where state rules have not been approved. *See Wall* v. *EPA,* 265 F.3d 426 (upholding this interpretation) (6th Cir. 2001); *See* 60 FR 62748 (December 7, 1995).

Thus, for the reasons discussed above, the Tennessee portion of the Chattanooga TN-GA-AL Area has satisfied all applicable requirements for purposes of redesignation under section 110 and part D of the CAA.

[4] CAA Section 176(c)(4)(E) requires states to submit revisions to their SIPs to reflect certain federal criteria and procedures for determining transportation conformity. Transportation conformity SIPs are different from the motor vehicle emission budgets that are established in control strategy SIPs and maintenance plans.

b. The Tennessee Portion of the Chattanooga TN-GA-AL Area Has a Fully Approved Applicable SIP Under Section 110(k) of the CAA

EPA has fully approved the applicable Tennessee SIP for the Tennessee portion of the Chattanooga TN-GA-AL Area for the 1997 Annual $PM_{2.5}$ NAAQS under section 110(k) of the CAA for all requirements applicable for purposes of redesignation. EPA may rely on prior SIP approvals in approving a redesignation request (see Calcagni Memorandum at p. 3; *Southwestern Pennsylvania Growth Alliance* v. *Browner,* 144 F.3d 984 (6th Cir. 1998); *Wall,* 265 F.3d 426) plus any additional measures it may approve in conjunction with a redesignation action. *See* 68 FR 25426 (May 12, 2003) and citations therein. Following passage of the CAA of 1970, Tennessee has adopted and submitted, and EPA has fully approved at various times, provisions addressing the various SIP elements applicable for the 1997 Annual $PM_{2.5}$ NAAQS in the Tennessee portion of the Chattanooga TN-GA-AL Area (*e.g.,* 77 FR 45958, August 2, 2012).

As indicated above, EPA believes that the section 110 elements not connected with nonattainment plan submissions and not linked to the area's nonattainment status are not applicable requirements for purposes of redesignation.

*Criteria (3)—The Air Quality Improvement in the Chattanooga TN-GA-AL Area Is Due to Permanent And Enforceable Reductions in Emissions Resulting From Implementation of the SIP and Applicable Federal Air Pollution Control Regulations and Other Permanent and Enforceable Reductions*

For redesignating a nonattainment area to attainment, the CAA requires EPA to determine that the air quality improvement in the area is due to permanent and enforceable reductions in emissions resulting from implementation of the SIP and applicable Federal air pollution control regulations and other permanent and enforceable reductions (CAA section 107(d)(3)(E)(iii)). EPA believes that Tennessee has demonstrated that the observed air quality improvement in the Chattanooga TN-GA-AL Area is due to permanent and enforceable reductions in emissions resulting from implementation of the SIP and Federal measures.

Fine particulate matter, or $PM_{2.5}$, refers to airborne particles less than or equal to 2.5 micrometers in diameter. Although treated as a single pollutant, fine particles come from many different

sources and are composed of many different compounds. In the Chattanooga TN-GA-AL Area, one of the largest components of $PM_{2.5}$ is sulfate, which is formed through various chemical reactions from the precursor $SO_2$. The other major component of $PM_{2.5}$ is organic carbon, which originates predominantly from biogenic emission sources. Nitrate, which is formed from the precursor $NO_X$, is also a component of $PM_{2.5}$. Crustal materials from windblown dust and elemental carbon from combustion sources are less significant contributors to total $PM_{2.5}$. VOCs, also precursors for PM, are emitted from a variety of sources, including motor vehicles, chemical plants, refineries, factories, consumer and commercial products, and other industrial sources. VOCs also are emitted by natural sources such as vegetation.

Federal measures enacted in recent years have resulted in permanent emission reductions in particulate matter and its precursors. Most of these emission reductions are enforceable through regulations. The Federal measures that have been implemented include:

*Tier 2 vehicle standards and low-sulfur gasoline.* In addition to requiring $NO_X$ controls, the Tier 2 rule reduced the allowable sulfur content of gasoline to 30 parts per million (ppm) starting in January of 2006. Most gasoline sold prior to this had a sulfur content of approximately 300 ppm.

*Heavy-duty gasoline and diesel highway vehicle standards & Ultra Low-Sulfur Diesel Rule.* On October 6, 2000, the U.S. EPA promulgated a rule to reduce $NO_X$ and VOC emissions from heavy-duty gasoline and diesel highway vehicles that began to take effect in 2004. *See* 65 FR 59896. A second phase of standards and testing procedures began in 2007 to reduce particulate matter from heavy-duty highway engines, and reduce highway diesel fuel sulfur content to 15 ppm since the sulfur in fuel damages high efficiency catalytic exhaust emission control devices. The total program should achieve a 90 percent reduction in PM emissions and a 95 percent reduction in $NO_X$ emission for new engines using low-sulfur diesel, compared to existing engines using higher-content sulfur diesel.

*Non-road, large spark-ignition engines and recreational engines standards.* The non-road spark-ignition and recreational engine standards, effective in July 2003, regulate $NO_X$, hydrocarbons, and carbon monoxide from groups of previously unregulated non-road engines. These engine standards apply to large spark-ignition engines (*e.g.,* forklifts and airport ground service equipment), recreational vehicles (*e.g.,* off-highway motorcycles and all-terrain-vehicles), and recreational marine diesel engines sold in the United States and imported after the effective date of these standards.

When all of the non-road spark-ignition and recreational engine standards are fully implemented, an overall 72 percent reduction in hydrocarbons, 80 percent reduction in $NO_X$, and 56 percent reduction in carbon monoxide emissions are expected by 2020. These controls will help reduce ambient concentrations of ozone, carbon monoxide, and fine particulate matter.

*Large non-road diesel engine standards.* Promulgated in 2004, this rule was phased in between 2008 and 2014. This rule will reduce sulfur content in non-road diesel fuel and, when fully implemented, will reduce $NO_X$ and direct $PM_{2.5}$ emissions by over 90 percent from these engines.

*Reciprocating Internal Combustion Engine standard.* Initially promulgated in 2010, this rule regulates emissions of air toxics from existing diesel powered stationary reciprocating internal combustion engines that meet specific site rating, age, and size criteria. With all of the reciprocating internal combustion engine standards fully implemented in 2013, EPA estimates that $PM_{2.5}$ emissions from these engines have been reduced by approximately 2,800 tons per year (tpy).

*Category 3 Marine Diesel Engine standard.* Promulgated in 2010, this rule establishes more stringent exhaust emission standards for new large marine diesel engines with per cylinder displacement at or above 30 liters (commonly referred to as Category 3 compression-ignition marine engines) as part of a coordinated strategy to address emissions from all ships that affect U.S. air quality. Near-term standards for newly built engines applied beginning in 2011, and long-term standards requiring an 80 percent reduction in $NO_X$ emissions will begin in 2016.

*$NO_X$ SIP Call.* On October 27, 1998 (63 FR 57356), EPA issued a $NO_X$ SIP Call requiring the District of Columbia and 22 states to reduce emissions of $NO_X$. Affected states were required to comply with Phase I of the SIP Call beginning in 2004 and Phase II beginning in 2007. Emission reductions resulting from regulations developed in response to the $NO_X$ SIP Call are permanent and enforceable.

*CAIR and CSAPR.* The Clean Air Interstate Rule (CAIR) was promulgated in 2005 and required 28 eastern states and the District of Columbia to significantly reduce emissions of $SO_2$ and $NO_X$ from electric generating units (EGUs) in order to limit the interstate transport of these pollutants and the ozone and fine particulate matter they form in the atmosphere. *See* 70 FR 25162 (May 12, 2005). In 2008, the D.C. Circuit initially vacated CAIR, *North Carolina* v. *EPA,* 531 F.3d 896 (D.C. Cir. 2008), but ultimately remanded the rule to EPA without vacatur to preserve the environmental benefits provided by CAIR, *North Carolina* v. *EPA,* 550 F.3d 1176, 1178 (D.C. Cir. 2008). On August 8, 2011, acting on the Court's remand, EPA promulgated CSAPR, to address interstate transport of emissions and resulting secondary air pollutants and to replace CAIR (76 FR 48208).[5] CSAPR requires substantial reductions of $SO_2$ and $NO_X$ emissions from EGUs in 28 states in the Eastern United States. Implementation of the rule was scheduled to begin on January 1, 2012, when CSAPR's cap-and-trade programs would have superseded the CAIR cap-and-trade programs. Numerous parties filed petitions for review of CSAPR, and on December 30, 2011, the D.C. Circuit issued an order staying CSAPR pending resolution of the petitions and directing EPA to continue to administer CAIR. *EME Homer City Generation, L.P.* v. *EPA,* No. 11–1302 (D.C. Cir. Dec. 30, 2011), Order at 2.

On August 21, 2012, the D.C. Circuit issued its ruling, vacating and remanding CSAPR to the Agency and once again ordering continued implementation of CAIR. *EME Homer City Generation, L.P.* v. *EPA,* 696 F.3d 7, 38 (D.C. Cir. 2012). The D.C. Circuit subsequently denied EPA's petition for rehearing en banc. *EME Homer City Generation, L.P.* v. *EPA,* No. 11–1302, 2013 WL 656247 (D.C. Cir. Jan. 24, 2013), at *1. EPA and other parties then petitioned the Supreme Court for a writ of certiorari, and the Supreme Court granted the petitions on June 24, 2013. *EPA* v. *EME Homer City Generation, L.P.,* 133 S. Ct. 2857 (2013).

On April 29, 2014, the Supreme Court vacated and reversed the D.C. Circuit's decision regarding CSAPR and remanded that decision to the D.C. Circuit to resolve remaining issues in accordance with its ruling. *EPA* v. *EME Homer City Generation, L.P.,* 134 S. Ct. 1584 (2014). EPA filed a motion to lift the stay in light of the Supreme Court decision, and on October 23, 2014, the

[5] CAIR addressed the 1997 $PM_{2.5}$ Annual standard and the 1997 8-hour ozone standard. CSAPR addresses contributions from upwind states to downwind nonattainment and maintenance of the 2006 24-hour $PM_{2.5}$ standard as well as the ozone and $PM_{2.5}$ NAAQS addressed by CAIR.

D.C. Circuit granted EPA's motion. *EME Homer City Generation, L.P.* v. *EPA,* Case No. 11–1302, Document No. 1518738. EPA subsequently issued an interim final rule amending the Code of Federal Regulations to correctly reflect the compliance deadlines for CSAPR as revised by the effect of the Court's order granting EPA's motion to lift the stay of CSAPR and delay its deadlines by three years. *See* 79 FR 71663 (December 3, 2014). These amendments make clear that, consistent with the Court's order, compliance with CSAPR's Phase 1 emissions budgets is now required in 2015 and 2016 (instead of 2012 and 2013) and compliance with the rule's Phase 2 emissions budgets and assurance provisions is now required in 2017 and beyond (instead of 2014 and beyond).

EPA approved a modification to Tennessee's SIP on November 25, 2009, that addressed the requirements of CAIR for the purpose of reducing $SO_2$ and $NO_X$ emissions (*see* 74 FR 61535), and Tennessee's SIP redesignation request lists CAIR/CSAPR as a control measure. CAIR was in place and getting emission reductions when the Chattanooga TN-GA-AL Area began monitoring attainment of the 1997 Annual $PM_{2.5}$ NAAQS. The quality-assured, certified monitoring data used to demonstrate the area's attainment of the 1997 Annual $PM_{2.5}$ NAAQS by the April 5, 2010, attainment deadline was also impacted by CAIR. However, EPA conducted an air quality modeling analysis as part of the CSAPR rulemaking which demonstrates that the Chattanooga TN-GA-AL Area would be able to maintain the 1997 Annual $PM_{2.5}$ NAAQS even in the absence of either CAIR or CSAPR. *See* ''Air Quality Modeling Final Rule Technical Support Document,'' App. B–40 and B–59.[6] This modeling is available in the docket for this proposed redesignation action. In addition, as noted above, the D.C. Circuit has lifted the stay of CSAPR and EPA has made ministerial amendments to CSAPR consistent with the Court's order. Therefore, to the extent that these transport rules impact attainment of the 1997 Annual $PM_{2.5}$ NAAQS in the Chattanooga TN-GA-AL Area, any emission reductions associated with CAIR that helped the Chattanooga TN-GA-AL Area achieve attainment of the 1997 Annual $PM_{2.5}$ NAAQS are permanent and enforceable for purposes of redesignation under section 107(d)(3)(E)(iii) of the CAA because CSAPR requires similar or greater emission reductions from relevant upwind areas starting in 2015 and beyond.

*Criteria (4)—The Tennessee Portion of the Chattanooga TN-GA-AL Area Has a Fully Approved Maintenance Plan Pursuant to Section 175A of the CAA*

For redesignating a nonattainment area to attainment, the CAA requires EPA to determine that the area has a fully approved maintenance plan pursuant to section 175A of the CAA (CAA section 107(d)(3)(E)(iv)). In conjunction with its request to redesignate the Tennessee portion of the Chattanooga TN-GA-AL Area to attainment for the 1997 Annual $PM_{2.5}$ NAAQS, TDEC submitted a SIP revision to provide for the maintenance of the 1997 Annual $PM_{2.5}$ NAAQS for at least 10 years after the effective date of redesignation to attainment. EPA believes that this maintenance plan meets the requirements for approval under section 175A of the CAA.

a. What is required in a maintenance plan?

Section 175A of the CAA sets forth the elements of a maintenance plan for areas seeking redesignation from nonattainment to attainment. Under section 175A, the plan must demonstrate continued attainment of the applicable NAAQS for at least 10 years after the Administrator approves a redesignation to attainment. Eight years after the redesignation, TDEC must submit a revised maintenance plan which demonstrates that attainment will continue to be maintained for the 10 years following the initial 10-year period. To address the possibility of future NAAQS violations, the maintenance plan must contain such contingency measures, as EPA deems necessary, to assure prompt correction of any future 1997 Annual $PM_{2.5}$ violations. The Calcagni Memorandum provides further guidance on the content of a maintenance plan, explaining that a maintenance plan should address five requirements: The attainment emissions inventory, maintenance demonstration, monitoring, verification of continued attainment, and a contingency plan. As is discussed below, EPA proposes to find that TDEC's maintenance plan includes all the necessary components and is thus proposing to approve it as a revision to the Tennessee SIP.

b. CAA 175 Maintenance Plan Requirements

1. Attainment Emissions Inventory

The Chattanooga TN-GA-AL Area attained the 1997 Annual $PM_{2.5}$ NAAQS based on monitoring data for the 3-year period from 2007–2009. TDEC has selected 2007 as the attainment emission inventory year. The attainment inventory identifies a level of emissions in the Area that is sufficient to attain the 1997 Annual $PM_{2.5}$ NAAQS. TDEC began development of the attainment inventory by first generating a baseline emissions inventory for the Tennessee portion of the Chattanooga TN-GA-AL Area. As noted above, the year 2007 was chosen as the base year for developing a comprehensive emissions inventory for direct $PM_{2.5}$ and $PM_{2.5}$ precursors $SO_2$ and $NO_X$. Emissions projections to support maintenance through 2025 have been prepared for the years 2010, 2013, 2016, 2019, 2022, and 2025. The projected inventory included with the maintenance plan estimates emissions forward to 2025, which satisfies the 10-year interval required in section 175(A) of the CAA.

The emissions inventories are composed of four major types of sources: point, area, on-road mobile, and non-road mobile. The projected annual emissions from point and area sources were determined by applying Economic Growth Analysis System version 5.0 for Hamilton County to respective attainment year emissions. The projected annual emissions from onroad mobile sources within Hamilton County for 2025 were determined by using the MOVES2010b model. Projected annual emissions from nonroad mobile sources within Hamilton County were determined by using the NONROAD2008a model. The 2007 $SO_2$, $NO_X$, and $PM_{2.5}$ emissions for the Tennessee portion of the Chattanooga TN-GA-AL Area, as well as the emissions for other years, were developed consistent with EPA guidance and are summarized in Tables 2 through 6 of the following subsection discussing the maintenance demonstration.

2. Maintenance Demonstration

The November 13, 2014, final submittal includes a maintenance plan for the Tennessee portion of the Chattanooga TN-GA-AL Area. This demonstration:

(i) Shows compliance with and maintenance of the Annual $PM_{2.5}$ standard by providing information to support the demonstration that current and future emissions of $SO_2$, $NO_X$, and

[6] The air quality modeling analysis for the CSAPR rulemaking did not identify any of the four monitors in the Chattanooga TN-GA-AL Area as receptors.

$PM_{2.5}$ will remain below 2007 emission levels.

(ii) Uses 2007 as the attainment year and includes future emission inventory projections for 2010, 2013, 2016, 2019, 2022, and 2025.

(iii) Identifies an ''out year'' at least 10 years after EPA review and potential approval of the maintenance plan. Per 40 CFR part 93, $NO_X$ and $PM_{2.5}$ MVEBs were established for the last year (2025) of the maintenance plan.

(iv) Provides, as shown in Tables 2, 3, 4, 5, and 6 below, the actual and projected emissions inventories, in tpy, for the Tennessee portion of the Chattanooga TN-GA-AL Area.

TABLE 2—ACTUAL (2007) AND PROJECTED POINT SOURCE EMISSIONS FOR THE TENNESSEE PORTION OF THE CHATTANOOGA TN-GA-AL AREA

[tons]

| Pollutant | 2007 | 2010 | 2013 | 2016 | 2019 | 2022 | 2025 |
|---|---|---|---|---|---|---|---|
| $SO_2$ | 919.2 | 797.5 | 808.1 | 798.0 | 819.4 | 842.1 | 865.6 |
| $NO_X$ | 2,437.2 | 2,484.1 | 2,575.6 | 2,650.6 | 2,811.6 | 2,982.2 | 3,154.6 |
| $PM_{2.5}$ | 160.2 | 156.3 | 158.2 | 169.2 | 180.7 | 193.1 | 205.8 |

TABLE 3—ACTUAL (2007) AND PROJECTED NON-POINT SOURCE EMISSIONS FOR THE TENNESSEE PORTION OF THE CHATTANOOGA TN-GA-AL AREA

[tons]

| Pollutant | 2007 | 2010 | 2013 | 2016 | 2019 | 2022 | 2025 |
|---|---|---|---|---|---|---|---|
| $SO_2$ | 332.6 | 346.7 | 363.2 | 382.9 | 401.1 | 420.6 | 441.1 |
| $NO_X$ | 3,415.1 | 3,638.0 | 3,835.2 | 4,089.8 | 4,348.5 | 4,609.0 | 4,880.6 |
| $PM_{2.5}$ | 875.4 | 916.6 | 955.8 | 1,001.2 | 1,042.6 | 1,083.6 | 1,121.9 |

TABLE 4—ACTUAL (2007) AND PROJECTED ON-ROAD MOBILE SOURCES EMISSIONS FOR THE TENNESSEE PORTION OF THE CHATTANOOGA TN-GA-AL AREA

[tons]

| Pollutant | 2007 | 2010 | 2013 | 2016 | 2019 | 2022 | 2025 |
|---|---|---|---|---|---|---|---|
| $SO_2$ | 87.6 | 77.1 | 66.5 | 56.0 | 45.5 | 34.9 | 24.4 |
| $NO_X$ | 11,465.2 | 9,972.4 | 8,479.7 | 6,986.9 | 5,494.2 | 4,001.5 | 2,508.7 |
| $PM_{2.5}$ | 395.1 | 342.0 | 288.9 | 235.8 | 182.7 | 129.6 | 79.5 |

TABLE 5—ACTUAL (2007) AND PROJECTED NON-ROAD MOBILE SOURCE EMISSIONS FOR THE TENNESSEE PORTION OF THE CHATTANOOGA TN-GA-AL AREA

[tons]

| Pollutant | 2007 | 2010 | 2013 | 2016 | 2019 | 2022 | 2025 |
|---|---|---|---|---|---|---|---|
| $SO_2$ | 99.3 | 25.9 | 15.2 | 14.2 | 14.7 | 15.3 | 15.9 |
| $NO_X$ | 1,792.1 | 1,562.6 | 1,264.3 | 1,003.4 | 833.6 | 730.8 | 675.2 |
| $PM_{2.5}$ | 153.6 | 141.6 | 123.7 | 101.0 | 82.4 | 70.4 | 63.5 |

TABLE 6—ACTUAL (2007) AND PROJECTED EMISSIONS FOR ALL SECTORS FOR THE TENNESSEE PORTION OF THE CHATTANOOGA TN-GA-AL AREA

[tons]

| Pollutant | 2007 | 2010 | 2013 | 2016 | 2019 | 2022 | 2025 |
|---|---|---|---|---|---|---|---|
| $SO_2$ | 1,438.8 | 1,247.2 | 1,253.2 | 1,251.1 | 1,280.7 | 1,312.9 | 1,346.9 |
| $NO_X$ | 19,109.5 | 17,657.2 | 16,154.7 | 14,730.8 | 13,487.9 | 12,323.4 | 11,219.1 |
| $PM_{2.5}$ | 1,584.3 | 1,556.5 | 1,526.6 | 1,507.3 | 1,488.4 | 1,476.7 | 1,467.8 |

Table 2 shows a slight increase of $NO_X$, and $PM_{2.5}$ from point sources, and Table 3 indicates a slight increase of $NO_X$, $SO_2$, and $PM_{2.5}$ from nonpoint emission sources. Table 6 reflects the overall emissions from all source categories in the Tennessee portion of the Chattanooga, TN-GA-AL. Overall emissions from all source categories combined for all three pollutants, $NO_X$, $SO_2$, and $PM_{2.5}$, are projected to decrease from 2007 to 2025. In situations where local emissions are the primary contributor to nonattainment, such as the Chattanooga TN-GA-AL Area, if the future projected emissions in the nonattainment area remain at or below the baseline emissions in the nonattainment area, then the ambient air quality standard should not be exceeded in the future. As explained below, EPA proposes to find that the overall emission projections illustrate that the Chattanooga TN-GA-AL Area is expected to continue to attain the 1997

Annual $PM_{2.5}$ NAAQS through 2025.[7] Emissions of $SO_2$, $NO_X$, and $PM_{2.5}$ are projected to decline by 6.4 percent, 41.3 percent and 7.4 percent, respectively, from 2007 to 2025.

A maintenance plan requires the state to show that projected future year overall emissions will not exceed the level of emissions which led the Area to attain the NAAQS. For the reasons discussed above, EPA preliminarily agrees that Tennessee's projected emissions demonstrate that the Chattanooga TN-GA-AL Area will continue to attain for the duration of the maintenance plan.

3. Monitoring Network

There are currently three monitors measuring ambient $PM_{2.5}$ in the Chattanooga TN-GA-AL Area. TDEC has committed to continue operation of the monitors in the Tennessee portion of Chattanooga TN-GA-AL Area in compliance with 40 CFR part 58 and have thus addressed the requirement for monitoring. EPA approved Tennessee's 2013 monitoring plan on November 14, 2013. In addition, there is currently one monitor measuring ambient $PM_{2.5}$ in the Georgia portion of the Chattanooga TN-GA-AL Area. Georgia Environmental Protection Division (GA EPD) has committed to continue operation of the monitor in the Georgia portion of the Chattanooga TN-GA-AL Area in compliance with 40 CFR part 58 and has thus addressed the requirement for monitoring. On December 19, 2014, EPA approved GA EPD's submittal to redesignate the Georgia portion of Chattanooga TN-GA-AL Area from nonattainment to attainment for the 1997 Annual $PM_{2.5}$ NAAQS. *See* 79 FR 75748. There is no monitor in the Alabama portion of the Chattanooga TN-GA-AL Area.

4. Verification of Continued Attainment

TDEC has the legal authority to enforce and implement the requirements of the Tennessee portion of the Chattanooga TN-GA-AL Area 1997 Annual $PM_{2.5}$ maintenance plan. This includes the authority to adopt, implement, and enforce any subsequent emissions control contingency measures determined to be necessary to correct future $PM_{2.5}$ attainment problems.

TDEC will track the progress of the maintenance plan by performing future reviews of triennial emission inventories for the Tennessee portion of the Chattanooga TN-GA-AL Area as required in the Air Emissions Reporting Rule (AERR) and Consolidated Emissions Reporting Rule (CERR). For these periodic inventories, TDEC will review the assumptions made for the purpose of the maintenance demonstration concerning projected growth of activity levels. If any of these assumptions appear to have changed substantially, then TDEC will re-project emissions for the Tennessee portion of the Chattanooga TN-GA-AL Area.

5. Contingency Measures in the Maintenance Plan

Section 175A of the CAA requires that a maintenance plan include such contingency measures as EPA deems necessary to assure that the state will promptly correct a violation of the NAAQS that occurs after redesignation. The maintenance plan should identify the contingency measures to be adopted, a schedule and procedure for adoption and implementation, and a time limit for action by the state. A state should also identify specific indicators to be used to determine when the contingency measures need to be implemented. The maintenance plan must include a requirement that a state will implement all measures with respect to control of the pollutant that were contained in the SIP before redesignation of the area to attainment in accordance with section 175A(d). TDEC has identified the following possible means for providing further reductions in emissions of $PM_{2.5}$ and/or its significant precursors as contingency measures for emission sources within Hamilton County:

- Reasonably available control technology (RACT) for point sources of $PM_{2.5}$ emissions not already covered by RACT, best available control technology, or reasonable and proper emission limitations;
- RACM for area sources of $PM_{2.5}$ emissions;
- RACT for major point-sources of $NO_X$ emissions;
- RACT for minor point-sources of $NO_X$ emissions;
- RACM for area sources of $NO_X$ emissions;
- RACT for major point-sources of $SO_2$ emissions;
- RACT for minor point-sources of $SO_2$ emissions;
- RACM for area sources of $SO_2$ emissions; and
- Additional $PM_{2.5}$, $NO_X$, and/or $SO_2$ emissions reduction measures yet to be identified.

The contingency plan included in the submittal includes a triggering mechanism to determine when contingency measures are needed and a process of developing and implementing appropriate control measures. TDEC will use actual ambient monitoring data to determine whether a trigger event has occurred and when contingency measures should be implemented.

An exceedance of the 1997 Annual $PM_{2.5}$ NAAQS of 15.0 $\mu g/m^3$ at any federal reference method (FRM) monitor in the Chattanooga TN-GA-AL maintenance area, based on quality-assured and certified monitoring data averaged over three consecutive calendar years, will trigger a comprehensive evaluation by TDEC to determine if contingency measures should be implemented. Furthermore, such an evaluation will also be triggered by the occurrence of any of the following conditions that may forewarn of a potential exceedance of the annual $PM_{2.5}$ NAAQS.

- An annual mean $PM_{2.5}$ concentration (average of quarterly-average concentrations) of greater than or equal to 16.5 $\mu g/m^3$ for the previous calendar year at any FRM monitor in the Chattanooga TN-GA-AL maintenance area, based on quality-assured and certified monitoring data;
- An annual mean $PM_{2.5}$ (average of quarterly-average concentrations) of greater than or equal to 15.5 $\mu g/m^3$ for each of the previous two consecutive calendar years at any FRM monitor in the Chattanooga TN-GA-AL maintenance area, based on the quality-assured and certified monitoring data;
- Total emissions of $PM_{2.5}$ in the most recent NEI for Hamilton County of greater than 2,059 tons, which is thirty percent more than the corresponding emissions for 2007, the attainment year; and
- Total emissions of $SO_2$ in the most recent NEI for Hamilton County of greater than 1,870 tons, which is thirty percent more than the corresponding emissions for 2007.

Upon occurrence of a contingency measure trigger, the required comprehensive evaluation will be conducted to determine the cause(s) of the elevated ambient $PM_{2.5}$ concentrations or emissions inventory increase, to determine if an exceedance of the annual $PM_{2.5}$ NAAQS is likely to occur or continue, and to determine whether or not the adoption and implementation of appropriate contingency measures is required for the further reduction of emissions of $PM_{2.5}$ and/or its significant precursors within

[7] In separate actions, EPA approved the redesignation requests and associated maintenance plans for the Alabama and Georgia portions of the Area. *See* 79 FR 76235 (December 22, 2014) and 79 FR 75748 (December 19, 2014), respectively. Therefore, EPA does not believe that projected emissions from those portions of the Area present a maintenance problem for air quality in the Area as a whole.

Hamilton County. The evaluation will examine:

- Severity of the trigger condition;
- Potentially contributing emissions from sources within Hamilton County;
- Potentially contributing emissions resulting from regional or long-range transport;
- Potentially contributing meteorological conditions, if applicable;
- Emission trends for all source types;
- Future emissions reductions from any adopted or planned regulations or initiatives;
- Current and recently identified emissions control technologies applicable to considered contingency measures;
- Emissions reduction potential of considered contingency measures;
- Technical and economic feasibility of considered contingency measures;
- Possible geographic limitations of considered contingency measures; and
- Implementation timeline of considered contingency measures.

EPA has concluded that the maintenance plan adequately addresses the five basic components required: The attainment emissions inventory, maintenance demonstration, monitoring, verification of continued attainment, and a contingency plan. Therefore, the maintenance plan SIP revision submitted by TDEC for the Tennessee portion of the Chattanooga TN-GA-AL Area meets the requirements of section 175A of the CAA and is approvable.

## VI. What is the effect of the January 4, 2013, D.C. Circuit decision regarding $PM_{2.5}$ implementation under subpart 4?

*a. Background*

As discussed in Section I of this action, the D.C. Circuit remanded the 1997 $PM_{2.5}$ Implementation Rule to EPA on January 4, 2013, in *Natural Resources Defense Council* v. *EPA,* 706 F.3d 428. The court found that EPA erred in implementing the 1997 $PM_{2.5}$ NAAQS pursuant to the general implementation provisions of subpart 1 of part D of Title I of the CAA rather than the particulate matter-specific provisions of subpart 4 of part D of Title I.

*b. Proposal on This Issue*

In this portion of the proposed redesignation, EPA addresses the effect of the Court's January 4, 2013, ruling on the proposed redesignation. As explained below, EPA is proposing to determine that the Court's January 4, 2013, decision does not prevent EPA from redesignating the Tennessee portion of the Chattanooga TN-GA-AL Area to attainment. Even in light of the Court's decision, redesignation for this area is appropriate under the CAA and EPA's longstanding interpretations of the CAA's provisions regarding redesignation. EPA first explains its longstanding interpretation that requirements that are imposed, or that become due, after a complete redesignation request is submitted for an area that is attaining the standard, are not applicable for purposes of evaluating a redesignation request. Second, EPA then shows that, even if EPA applies the subpart 4 requirements to the Tennessee portion of the Chattanooga TN-GA-AL Area redesignation request and disregards the provisions of its 1997 $PM_{2.5}$ Implementation Rule remanded by the Court, the State's request for redesignation of the Tennessee portion of the Chattanooga TN-GA-AL Area still qualifies for approval. EPA's discussion takes into account the effect of the Court's ruling on the maintenance plan for the Tennessee portion of the Chattanooga TN-GA-AL Area, which EPA views as approvable when subpart 4 requirements are considered.

*c. Applicable Requirements for the Purpose of Evaluating the Redesignation Request*

With respect to the 1997 $PM_{2.5}$ Implementation Rule, the Court's January 4, 2013, ruling rejected EPA's reasons for implementing the $PM_{2.5}$ NAAQS solely in accordance with the provisions of subpart 1 and remanded that matter to EPA to address implementation of the 1997 $PM_{2.5}$ NAAQS under subpart 4 of part D of the CAA, in addition to subpart 1. For the purposes of evaluating Tennessee's redesignation request for the Tennessee portion of the Chattanooga TN-GA-AL Area, to the extent that implementation under subpart 4 would impose additional requirements for areas designated nonattainment, EPA believes that those requirements are not ''applicable'' for the purposes of CAA section 107(d)(3)(E), and thus EPA is not required to consider subpart 4 requirements with respect to the redesignation of the Tennessee portion of the Chattanooga TN-GA-AL Area. Under its longstanding interpretation of the CAA, EPA has interpreted section 107(d)(3)(E) to mean, as a threshold matter, that the part D provisions which are ''applicable'' and which must be approved in order for EPA to redesignate an area include only those which came due prior to a state's submittal of a complete redesignation request. *See* ''Procedures for Processing Requests to Redesignate Areas to Attainment,'' Memorandum from John Calcagni, Director, Air Quality Management Division, September 4, 1992 (Calcagni memorandum). *See also* ''State Implementation Plan (SIP) Requirements for Areas Submitting Requests for the plan and Redesignation to Attainment of the Ozone and Carbon Monoxide (CO) National Ambient Air Quality Standards (NAAQS) on or after November 15, 1992,'' Memorandum from Michael Shapiro, Acting Assistant Administrator, Air and Radiation, September 17, 1993 (Shapiro memorandum); Final Redesignation of Detroit-Ann Arbor, (60 FR 12459, 12465–66, March 7, 1995); Final Redesignation of St. Louis, Missouri, (68 FR 25418, 25424–27, May 12, 2003); *Sierra Club* v. *EPA,* 375 F.3d 537, 541 (7th Cir. 2004) (upholding EPA's redesignation rulemaking applying this interpretation and expressly rejecting Sierra Club's view that the meaning of ''applicable'' under the statute is ''whatever should have been in the plan at the time of attainment rather than whatever actually was in already implemented or due at the time of attainment'').[8] In this case, at the time that Tennessee submitted its redesignation request on November 13, 2014, requirements under subpart 4 were not due.

EPA's view that, for purposes of evaluating the Tennessee portion of the Chattanooga TN-GA Area redesignation, the subpart 4 requirements were not due at the time the State submitted the redesignation request is in keeping with the EPA's interpretation of subpart 2 requirements for subpart 1 ozone areas redesignated subsequent to the D.C. Circuit's decision in *South Coast Air Quality Mgmt. Dist.* v. *EPA,* 472 F.3d 882 (D.C. Cir. 2006). In *South Coast,* the Court found that EPA was not permitted to implement the 1997 8-hour ozone standard solely under subpart 1 and held that EPA was required under the statute to implement the standard under the ozone-specific requirements of subpart 2 as well. Subsequent to the *South Coast* decision, in evaluating and acting upon redesignation requests for the 1997 8-hour ozone standard that were submitted to EPA for areas under subpart 1, EPA applied its longstanding interpretation of the CAA that ''applicable requirements,'' for purposes of evaluating a redesignation, are those that had been due at the time the redesignation request was submitted.

[8] Applicable requirements of the CAA that come due subsequent to the area's submittal of a complete redesignation request remain applicable until a redesignation is approved, but are not required as a prerequisite to redesignation. Section 175A(c) of the CAA.

*See, e.g.,* Proposed Redesignation of Manitowoc County and Door County Nonattainment Areas (75 FR 22047, 22050, April 27, 2010). In those actions, EPA therefore did not consider subpart 2 requirements to be ''applicable'' for the purposes of evaluating whether the area should be redesignated under section 107(d)(3)(E).

EPA's interpretation derives from the provisions of CAA Section 107(d)(3)(E). Section 107(d)(3)(E)(v) states that, for an area to be redesignated, a state must meet ''all requirements 'applicable' to the area under section 110 and part D.'' Section 107(d)(3)(E)(ii) provides that the EPA must have fully approved the ''applicable'' SIP for the area seeking redesignation. These two sections read together support EPA's interpretation of ''applicable'' as only those requirements that came due prior to submission of a complete redesignation request. First, holding states to an ongoing obligation to adopt new CAA requirements that arose after the state submitted its redesignation request, in order to be redesignated, would make it problematic or impossible for EPA to act on redesignation requests in accordance with the 18-month deadline Congress set for EPA action in section 107(d)(3)(D). If ''applicable requirements'' were interpreted to be a continuing flow of requirements with no reasonable limitation, states, after submitting a redesignation request, would be forced continuously to make additional SIP submissions that in turn would require EPA to undertake further notice-and-comment rulemaking actions to act on those submissions. This would create a regime of unceasing rulemaking that would delay action on the redesignation request beyond the 18-month timeframe provided by the Act for this purpose.

Second, a fundamental premise for redesignating a nonattainment area to attainment is that the area has attained the relevant NAAQS due to emission reductions from existing controls. Thus, an area for which a redesignation request has been submitted would have already attained the NAAQS as a result of satisfying statutory requirements that came due prior to the submission of the request. Absent a showing that unadopted and unimplemented requirements are necessary for future maintenance, it is reasonable to view the requirements applicable for purposes of evaluating the redesignation request as including only those SIP requirements that have already come due. These are the requirements that led to attainment of the NAAQS. To require, for redesignation approval, that a state also satisfy additional SIP requirements coming due after the state submits its complete redesignation request, and while EPA is reviewing it, would compel the state to do more than is necessary to attain the NAAQS, without a showing that the additional requirements are necessary for maintenance.

*d. Subpart 4 Requirements and the Tennessee Portion of the Chattanooga TN-GA-AL Area Redesignation Request*

Even if EPA were to take the view that the Court's January 4, 2013, decision requires that, in the context of pending redesignations, subpart 4 requirements were due and in effect at the time the State submitted its redesignation request, EPA proposes to determine that the Tennessee portion of the Chattanooga TN-GA-AL Area still qualifies for redesignation to attainment. As explained below, EPA believes that the redesignation request for the Tennessee portion of the Chattanooga TN-GA Area, though not expressed in terms of subpart 4 requirements, substantively meets the requirements of that subpart for purposes of redesignating the Tennessee portion of the Chattanooga TN-GA Area to attainment.

With respect to evaluating the relevant substantive requirements of subpart 4 for purposes of redesignating the Tennessee portion of the Chattanooga TN-GA-AL Area, EPA notes that subpart 4 incorporates components of subpart 1 of part D, which contains general air quality planning requirements for areas designated as nonattainment. *See* section 172(c). Subpart 4 itself contains specific planning and scheduling requirements for $PM_{10}$ [9] nonattainment areas, and under the Court's January 4, 2013, decision in *NRDC* v. *EPA,* these same statutory requirements also apply for $PM_{2.5}$ nonattainment areas. EPA has longstanding general guidance that interprets the 1990 amendments to the CAA, making recommendations to states for meeting the statutory requirements for SIPs for nonattainment areas.[10] In the General Preamble, EPA discussed the relationship of subpart 1 and subpart 4 SIP requirements and pointed out that subpart 1 requirements were to an extent ''subsumed by, or integrally related to, the more specific PM–10 requirements.'' *See* 57 FR 13538. The subpart 1 requirements include, among other things, provisions for attainment demonstrations, RACM, RFP, emissions inventories, and contingency measures.

For the purposes of this redesignation, in order to identify any additional requirements which would apply under subpart 4, EPA is considering the Tennessee portion of the Chattanooga TN-GA-AL Area to be a ''moderate'' $PM_{2.5}$ nonattainment area. Under section 188 of the CAA, all areas designated nonattainment areas under subpart 4 would initially be classified by operation of law as ''moderate'' nonattainment areas and would remain moderate nonattainment areas unless and until EPA reclassifies the area as a ''serious'' nonattainment area. Accordingly, EPA believes that it is appropriate to limit the evaluation of the potential impact of subpart 4 requirements to those that would be applicable to moderate nonattainment areas. Sections 189(a) and (c) of subpart 4 apply to moderate nonattainment areas and include the following: (1) An approved permit program for construction of new and modified major stationary sources (section 189(a)(1)(A)); (2) an attainment demonstration (section 189(a)(1)(B)); (3) provisions for RACM (section 189(a)(1)(C)); and (4) quantitative milestones demonstrating RFP toward attainment by the applicable attainment date (section 189(c)).

The permit requirements of subpart 4, as contained in section 189(a)(1)(A), refer to and apply the subpart 1 permit provisions requirements of sections 172 and 173 to $PM_{10}$, without adding to them. Consequently, EPA believes that section 189(a)(1)(A) does not itself impose for redesignation purposes any additional requirements for moderate areas beyond those contained in subpart 1.[11] In any event, in the context of redesignation, EPA has long relied on the interpretation that a fully approved nonattainment new source review program is not considered an applicable requirement for redesignation, provided the area can maintain the standard with a PSD program after redesignation. A detailed rationale for this view is described in a memorandum from Mary Nichols, Assistant Administrator for Air and Radiation, dated October 14, 1994, entitled ''Part D New Source Review Requirements for Areas Requesting Redesignation to Attainment.'' *See also* rulemakings for Detroit, Michigan (60 FR 12467–12468, March 7, 1995); Cleveland-Akron-Lorain, Ohio (61 FR 20458, 20469–20470, May 7, 1996); Louisville, Kentucky (66 FR 53665,

[9] $PM_{10}$ refers to particles nominally 10 micrometers in diameter or smaller.

[10] *See* ''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) (the ''General Preamble'').

[11] The potential effect of section 189(e) on section 189(a)(1)(A) for purposes of evaluating this redesignation is discussed below.

October 23, 2001); and Grand Rapids, Michigan (61 FR 31834–31837, June 21, 1996).

With respect to the specific attainment planning requirements under subpart 4,[12] when EPA evaluates a redesignation request under either subpart 1 or 4, any area that is attaining the $PM_{2.5}$ standard is viewed as having satisfied the attainment planning requirements for these subparts. As discussed above, for redesignations, EPA has for many years interpreted attainment-linked requirements as not applicable for areas attaining the standard.

Therefore, even if we were to consider the Court's January 4, 2013, decision in *NRDC* v. *EPA* to mean that attainment-related requirements specific to subpart 4 should be imposed retroactively [13] and thus are now past due, those requirements do not apply to an area that is attaining the 1997 $PM_{2.5}$ standard for the purpose of evaluating a pending request to redesignate the area to attainment.

Elsewhere in this document, EPA proposes to determine that the Area has attained the 1997 $PM_{2.5}$ standard. Under its longstanding interpretation, EPA is proposing to determine here that the Area meets the attainment-related plan requirements of subparts 1 and 4.

Thus, EPA is proposing to conclude that the requirements to submit an attainment demonstration under 189(a)(1)(B), a RACM determination under section 189(a)(1)(C), and a RFP demonstration under 189(c)(1) are satisfied for purposes of evaluating the redesignation request.

*e. Subpart 4 and Control of $PM_{2.5}$ Precursors*

The D.C. Circuit in *NRDC* v. *EPA* remanded to EPA the two rules at issue in the case with instructions to EPA to re-promulgate them consistent with the requirements of subpart 4. EPA in this section addresses the Court's opinion with respect to $PM_{2.5}$ precursors. While past implementation of subpart 4 for $PM_{10}$ has allowed for control of $PM_{10}$ precursors such as $NO_X$ from major stationary, mobile, and area sources in order to attain the standard as expeditiously as practicable, CAA section 189(e) specifically provides that control requirements for major stationary sources of direct $PM_{10}$ shall also apply to $PM_{10}$ precursors from those sources, except where EPA determines that major stationary sources of such precursors ''do not contribute significantly to $PM_{10}$ levels which exceed the standard in the area.''

EPA's 1997 $PM_{2.5}$ implementation rule, remanded by the D.C. Circuit, contained rebuttable presumptions concerning certain $PM_{2.5}$ precursors applicable to attainment plans and control measures related to those plans. Specifically, in 40 CFR 51.1002, EPA provided, among other things, that a state was ''not required to address VOC [and ammonia] as . . . $PM_{2.5}$ attainment plan precursor[s] and to evaluate sources of VOC [and ammonia] emissions in the State for control measures.'' EPA intended these to be rebuttable presumptions. EPA established these presumptions at the time because of uncertainties regarding the emission inventories for these pollutants and the effectiveness of specific control measures in various regions of the country in reducing $PM_{2.5}$ concentrations. EPA also left open the possibility for such regulation of VOC and ammonia in specific areas where that was necessary.

The Court in its January 4, 2013, decision made reference to both section 189(e) and 40 CFR 51.1002, and stated that, ''In light of our disposition, we need not address the petitioners' challenge to the presumptions in [40 CFR 51.1002] that volatile organic compounds and ammonia are not $PM_{2.5}$ precursors, as subpart 4 expressly governs precursor presumptions.'' *NRDC* v. *EPA,* at 27, n.10.

Elsewhere in the Court's opinion, however, the Court observed: Ammonia is a precursor to fine particulate matter, making it a precursor to both $PM_{2.5}$ and $PM_{10}$. For a $PM_{10}$ nonattainment area governed by subpart 4, a precursor is presumptively regulated. *See* 42 U.S.C. 7513a(e) [section 189(e)]. *Id.* at 21, n.7.

For a number of reasons, EPA believes that its proposed redesignation of the Tennessee portion of the Chattanooga TN-GA-AL Area is consistent with the Court's decision on this aspect of subpart 4. First, while the Court, citing section 189(e), stated that ''for a $PM_{10}$ area governed by subpart 4, a precursor is 'presumptively regulated,' '' the Court expressly declined to decide the specific challenge to EPA's 1997 $PM_{2.5}$ implementation rule provisions regarding ammonia and VOC as precursors. The Court had no occasion to determine whether and how it was substantively necessary to regulate any specific precursor in a particular $PM_{2.5}$ nonattainment area, and did not address what might be necessary for purposes of acting upon a redesignation request.

However, even if EPA takes the view that the requirements of subpart 4 were deemed applicable at the time that the state submitted the redesignation request, and disregards the implementation rule's rebuttable presumptions regarding ammonia and VOC as $PM_{2.5}$ precursors, the regulatory consequence would be to consider the need for regulation of all precursors from any sources in the area to demonstrate attainment and to apply the section 189(e) provisions to major stationary sources of precursors. In the case of the Chattanooga TN-GA-AL Area, EPA believes that doing so is consistent with proposing redesignation of the area for the $PM_{2.5}$ standard. The Chattanooga TN-GA-AL Area has attained the standard without any specific additional controls of VOC and ammonia emissions from any sources in the Area.

Precursors in subpart 4 are specifically regulated under the provisions of section 189(e), which requires, with important exceptions, control requirements for major stationary sources of $PM_{10}$ precursors.[14] Under subpart 1 and EPA's prior implementation rule, all major stationary sources of $PM_{2.5}$ precursors were subject to regulation, with the exception of ammonia and VOC. Thus, EPA must address here whether additional controls of ammonia and VOC from major stationary sources are required under section 189(e) of subpart 4 in order to redesignate the area for the 1997 $PM_{2.5}$ standard. As explained below, EPA does not believe that any additional controls of ammonia and VOC are required in the context of this redesignation.

In the General Preamble, EPA discusses its approach to implementing section 189(e). *See* 57 FR 13538 (April 16, 1992). With regard to precursor regulation under section 189(e), the General Preamble explicitly stated that control of VOCs under other Act requirements may suffice to relieve a state from the need to adopt precursor controls under section 189(e). *See* 57 FR 13542. EPA in this rulemaking proposes to determine that even if not explicitly addressed by the State in its submission, the State does not need to take further action with respect to ammonia and VOCs as precursors to satisfy the requirements of section 189(e). This proposed determination is based on our

[12] *i.e.,* attainment demonstration, RFP milestone requirements, and RACM.

[13] As explained above, EPA does not believe that the Court's January 4, 2013, decision should be interpreted so as to impose these requirements on the states retroactively. *Sierra Club* v. *Whitman, supra.*

[14] Under either subpart 1 or subpart 4, for purposes of demonstrating attainment as expeditiously as practicable, a state is required to evaluate all economically and technologically feasible control measures for direct PM emissions and precursor emissions, and adopt those measures that are deemed reasonably available.

findings that: (1) The Tennessee portion of the Chattanooga TN-GA-AL Area contains no major stationary sources of ammonia, and (2) existing major stationary sources of VOC are adequately controlled under other provisions of the CAA regulating the ozone NAAQS.[15] In the alternative, EPA proposes to determine that, under the express exception provisions of section 189(e), and in the context of the redesignation of the Area, which is attaining the 1997 Annual $PM_{2.5}$ standard, at present ammonia and VOC precursors from major stationary sources do not contribute significantly to levels exceeding the 1997 $PM_{2.5}$ standard in the Chattanooga TN-GA-AL Area. *See* 57 FR 13539.

EPA notes that its 1997 $PM_{2.5}$ implementation rule provisions in 40 CFR 51.1002 were not directed at evaluation of $PM_{2.5}$ precursors in the context of redesignation, but rather the rule assesses SIP plans and control measures required to bring a nonattainment area into attainment of the 1997 $PM_{2.5}$ NAAQS. By contrast, redesignation to attainment primarily requires the area to have already attained due to permanent and enforceable emission reductions, and to demonstrate that controls in place can continue to maintain the standard. Thus, even if EPA regards the Court's January 4, 2013, decision as calling for ''presumptive regulation'' of ammonia and VOC for $PM_{2.5}$ under the attainment planning provisions of subpart 4, those provisions in and of themselves do not require additional controls of these precursors for an area that already qualifies for redesignation. Nor does EPA believe that requiring the State to address precursors differently than they have already would result in a substantively different outcome.

Although, as EPA has emphasized, its consideration here of precursor requirements under subpart 4 is in the context of a redesignation to attainment, EPA's existing interpretation of subpart 4 requirements with respect to precursors in attainment plans for $PM_{10}$ contemplates that states may develop attainment plans that regulate only those precursors that are necessary for purposes of attainment in the area in question, *i.e.,* states may determine that only certain precursors need be regulated for attainment and control purposes.[16] Courts have upheld this approach to the requirements of subpart 4 for $PM_{10}$.[17] EPA believes that application of this approach to $PM_{2.5}$ precursors under subpart 4 is reasonable. Because the Chattanooga TN-GA-AL Area has already attained the 1997 $PM_{2.5}$ NAAQS with its current approach to regulation of $PM_{2.5}$ precursors, EPA believes that it is reasonable to conclude in the context of this redesignation that there is no need to revisit the attainment control strategy with respect to the treatment of precursors. Even if the Court's decision is construed to impose an obligation, in evaluating this redesignation request, to consider additional precursors under subpart 4, it would not affect EPA's approval here of Tennessee's request for redesignation of the Tennessee portion of the Chattanooga TN-GA-AL Area. In the context of a redesignation, Tennessee has shown that the Chattanooga TN-GA-AL Area has attained the standard. Moreover, the State has shown, and EPA has proposed to determine, that attainment in this Area is due to permanent and enforceable emissions reductions on all precursors necessary to provide for continued attainment. It follows logically that no further control of additional precursors is necessary. Accordingly, EPA does not view the January 4, 2013, decision of the court as precluding redesignation of the Tennessee portion of the Chattanooga TN-GA-AL Area to attainment for the 1997 Annual $PM_{2.5}$ NAAQS at this time. In sum, even if Tennessee were required to address precursors for the Tennessee portion of the Chattanooga TN-GA-AL Area under subpart 4 rather than under subpart 1, EPA would still conclude that the Area had met all applicable requirements for purposes of redesignation in accordance with section 107(d)(3(E)(ii) and (v).

*f. Maintenance Plan and Evaluation of Precursors*

With regard to the redesignation of the Tennessee portion of the Chattanooga TN-GA-AL Area, in evaluating the effect of the Court's remand of EPA's implementation rule, which included presumptions against consideration of VOC and ammonia as $PM_{2.5}$ precursors, EPA in this proposal is also considering the impact of the decision on the maintenance plan required under sections 175A and 107(d)(3)(E)(iv). To begin with, EPA notes that the Area has attained the 1997 Annual $PM_{2.5}$ NAAQS and that the State has shown that attainment of that standard is due to permanent and enforceable emission reductions.

EPA proposes to determine that the State's maintenance plan shows continued maintenance of the standard by tracking the levels of the precursors whose control brought about attainment of the 1997 $PM_{2.5}$ standard in the Chattanooga TN-GA-AL Area. EPA therefore believes that the only additional consideration related to the maintenance plan requirements that results from the Court's January 4, 2013, decision is that of assessing the potential role of VOC and ammonia in demonstrating continued maintenance in this area. As explained below, based upon documentation provided by Tennessee and supporting information, EPA believes that the maintenance plan for the Tennessee portion of the Chattanooga TN-GA-AL Area need not include any additional emission reductions of VOC or ammonia in order to provide for continued maintenance of the standard.

First, as noted above in EPA's discussion of section 189(e), VOC emission levels in this area have historically been well-controlled under SIP requirements related to ozone and other pollutants. Second, total ammonia emissions throughout the Tennessee portion of the Chattanooga TN-GA-AL area are low, estimated to be approximately 370.9 tpy for 2007. *See* Table 7 below. As described below, available information shows that no precursor, including VOC and ammonia, is expected to increase significantly over the maintenance period so as to interfere with or undermine the State's maintenance demonstration.

[15] The Chattanooga TN-GA-AL Area has reduced VOC emissions through the implementation of various control programs including various on-road and non-road motor vehicle control programs.

[16] *See* ''Approval and Promulgation of Implementation Plans for California—San Joaquin Valley PM–10 Nonattainment Area; Serious Area Plan for Nonattainment of the 24-Hour and Annual PM–10 Standards,'' 69 FR 30006 (May 26, 2004) (approving a $PM_{10}$ attainment plan that impose controls on direct $PM_{10}$ and $NO_X$ emissions and did not impose controls on $SO_2$, VOC, or ammonia emissions).

[17] *See Association of Irritated Residents* v. *EPA et al.,* 423 F.3d 989 (9th Cir. 2005).

TABLE 7—COMPARISON OF 2007 AND 2020 VOC AND AMMONIA EMISSION TOTALS BY SOURCE SECTOR (TPY) FOR THE TENNESSEE PORTION OF THE AREA [18]

| Source sector | VOC | | | Ammonia | | |
|---|---|---|---|---|---|---|
| | 2007 | 2020 | Net change | 2007 | 2020 | Net change |
| Nonpoint | 5,338.9 | 5,372.1 | 33.3 | 194.2 | 202.0 | 7.8 |
| Nonroad | 2,383.3 | 1,213.3 | −1170 | 2.7 | 3.1 | 0.4 |
| Onroad | 4,797.5 | 1,541.8 | −3255.7 | 161.6 | 92.5 | −69.1 |
| Point | 1,047.0 | 1,038.1 | −8.9 | 12.5 | 12.5 | 0 |
| Total | 13,566.6 | 9,165.4 | −4,401.2 | 370.9 | 310.1 | −60.8 |

Tennessee's maintenance plan shows that emissions of $SO_2$, $NO_X$, and $PM_{2.5}$ are projected to decrease over the maintenance period in the Tennessee portion of the Chattanooga TN-GA-AL Area by 91.9 tpy, 7,890.4 tpy and 116.5 tpy, respectively. *See* Table 6 above. In addition, emissions inventories used in the regulatory impact analysis (RIA) for the 2012 $PM_{2.5}$ NAAQS show that VOC emissions are projected to decrease by 4,401.2 tpy and that ammonia emissions are projected to decrease by 60.8 tpy between 2007 and 2020. While the RIA emissions inventories are only projected out to 2020, there is no reason to believe that this overall downward trend would not continue through 2025. Given that the Chattanooga TN-GA-AL Area is already attaining the 1997 Annual $PM_{2.5}$ NAAQS even with the current level of emissions from sources in the Area, the overall downward trend of emissions inventories is consistent with continued attainment. Even if VOC and ammonia emissions were to increase unexpectedly between 2020 and 2025, the overall emission reductions projected in $SO_2$ and $NO_X$ would be sufficient to offset any increases. For these reasons, EPA believes that local emissions of all the potential $PM_{2.5}$ precursors will not increase to the extent that they might cause monitored $PM_{2.5}$ levels to violate the 1997 Annual $PM_{2.5}$ standard during the maintenance period.

In addition, available air quality data and modeling analyses show continued maintenance of the standard during the maintenance period. As noted in section V, above, the Chattanooga TN-GA-AL Area recorded a $PM_{2.5}$ design value of 10.5 μg/m$^3$ during 2011–2013, the most recent three years available with complete, quality-assured and certified ambient air monitoring data. This is well below the 1997 Annual $PM_{2.5}$ NAAQS of 15 μg/m$^3$. Moreover, the modeling analysis conducted for the RIA for the 2012 $PM_{2.5}$ NAAQS indicates that the design value for this area is expected to continue to decline through 2020. Given the decrease in overall precursor emissions projected through 2025, it is reasonable to conclude that monitored $PM_{2.5}$ levels in this area will also continue to decrease through 2025.

Thus, EPA believes that there is ample justification to conclude that the Tennessee portion of the Chattanooga TN-GA-AL Area should be redesignated, even taking into consideration the emissions of VOC and ammonia potentially relevant to $PM_{2.5}$. After consideration of the D.C. Circuit's January 4, 2013, decision, and for the reasons set forth in this document, EPA continues to propose approval of the State's maintenance plan and its request to redesignate the Tennessee portion of the Chattanooga TN-GA-AL Area to attainment for the 1997 Annual $PM_{2.5}$ NAAQS.

## VII. What is EPA's analysis of Tennessee's proposed $NO_X$ and $PM_{2.5}$ MVEBs for the Tennessee portion of the Chattanooga TN-GA-AL area?

Under section 176(c) of the CAA, new transportation plans, programs, and projects, such as the construction of new highways, must ''conform'' to (*i.e.,* be consistent with) the part of the state's air quality plan that addresses pollution from cars and trucks. Conformity to the SIP means that transportation activities will not cause new air quality violations, worsen existing violations, or delay timely attainment of the NAAQS or any interim milestones. If a transportation plan does not conform, most new projects that would expand the capacity of roadways cannot go forward. Regulations at 40 CFR part 93 set forth EPA policy, criteria, and procedures for demonstrating and assuring conformity of such transportation activities to a SIP. The regional emissions analysis is one, but not the only, requirement for implementing transportation conformity. Transportation conformity is a requirement for nonattainment and maintenance areas. Maintenance areas are areas that were previously nonattainment for a particular NAAQS but have since been redesignated to attainment with an approved maintenance plan for that NAAQS.

Under the CAA, states are required to submit, at various times, control strategy SIPs and maintenance plans for nonattainment areas. These control strategy SIPs (including RFP and attainment demonstration) and maintenance plans create MVEBs for criteria pollutants and/or their precursors to address pollution from cars and trucks. Per 40 CFR part 93, a MVEB must be established for the last year of the maintenance plan. A state may adopt MVEBs for other years as well. The MVEBs is the portion of the total allowable emissions in the maintenance demonstration that is allocated to highway and transit vehicle use and emissions. *See* 40 CFR 93.101. The MVEBs serves as a ceiling on emissions from an area's planned transportation system. The MVEBs concept is further explained in the preamble to the November 24, 1993, Transportation Conformity Rule. *See* 58 FR 62188. The preamble also describes how to establish the MVEBs in the SIP and how to revise the MVEBs.

After interagency consultation with the transportation partners for the Tennessee portion of the Chattanooga TN-GA-AL Area, Tennessee has elected to develop MVEBs for $NO_X$ and $PM_{2.5}$ for the entire nonattainment area. Tennessee has developed these MVEBs, as required, for the last year of its maintenance plan, 2025. The MVEBs reflect the total on-road emissions for 2025, plus an allocation from the available $NO_X$ and $PM_{2.5}$ safety margin. Under 40 CFR 93.101, the term ''safety margin'' is the difference between the attainment level (from all sources) and the projected level of emissions (from all sources) in the maintenance plan. The safety margin can be allocated to the transportation sector; however, the total emissions must remain below the attainment level. The $NO_X$ and $PM_{2.5}$

[18] These emissions estimates were taken from the emissions inventories developed for the regulatory impact analysis for the 2012 $PM_{2.5}$ NAAQS.

MVEBs and allocation from the safety margin were developed in consultation with the transportation partners and were added to account for uncertainties in population growth, changes in model vehicle miles traveled and new emission factor models. The $NO_X$ and $PM_{2.5}$ MVEBs for the Tennessee portion of the Chattanooga TN-GA-AL Area are defined in Table 8 below.

TABLE 8—TENNESSEE PORTION OF THE CHATTANOOGA TN-GA-AL AREA $PM_{2.5}$ AND $NO_X$ MVEBS

[tpy]

| | $PM_{2.5}$ | $NO_X$ |
|---|---|---|
| 2025 Mobile Emissions | 76.5 | 2,508.7 |
| 2025 Safety Margin Allocated | 23.5 | 691.3 |
| 2025 Total Mobile Budget | 100.0 | 3,200.0 |

In an effort to accommodate future variations in Travel Demand Models (TDM) and the vehicle miles traveled forecast when no change to the network is planned, TDEC consulted with the interagency consultation group, including EPA, to determine a reasonable approach to address this variation. The projected 2025 on-road motor vehicle emissions for direct $PM_{2.5}$ and $NO_X$ are 76.5 tpy and 2,508.7 tpy, respectively. On-road emissions of $SO_2$ are considered de-minimus; therefore, no budget for $SO_2$ is required.[19]

A safety margin is necessary to accommodate the variabilities, or worst-case scenarios that can occur due to future planning assumptions. The worst-case daily motor vehicle emissions projection for $PM_{2.5}$ is 23.5 tpy above the projected 2025 on-road emissions. In a worst-case scenario, the needed annual safety margin for the $PM_{2.5}$ MVEB would be 23.5 tpy resulting in an overall MVEB of 100.0 tpy. The worst-case daily motor vehicle emissions projection for $NO_X$ is 691.3 tpy above the projected 2025 on-road emissions. In a worst-case scenario, the required annual safety margin for the $NO_X$ MVEB would be 691.3 tpy resulting in an overall MVEB of 3,200.0 tpy.

Through this rulemaking, EPA is proposing to approve the MVEBs for $NO_X$ and $PM_{2.5}$ for 2025 for the Tennessee portion of the Chattanooga TN-GA-AL Area because EPA has determined that the Area maintains the 1997 Annual $PM_{2.5}$ NAAQS with the emissions at the levels of the budgets. Once the MVEBs for the Tennessee portion of the Chattanooga TN-GA-AL Area are approved or found adequate (whichever is completed first), they must be used for future conformity determinations. After thorough review, EPA has determined that the budgets meet the adequacy criteria, as outlined in 40 CFR 93.118(e)(4). Therefore, EPA is proposing to approve the budgets because they are consistent with maintenance of the 1997 Annual $PM_{2.5}$ NAAQS through 2025.

## VIII. What is the status of EPA's adequacy determination for the proposed $NO_X$ and $PM_{2.5}$ MVEBs for 2025 for the Tennessee portion of the Chattanooga TN-GA-AL area?

When reviewing submitted ''control strategy'' SIPs or maintenance plans containing MVEB, EPA may affirmatively find the MVEB contained therein adequate for use in determining transportation conformity. Once EPA affirmatively finds the submitted MVEB is adequate for transportation conformity purposes, that MVEBs must be used by state and federal agencies in determining whether proposed transportation projects conform to the SIP as required by section 176(c) of the CAA.

EPA's substantive criteria for determining adequacy of MVEBs are set out in 40 CFR 93.118(e)(4). The process for determining adequacy consists of three basic steps: Public notification of a SIP submission, a public comment period, and EPA's adequacy determination. This process for determining the adequacy of submitted MVEBs for transportation conformity purposes was initially outlined in EPA's May 14, 1999, guidance entitled ''Conformity Guidance on Implementation of March 2, 1999, Conformity Court Decision.'' EPA adopted regulations to codify the adequacy process in rulemaking entitled Transportation Conformity Rule Amendments for the ''New 8-Hour Ozone and $PM_{2.5}$ National Ambient Air Quality Standards and Miscellaneous Revisions for Existing Areas; Transportation Conformity Rule Amendments: Response to Court Decision and Additional Rule Change''; July 1, 2004 (69 FR 40004). Additional information on the adequacy process for transportation conformity purposes is available in the proposed rule entitled ''Transportation Conformity Rule Amendments: Response to Court Decision and Additional Rule Changes''; June 30, 2003 (68 FR 38974, 38984).

As discussed earlier, Tennessee's maintenance plan submission includes $NO_X$ and $PM_{2.5}$ MVEBs for the Tennessee portion of the Chattanooga TN-GA-AL Area for 2025, the last year of the maintenance plan. EPA reviewed the $NO_X$ and $PM_{2.5}$ MVEBs through the adequacy process, and the adequacy of the MVEBs was open for public comment on EPA's adequacy Web site on December 9, 2014, found at: *http://www.epa.gov/otaq/stateresources/transconf/currsips.htm.* The EPA public comment period on adequacy for the MVEBs for 2025 for the Tennessee portion of the Chattanooga TN-GA-AL Area closed on January 8, 2015. EPA did not receive any comments on the adequacy of the MVEBs, nor did EPA receive any requests for the SIP submittal.

EPA intends to make its determination on the adequacy of the 2025 MVEBs for the Tennessee portion of the Chattanooga TN-GA-AL Area for transportation conformity purposes in the near future by completing the adequacy process that was started on December 9, 2014. After EPA finds the 2025 MVEBs adequate under 40 CFR 93.118(f)(1)(iv) or take final action to approve them into the Tennessee SIP under 40 CFR 93.118(f)(2)(iii), the new MVEBs for $NO_X$ and $PM_{2.5}$ must be used for future transportation conformity determinations. For required regional emissions analysis years that involve 2025 or beyond, the applicable budgets will be the new 2025 MVEBs established in the maintenance plan.

## IX. Proposed Actions on the Redesignation Request and Maintenance Plan SIP Revisions Including Approval of the $NO_X$ and $PM_{2.5}$ MVEBs for 2025 for the Tennessee Portion of the Chattanooga TN-GA-AL Area

On May 31, 2011, EPA determined that the Chattanooga TN-GA Area was attaining the 1997 $PM_{2.5}$ NAAQS. *See* 76 FR 55774. EPA is now taking two separate but related actions regarding the Area's redesignation and maintenance of the 1997 Annual $PM_{2.5}$ NAAQS.

First, EPA is proposing to determine that, based upon review of complete, quality-assured and certified ambient monitoring data for the 2007–2009 period, and review of data in AQS for 2010 through 2013, that the Chattanooga TN-GA-AL Area continues to attain the 1997 Annual $PM_{2.5}$ NAAQS. EPA is also proposing to determine that the Tennessee portion of the Chattanooga TN-GA-AL Area has met the criteria

[19] 70 FR 24280, 24283 (May 6, 2005) (''While speciated air quality data show that sulfate is a relatively significant component (*e.g.,* ranging from nine to 40 percent) of $PM_{2.5}$ mass in all regions of the country, emissions inventory data and projections show that on-road emissions of $SO_X$ constitute a ''*de minimis*'' (*i.e.,* extremely small) portion of total $SO_X$ emissions.'').

under CAA section 107(d)(3)(E) for redesignation from nonattainment to attainment for the 1997 Annual $PM_{2.5}$ NAAQS. On this basis, EPA is proposing to approve Tennessee's redesignation request for the Tennessee portion of the Chattanooga TN-GA-AL Area.

Second, EPA is proposing to approve the maintenance plan for the Tennessee portion of the Chattanooga TN-GA-AL Area, including the $PM_{2.5}$ and $NO_X$ MVEBs for 2025 submitted by Tennessee into the State's SIP (under section 175A). The maintenance plan demonstrates that the Area will continue to maintain the 1997 Annual $PM_{2.5}$ NAAQS, and the budgets meet all of the adequacy criteria contained in 40 CFR 93.118(e)(4) and (5). Further, as part of today's action, EPA is describing the status of its adequacy determination for transportation conformity purposes for the $PM_{2.5}$ and $NO_X$ MVEBs for 2025 under 40 CFR 93.118(f)(1). Within 24 months from the effective date of EPA's adequacy determination for the MVEBs or the effective date for the final rule approving the MVEBs into the Tennessee SIP, whichever is earlier, the transportation partners will need to demonstrate conformity to the new $NO_X$ and $PM_{2.5}$ MVEBs pursuant to 40 CFR 93.104(e).

If finalized, approval of the redesignation request would change the official designation of Tennessee portion of the Chattanooga TN-GA-AL Area for the 1997 Annual $PM_{2.5}$ NAAQS, found at 40 CFR part 81 from nonattainment to attainment.

## X. What is the effect of EPA's proposed actions?

EPA's proposed actions establish the basis upon which EPA may take final action on the issues being proposed for approval today. Approval of Tennessee's redesignation request would change the legal designation of Hamilton County in Tennessee for the 1997 Annual $PM_{2.5}$ NAAQS, found at 40 CFR part 81, from nonattainment to attainment. Approval of TDEC's request would also incorporate a plan for maintaining the 1997 Annual $PM_{2.5}$ NAAQS in the Chattanooga TN-GA-AL Area through 2025 into the Tennessee SIP. The maintenance plan includes contingency measures to remedy any future violations of the 1997 Annual $PM_{2.5}$ NAAQS and procedures for evaluation of potential violations. The maintenance plan also includes $NO_X$ and $PM_{2.5}$ MVEBs for the Tennessee portion of the Chattanooga TN-GA-AL Area. Additionally, EPA is notifying the public of the status of its adequacy determination for the $NO_X$ and $PM_{2.5}$ MVEBs for 2025 under 40 CFR 93.118(f)(1).

## XI. 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. A 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 CAA. Accordingly, these proposed actions merely approve state law as meeting federal requirements and do not impose additional requirements beyond those imposed by state law. For that reason, these proposed actions:

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 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 economically significant regulatory actions based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Are not significant regulatory actions subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Are not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- Do not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will it impose substantial direct costs on tribal governments or preempt tribal law.

### List of Subjects

*40 CFR Part 52*

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

*40 CFR Part 81*

Environmental protection, Air pollution control.

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

Dated: March 11, 2015.

**Heather McTeer Toney,**

*Regional Administrator, Region 4.*

[FR Doc. 2015–06963 Filed 3–26–15; 8:45 am]

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## FEDERAL COMMUNICATIONS COMMISSION

## 47 CFR Part 76

**[CS Docket No. 98–120; FCC 15–29]**

## Carriage of Digital Television Broadcast Signals

**AGENCY:** Federal Communications Commission.

**ACTION:** Proposed rule.

**SUMMARY:** In this document, the Commission seeks comment on a Petition for Rulemaking filed by the American Cable Association (''ACA'') requesting, among other things, that the Commission extend for an additional three years the exemption from the requirement to carry high definition (''HD'') broadcast signals under the ''material degradation'' provisions of the Communications Act of 1934, as amended (''the Act'') that it granted to certain small cable systems in the 2012

Fifth Report and Order. This exemption is slated to expire on June 12, 2015 absent further action by the Commission. We tentatively conclude that the public interest would be served by extending the HD carriage exemption for three years, or until June 12, 2018.

**DATES:** Comments are due on or before April 16, 2015; reply comments are due on or before April 27, 2015. Written comments on the Paperwork Reduction Act potential information collection requirements must be submitted by the public, Office of Management and Budget (OMB), and other interested parties on or before May 26, 2015.

**ADDRESSES:** You may submit comments, identified by CS Docket No. 98–120, by any of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Federal Communications Commission's Web site: http://fjallfoss.fcc.gov/ecfs2/.* Follow the instructions for submitting comments.
- *Mail:* Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.
- *People with Disabilities:* Contact the FCC to request reasonable accommodations (accessible format documents, sign language interpreters, CART, etc.) by email: *FCC504@fcc.gov* or phone: (202) 418–0530 or TTY: (202) 418–0432.

In addition to filing comments with the Secretary, a copy of any comments on the Paperwork Reduction Act potential information collection requirements contained herein should be submitted to the Federal Communications Commission via email to *PRA@fcc.gov.* For detailed instructions for submitting comments and additional information on the rulemaking process, see the **SUPPLEMENTARY INFORMATION** section of this document.

**FOR FURTHER INFORMATION CONTACT:** Raelynn Remy of the Policy Division, Media Bureau at (202) 418–2120 or *Raelynn.Remy@fcc.gov.* For additional information concerning the Paperwork Reduction Act information collection requirements contained in this document, send an email to *PRA@fcc.gov* or contact Cathy Williams at (202) 418–2918.

**SUPPLEMENTARY INFORMATION:** This is a summary of the Commission's *Fifth Further Notice of Proposed Rulemaking* (''Fifth FNPRM''), FCC 15–29, adopted on March 11, 2015 and released on March 12, 2015. The full text is available for public inspection and copying during regular business hours in the FCC Reference Center, Federal Communications Commission, 445 12th Street SW., Room CY–A257, Washington, DC 20554. This document will also be available via ECFS at *http://fjallfoss.fcc.gov/ecfs/.* Documents will be available electronically in ASCII, Microsoft Word, and/or Adobe Acrobat. The complete text may be purchased from the Commission's copy contractor, 445 12th Street SW., Room CY–B402, Washington, DC 20554. Alternative formats are available for people with disabilities (Braille, large print, electronic files, audio format), by sending an email to *fcc504@fcc.gov* or calling the Commission's Consumer and Governmental Affairs Bureau at (202) 418–0530 (voice), (202) 418–0432 (TTY).

The Fifth FNPRM seeks comment on potential information collection requirements. If the Commission adopts any information collection requirements, the Commission will publish a notice in the **Federal Register** inviting the public to comment on the requirements, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3501 through 3520). In addition, pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, *see* 44 U.S.C. 3506(c)(4), the Commission seeks specific comment on how it might ''further reduce the information collection burden for small business concerns with fewer than 25 employees.'' The Commission, as part of its continuing effort to reduce paperwork burdens, invites the general public and the Office of Management and Budget (OMB) to comment on the information collection requirements contained in this document, as required by the Paperwork Reduction Act of 1995, Public Law 104–13. Public and agency comments are due May 26, 2015.

## Synopsis

### I. Introduction

1. In this Fifth FNPRM, we seek comment on a Petition for Rulemaking filed by the American Cable Association (''ACA'') [1] requesting, among other things, that the Commission extend for an additional three years the exemption from the requirement to carry high definition (''HD'') broadcast signals under the ''material degradation'' provisions of the Communications Act of 1934, as amended (''the Act'') [2] that it granted to certain small cable systems in the *Fifth Report and Order* (''HD carriage exemption'').[3] This exemption is slated to expire on June 12, 2015 absent further action by the Commission. As discussed below, we tentatively conclude that the public interest would be served by extending the HD carriage exemption for three years, or until June 12, 2018. We set forth below a brief history of the HD carriage exemption and a summary of ACA's arguments in support of its Petition, and seek comment on our tentative conclusion to grant ACA's proposal.

### II. Background

2. Sections 614(b)(4)(A) and 615(g)(2) of the Act require that cable operators carry signals of commercial and noncommercial broadcast television stations, respectively, ''without material degradation.'' [4] In the context of the carriage of digital signals, the Commission has interpreted this requirement: (i) To prohibit cable operators from discriminating in their carriage between broadcast and non-broadcast signals; and (ii) to require cable operators to carry HD broadcast signals to their viewers in HD.[5] In response to concerns from small cable operators about cost and technical capacity, the Commission, in the 2008 *Fourth Report and Order,* granted a three-year exemption from the HD carriage requirement to certain small cable systems.[6] Specifically, the Commission exempted small cable systems with 2,500 or fewer subscribers that are not affiliated with a cable operator serving more than 10 percent of all MVPD subscribers, and those with an activated channel capacity of 552 MHz or less.

[1] *See* American Cable Association Petition for Rulemaking, CS Docket No. 98–120 (filed Jan. 27, 2015) (''*Petition*'').

[2] *See* 47 U.S.C. 534(b)(4)(A), 535(g)(2) (material degradation requirements relating to signals of local commercial and noncommercial television stations, respectively).

[3] *See Carriage of Digital Television Broadcast Signals: Amendment to Part 76 of the Commission's rules,* Docket No. CS 98–120, Fifth Report and Order, 77 FR 36178 (2012) (''*Fifth Report and Order*'').

[4] *See* section 614(b)(4)(A) of the Act (47 U.S.C. 534(b)(4)(A)). *See also* Section 615(g)(2) of the Act. *See* 47 U.S.C. 535(g)(2). *See also* 47 CFR 76.62(b) through (d), (h).

[5] *See Carriage of Digital Television Broadcast Signals: Amendment to Part 76 of the Commission's rules,* Docket No. CS 98–120, Third Report and Order and Third Further Notice of Proposed Rulemaking, 73 FR 6043 (2007) (''*Viewability Order*'').

[6] *See Carriage of Digital Television Broadcast Signals: Amendment to Part 76 of the Commission's rules,* Docket No. CS 98–120, Fourth Report and Order, 73 FR 61742 (2008) (''*Fourth Report and Order*'').

3. The exemption from this material degradation requirement permits such systems to carry broadcast signals in standard definition (''SD'') digital and/or analog format, even if the signals are broadcast in HD, so long as all subscribers can receive and view the signal.[7] The Commission provided that the exemption would expire three years after the conclusion of the DTV transition, but stated that it would consider whether to extend the exemption in its final year.[8] After conducting that review,[9] the Commission, in the 2012 *Fifth Report and Order,* extended for an additional three years, or until June 12, 2015, the HD carriage exemption for certain small cable systems.[10] The Commission stated that the exemption was not intended to be permanent and that its purpose was ''to provide small systems additional time to upgrade and, where necessary, expand their systems to come into full compliance with the material degradation provisions . . . by carrying HD versions of all HD broadcast signals without having to make relatively large expenditures over a short period of time.'' [11]

4. On January 28, 2015, ACA filed its Petition requesting that the Commission: (i) Commence a rulemaking proceeding to extend for an additional three years the HD carriage exemption; and (ii) clarify that analog-only cable systems are not required, and have never been required, to transmit must-carry signals in HD.[12] In general, ACA contends that the HD carriage exemption has worked as intended by providing eligible systems with additional time to provide must-carry signals in HD, but that the exemption is still needed to protect a small number of systems and their subscribers from the potential costs and service disruptions that would result from immediate compliance with an HD carriage requirement.[13] In support of its request for an extension, ACA points to data from a recent survey [14] that shows that roughly 6%, or 53 of its members, continue to rely on it.[15]

5. With respect to the category of small systems that have a capacity of 552 MHz or less, ACA reports that 42 respondents (that account for at least 117 systems serving a total of 35,758 subscribers, or an average of 306 subscribers per system) continue to rely on the HD carriage exemption.[16] Similarly, with respect to the category of systems that serve 2,500 or fewer subscribers and that are not affiliated with an operator serving more than 10 percent of all MVPD subscribers, ACA reports that 53 respondents (that account for 143 systems serving a total of 49,790 subscribers, or an average of 348 subscribers per system) [17] still rely on the exemption.[18] The survey reveals further that these systems offer an average of 2.5 must-carry stations in a ''down-converted'' format only.[19] Given this data, ACA asserts, imposing an HD carriage requirement at this time would be as detrimental to small systems today as it was when the Commission initially granted the exemption.[20]

6. ACA argues that applying the HD carriage exemption to cable systems with 552 MHz or less of channel capacity is still justified because such systems continue to face significant bandwidth constraints that affect their ability to provide must-carry signals in both analog and HD format.[21] To support its assertion, ACA points to survey data demonstrating that for 81% of respondents with a capacity of 552 MHz or less, the amount of unused channel capacity that is available for new channels or services either has decreased [22] or remained the same [23] in the past three years. ACA asserts further that a substantial majority of survey respondents in this category report that they cannot deliver HD signals without changing existing channels or services, and that it would be burdensome for them to make available channel capacity for HD signals.[24] ACA contends that imposing an HD carriage requirement at this time would harm subscribers of these systems by forcing such systems: (i) To drop channels; (ii) to continue providing signals only in a down-converted format, thereby risking Commission enforcement action; or (iii) to cease operations entirely.[25]

7. ACA contends that extending the HD carriage exemption to cable systems

[7] *Id.,* para. 5. The Commission concluded that cable operators, regardless of system size, need not carry an SD digital version of a broadcast station's signal, in addition to the analog version, to satisfy the material degradation requirement, because both an SD digital version and an analog version of the digital broadcast signal received at the headend should have the same 480i resolution; thus, there should be no perceivable difference between the two versions of the signal. *Id.*

[8] *See id.,* para. 11. *See also Carriage of Digital Television Broadcast Signals: Amendment to Part 76 of the Commission's rules,* Docket No. CS 98–120, Fourth Further Notice of Proposed Rulemaking and Declaratory Order, 77 FR 9187 (2012) (''Fourth Further Notice''). The exemption would have expired on February 17, 2012, if Congress had not delayed the DTV transition date from February 17, 2009 until June 12, 2009. *Id.* In the 2012 Declaratory Order accompanying the *Fourth Further Notice,* the Commission clarified that the HD carriage exemption was effective until June 12, 2012 because the HD exemption was intended to remain in effect for three full years from the DTV transition date. *Id.*

[9] *See id.,* para. 3.

[10] *See id.* The Commission extended the exemption based on its finding that the same financial and capacity constraints that confronted small cable operators when it initially granted the exemption in 2008 continued to exist. *Id.,* para. 21. In particular, the Commission found that the exemption ''remains necessary to protect the viability of small systems and their service to rural and smaller market consumers.'' *Id.*

[11] *Id.,* para. 22. The Commission declined to restrict the exemption further by eliminating its application to systems that carry any signal in HD, as suggested by the National Association of Broadcasters (''NAB''). In so doing, the Commission reasoned that the exemption had already been crafted narrowly to excuse only a limited number of systems with certain capacity constraints or low subscribership, and that a small system's ability to offer some HD service did not necessarily render that system capable of offering additional HD service. *Id.,* para. 23. The Commission also expressed concern that restricting the exemption further would create a disincentive for systems to offer more HD programming incrementally. *Id.*

[12] *See Petition* at 1–2, 18.

[13] *Id.* at 2.

[14] ACA conducted an online survey of its members from October 2 through October 22, 2014 to determine the number of systems still relying on the HD carriage exemption. *Id.* at 4, n.8. ACA represents approximately 840 independent MVPDs that serve about 7.4 million video subscribers primarily in smaller markets and rural areas. ACA's members range from family-run operations that serve a single town to multiple system operators with small systems. The median number of video subscribers per ACA member is 1,060. *Id.* at 4, n.9.

[15] *Id.* at 4–5.

[16] *Id.* at 5. ACA asserts that the survey further indicates that: (i) Those systems offer an average of 2.3 must-carry stations in a down-converted format only; (ii) only 20.5% of those systems offer some HD television services; and (iii) 38.5% of those systems offer broadband service. *Id.* and Table 1.

[17] ACA reports that all 117 of the systems with a capacity of 552 MHz or less also have fewer than 2,500 subscribers, and that 81.8% of the systems with fewer than 2,500 subscribers also have a capacity of 552 MHz or less. *See Petition* at 5–6 and Tables 1, 2.

[18] *Id.* at 6. ACA asserts that the survey further indicates that: (i) Those systems offer an average of 2.5 must-carry stations in a down-converted format only; (ii) only 25.9% of those systems offer some HD television services; and (iii) 54.4% of those systems offer broadband service. *Id.* and Table 2.

[19] *Id.* Although ACA does not define ''down-converted format,'' we assume this term refers to a cable system's conversion of a high definition broadcast signal to standard definition when retransmitting the signal to subscribers.

[20] *Id.* at 3.

[21] *Id.* at 7–8.

[22] *Id.* at 8 and Table 4. According to ACA, the decrease in unused channel capacity has resulted from the need of operators to accommodate non-broadcast programmers that demand carriage of additional channels in exchange for access to, or less drastic rate increases for, popular non-broadcast channels. *Id.* at 8–9. ACA also attributes this decrease in capacity to the need of operators to allocate capacity for broadband services. *Id.* at 9.

[23] ACA asserts that the most common reason reported for no change in channel capacity was that the system was channel locked three years ago and remains the same today due to a lack of financial resources for capacity expansion or the absence of a business case to support such expansion. *Id.*

[24] *Id.* and Table 5.

[25] *Id.* at 10. ACA reports that 45.2% of survey respondents in this category would shut down their systems; 14.3% would drop existing channels; and 19% would risk Commission enforcement action rather than comply with an HD carriage requirement. *Id.*

with 2,500 or fewer subscribers (and that are not affiliated with an operator serving more than 10 percent of all MVPD subscribers) also remains justified because such systems still lack the financial resources necessary to purchase equipment needed to provide HD signals.[26] To support its assertion, ACA points to survey data showing that an overwhelming number of systems in this category reported that their net income from video services has declined over the last three years.[27] ACA contends, based on its survey, that many such systems would need to purchase additional equipment to offer must-carry signals in HD, and that doing so would be financially burdensome for them.[28] ACA argues that requiring these systems to transmit HD signals would force them to absorb the equipment costs or pass such costs on to subscribers, and that these harms far outweigh any benefits derived from an HD carriage mandate.[29] ACA also highlights concerns about cost and compliance that may result from the upcoming broadcast spectrum incentive auction because the auction could result in fewer stations and/or channel sharing.[30]

8. Moreover, ACA asserts that the number of cable systems relying on the HD carriage exemption is declining and will continue to decline over the next three years.[31] In particular, ACA claims that more than 200 fewer *systems* are using the HD exemption today than in 2012, and that by June 2018, only 73 of the 143 systems that are currently relying on the exemption are expected to still be in operation and meet the criteria for taking advantage of the exemption.[32] ACA anticipates that this decline in the number of systems will result from system shutdowns or system upgrades to increase channel capacity.[33] ACA argues that ''[g]iven . . . the trend of decreasing reliance . . . it is appropriate to extend the HD exemption for the relatively few remaining operators that continue to rely on the exemption.'' [34]

9. Finally, ACA seeks a clarification that cable systems that offer video programming only in analog are not required, and have never been required, to transmit must-carry signals in HD because such carriage is not ''technically feasible'' within the meaning of section 614(b)(4)(A) of the Act and its implementing rules.[35] In particular, ACA contends that:

> analog-only systems are unable to carry *any* HD signals. If an analog-only system had the capability of carrying an HD signal, which can only be done in digital format, the system would no longer be, by definition, an analog-only system. It would be a hybrid analog/digital system.[36]

ACA claims that a small number of cable systems that rely on the HD carriage exemption would benefit from the requested clarification, and that this number is decreasing.[37] Even so, ACA asserts, some analog-only systems will remain in operation, and many of those systems provide the only available video service in rural areas where over-the-air reception of broadcast signals is infeasible.[38]

## III. Discussion

10. We tentatively conclude that it would serve the public interest to extend the HD carriage exemption for an additional three years as requested by ACA. Based on the results of ACA's survey, we tentatively conclude that the exemption is still necessary to protect the subscribers of small cable systems from the costs and service disruptions that may result from requiring those systems to deliver HD signals in HD beginning in June 2015. We seek comment on this tentative conclusion. We also seek comment on whether we should retain or revise the definition of the category of small cable systems eligible for the exemption. The fact that small operators that continue to rely on the exemption have, on average, only 348 subscribers per system [39] suggests that our current definition of ''small system'' is overly broad. To the extent parties assert that we should restrict further the category of small systems eligible for the exemption, what is the appropriate small system standard? What, if any, harms would accrue to small systems if we were to narrow further the category of systems eligible for the exemption? What, if any, benefits would result from narrowing the exemption?

11. We seek comment on whether any circumstances have changed since release of the *Fifth Report and Order* that weigh in favor of revisiting our decision not to eliminate the HD carriage exemption for systems carrying any signal in HD.[40] As noted, ACA's data indicate that at least 20 percent of systems relying on the exemption are currently offering some HD digital television services.[41] In particular, we request comment on whether there is any evidence that exempt systems that provide HD programming have discriminated unfairly against must-carry HD signals in favor of other HD signals. We also request comment on whether systems that carry a significant amount of HD programming, such as ten HD channels, should continue to be able to qualify for the exemption.

12. In addition, we seek comment on the costs and benefits of the exemption for broadcasters and cable subscribers. Commenters should quantify any asserted costs or benefits. We also request comment on whether any claimed benefits to small cable systems of extending the exemption for another three years would outweigh the costs to broadcasters and cable subscribers. How many, if any, small systems relying on the exemption have received complaints from subscribers about the absence or amount of HD programming available to them? ACA's data also reveal that some systems relying on the exemption currently provide broadband service.[42] How many, if any, such systems would reduce or eliminate such service if required to carry HD signals in June 2015?

13. We also invite comment on whether an additional three years will provide adequate time for eligible systems to upgrade their facilities to

[26] *Id.* at 11–12.

[27] *Id.* at 12–13 and Table 6.

[28] *Id.* at 13–14.

[29] *Id.* at 14. ACA reports that 37.3% of cable systems in this category would shut down their systems rather than invest in the equipment needed to comply with an HD carriage requirement; 22% would risk Commission enforcement action; and 35.6% would absorb or pass along to their subscribers the cost of the requisite equipment. *Id.*

[30] *Id.* at 3, 15.

[31] *Id.* at 15.

[32] *Id.* at 15–16. We note, however, that the number of ACA *members* reporting that they rely on the HD exemption has increased from 52 to 53. *See Fifth Report and Order,* 77 FR 36178 (2012).

[33] *Petition* at 15–16.

[34] *Id.* at 16.

[35] As noted above, section 614(b)(4)(A) of the Act requires that cable operators transmit local broadcast signals ''without material degradation'' and directs the Commission to ''adopt carriage standards to ensure that, *to the extent technically feasible,* the quality of signal processing and carriage provided . . . will be no less than that provided . . . for the carriage of any other type of signal.'' *See* 47 U.S.C. 534(b)(4)(A) (emphasis added).

[36] *See Petition* at 17.

[37] *Id.*

[38] *Id.* ACA also asserts that in some cases, all-analog systems provide a locally operated, lower cost service that allows customers to receive basic cable programming without the need for set-top boxes. *Id.*

[39] *Id.* at 4–5.

[40] As noted above, the Commission, in the *Fifth Report and Order,* declined to eliminate application of the HD carriage exemption to systems that carry any signal in HD on the grounds that a system's ability to offer some HD service did not refute an argument that offering additional HD service was burdensome, and that not allowing such systems to invoke the exemption would discourage them from taking incremental steps to offer more HD programming to subscribers.

[41] *Petition* at 5–6.

[42] *Id.* at 5–7 and Tables 2, 3.

provide HD signals. Although ACA's data indicate that at least 200 fewer cable systems are relying on the HD exemption today than did in 2012, the data also indicate that the number of ACA cable operator members relying on the HD exemption has not changed significantly. Therefore, do these data points reflect actual progress of ACA members coming into compliance with the HD carriage requirement? For example, to what extent is the decrease in the number of systems relying on the exemption attributable to the fact that some operators have expanded system capacity to provide signals in HD (thus rendering them ineligible for the exemption), or the fact that systems have ceased operations? [43] In addition, ACA estimates that more than 70 of the 143 systems that currently invoke the exemption are expected to be eligible for the exemption in June 2018.[44] To the extent some systems expect that they still will be unable to provide HD signals in three years, when would such systems likely be able to comply with an HD carriage requirement? That is, we invite comment on the plans of these small systems to upgrade to HD. We seek comment on whether there are any systems for which the costs of providing HD signals likely will outweigh the benefits for the indefinite future, and, if so, the projected number of such systems. We invite comment on any other issues that are relevant to our determination whether to extend the HD carriage exemption for small cable systems. We also seek comment on any other approach to this issue that would appropriately balance the interest of broadcast stations in being carried in HD and the technical and financial limitations some small cable operators face. In addition, we request comment on whether there is any merit to ACA's argument that requiring small systems to provide HD signals at this time would be inequitable given the uncertainty surrounding the broadcast spectrum incentive auction.

14. We note that the HD exemption was not intended to be permanent and that, based on ACA's survey, a number of systems must make greater progress in complying with the HD carriage requirement. Assuming we were to adopt our tentative conclusion to extend the exemption for three more years, we seek comment on what steps we can take to facilitate such compliance within that time period. For example, should we require individual cable systems that rely on the exemption to file information with the Commission indicating such, so that we can better understand the particular technical and financial challenges faced by these systems and track each system's progress for coming into compliance with the HD carriage requirement?

15. Finally, we seek comment on ACA's request for clarification that all-analog systems are not subject to the HD carriage requirement because such carriage is technically infeasible under Section 614(b)(4)(A) of the Act and its implementing rules. How many cable systems that currently rely on the exemption are all-analog systems? To what extent are all-analog systems capable of passing the ATSC [45] digital broadcast signal through to their customers for reception on digital televisions? What upgrades, if any, to an all-analog system's cable amplifiers and other equipment outside the headend would be required to support passing through the ATSC signal on a cable channel? What upgrades would be required in the headend?

## IV. Procedural Matters

### *A. Regulatory Flexibility Act*

16. As required by the Regulatory Flexibility Act of 1980, as amended (''RFA''),[46] the Commission has prepared this Initial Regulatory Flexibility Act Analysis (''IRFA'') of the possible economic impact on a substantial number of small entities by the actions proposed in this *Fifth FNPRM.* Written public comments are requested on this IRFA. Comments must be identified as responses to the IRFA and must be filed by the deadlines for comments on the *Fifth FNPRM* as indicated on its first page. The Commission will send a copy of the *Fifth FNPRM,* including this IRFA, to the Chief Counsel for Advocacy of the Small Business Administration (''SBA'').[47] In addition, the *Fifth FNPRM* and IRFA (or summaries thereof) will be published in the **Federal Register**.[48]

1. Need for, and Objectives of, the Proposed Rule Changes

17. In the accompanying *Fifth FNPRM,* the Commission seeks comment on, among other things, whether to extend for an additional three years the exemption from the requirement to carry high definition (''HD'') broadcast signals under the ''material degradation'' provisions of the Communications Act of 1934, as amended, that it granted to certain small cable systems in the 2012 *Fifth Report and Order* (''HD carriage exemption'').[49] The *Fifth FNPRM* stems from a Petition for Rulemaking filed by the American Cable Association principally requesting that the Commission extend this exemption, which will expire on June 12, 2015 without action by the Commission. In the *Fifth FNPRM,* the Commission tentatively concludes that the public interest would be served by extending the HD carriage exemption for three years, or until June 12, 2018. In particular, the Commission tentatively concludes that the HD carriage exemption is still necessary to protect the subscribers of small cable systems from the costs and service disruptions that may result from requiring those systems to deliver HD signals in HD beginning in June 2015. The exemption applies to operators of cable systems with 2,500 or fewer subscribers that are not affiliated with a cable operator serving more than 10% of all MVPD subscribers, and to those with an activated channel capacity of 552 MHz or less.

2. Legal Basis

18. The authority for the action proposed in this rulemaking is contained in sections 4, 303, 614, and 615 of the Communications Act of 1934, as amended, 47 U.S.C. 154, 303, 534, and 535.

3. Description and Estimates of the Number of Small Entities to Which the Proposed Rules Will Apply

19. The RFA directs the Commission to provide a description of and, where feasible, an estimate of the number of small entities that will be affected by the proposed actions if adopted.[50] The RFA generally defines the term ''small entity'' as having the same meaning as

[43] Although ACA states that ''some systems that relied on the HD exemption in the past no longer rely upon it because a business case materialized for an upgrade to occur,'' ACA also asserts that ''system shutdowns [will be] the primary reason that there will be fewer systems relying on the HD exemption'' in the next three years. *Petition* at 16 and n.33. ACA thus contends that ''the benefit of the HD exemption is not only in avoiding the hastening of system closings, but in giving systems time to make upgrades possible.'' *Id.*

[44] *Id.* at 15–16.

[45] Section 73.682(d) of the Commission's rules prescribes that digital broadcast television signals must comply with certain privately developed engineering protocols that the rule incorporates by reference. *See* 47 CFR 73.682(d). The channel identification data that a station transmits, for example, must comply with ''ATSC A/65C: 'ATSC Program and System Information Protocol for Terrestrial Broadcast and Cable, Revision C With Amendment No. 1 dated May 9, 2006,' (January 2, 2006).'' *Id.*

[46] *See* 5 U.S.C. 603. The RFA, *see* 5 U.S.C. 601 through 612, has been amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (''SBREFA''), Pub. L. 104–121, Title II, 110 Stat. 857 (1996).

[47] *See* 5 U.S.C. 603(a).

[48] See id.

[49] *See Fifth FNPRM* at paras. 10–15.

[50] 5 U.S.C. 603(b)(3).

the terms ''small business,'' ''small organization,'' and ''small governmental jurisdiction.'' [51] In addition, the term ''small business'' has the same meaning as the term ''small business concern'' under the Small Business Act.[52] 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).[53] The action proposed herein will affect small cable system operators and small television broadcast stations. A description of these small entities, as well as an estimate of the number of such small entities, is provided below.

20. *Cable Companies and Systems.* The Commission has developed its own small business size standards for the purpose of cable rate regulation. Under the Commission's rules, a ''small cable company'' is one serving 400,000 or fewer subscribers nationwide.[54] Industry data indicate that there are currently 660 cable operators.[55] Of this total, all but ten cable operators nationwide are small under this size standard.[56] In addition, under the Commission's rate regulation rules, a ''small system'' is a cable system serving 15,000 or fewer subscribers.[57] Current Commission records show 4,629 cable systems nationwide.[58] Of this total, 4,057 cable systems have less than 20,000 subscribers, and 572 systems have 20,000 or more subscribers, based on the same records. Thus, under this standard, we estimate that most cable systems are small entities.

21. *Cable System Operators (Telecom Act Standard).* The Communications Act of 1934, as amended, also contains a size standard for small cable system operators, which is ''a cable operator that, directly or through an affiliate, serves in the aggregate fewer than 1 percent of all subscribers in the United States and is not affiliated with any entity or entities whose gross annual revenues in the aggregate exceed $250,000,000.'' [59] There are approximately 54 million cable video subscribers in the United States today.[60] Accordingly, an operator serving fewer than 540,000 subscribers shall be deemed a small operator if its annual revenues, when combined with the total annual revenues of all its affiliates, do not exceed $250 million in the aggregate.[61] Based on available data, we find that all but ten incumbent cable operators are small entities under this size standard.[62] We note that the Commission neither requests nor collects information on whether cable system operators are affiliated with entities whose gross annual revenues exceed $250 million.[63] Although it seems certain that some of these cable system operators are affiliated with entities whose gross annual revenues exceed $250,000,000, we are unable at this time to estimate with greater precision the number of cable system operators that would qualify as small cable operators under the definition in the Communications Act.

22. *Open Video Systems.* The open video system (OVS) framework was established in 1996, and is one of four statutorily recognized options for the provision of video programming services by local exchange carriers.[64] The OVS framework provides opportunities for the distribution of video programming other than through cable systems. Because OVS operators provide subscription services,[65] OVS falls within the SBA small business size standard covering cable services, which is ''Wired Telecommunications Carriers.'' [66] The SBA has developed a small business size standard for this category, which is: All such businesses having 1,500 or fewer employees.[67] Census data for 2007 shows that there were 3,188 firms that operated for that entire year.[68] Of this total, 2,940 firms had fewer than 100 employees, and 248 firms had 100 or more employees.[69] Therefore, under this size standard, we estimate that the majority of these businesses can be considered small entities.

23. *Television Broadcasting.* This economic Census category ''comprises establishments primarily engaged in broadcasting images together with sound.'' [70] The SBA has created the following small business size standard for such businesses: Those having $38.5 million or less in annual receipts.[71] The 2007 U.S. Census indicates that 808 firms in this category operated in that year. Of that number, 709 had annual receipts of $25,000,000 or less, and 99 had annual receipts of more than $25,000,000.[72] Because the Census has no additional classifications that could serve as a basis for determining the number of stations whose receipts exceeded $38.5 million in that year, we conclude that the majority of television

[51] 5 U.S.C. 601(b).

[52] 5 U.S.C. 601(3) (incorporating by reference the definition of ''small-business concern'' in the Small Business Act, 15 U.S.C. 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**.''

[53] 15 U.S.C. 632.

[54] 47 CFR 76.901(e). The Commission determined that this size standard equates approximately to a size standard of $100 million or less in annual revenues.

[55] NCTA, Industry Data, Number of Cable Operators and Systems, *http://www.ncta.com/Statistics.aspx* (visited October 13, 2014). Depending upon the number of homes and the size of the geographic area served, cable operators use one or more cable systems to provide video service.

[56] *See* SNL Kagan, ''Top Cable MSOs—12/12 Q''; available at *http://www.snl.com/InteractiveX/TopCableMSOs.aspx?period=2012Q4&sortcol=subscribersbasic&sortorder=desc.*

[57] 47 CFR 76.901(c).

[58] The number of active, registered cable systems comes from the Commission's Cable Operations and Licensing System (COALS) database on October 10, 2014. A cable system is a physical system integrated to a principal headend.

[59] 47 U.S.C. 543(m)(2); *see* 47 CFR 76.901(f) & nn. 1–3.

[60] *See* NCTA, Industry Data, Cable's Customer Base, *http://www.ncta.com/industry-data* (visited October 13, 2014).

[61] 47 CFR 76.901(f).

[62] *See* NCTA, Industry Data, Top 25 Multichannel Video Service Customers (2012), *http://www.ncta.com/industry-data* (visited Aug. 30, 2013).

[63] The Commission does receive such information on a case-by-case basis if a cable operator appeals a local franchise authority's finding that the operator does not qualify as a small cable operator pursuant to Section 76.901(f) of the Commission's rules. *See* 47 CFR 76.901(f).

[64] 47 U.S.C. 571(a)(3) through (4).

[65] *See* 47 U.S.C. 573.

[66] *See* 13 CFR 121.201, 2012 NAICS code 517110. This category of Wired Telecommunications Carriers is defined in part as follows: ''This industry comprises establishments primarily engaged in operating and/or providing access to transmission facilities and infrastructure that they own and/or lease for the transmission of voice, data, text, sound, and video using wired telecommunications networks. Transmission facilities may be based on a single technology or a combination of technologies. Establishments in this industry use the wired telecommunications network facilities that they operate to provide a variety of services, such as wired telephony services, including VoIP services; wired (cable) audio and video programming distribution; and wired broadband Internet services.'' U.S. Census Bureau, 2012 NAICS Definitions, ''517110 Wired Telecommunications Carriers,'' at *http://www.census.gov/cgi-bin/sssd/naics/naicsrch.*

[67] 13 CFR 121.201; 2012 NAICS code 517110.

[68] U.S. Census Bureau, 2007 Economic Census. *See* U.S. Census Bureau, American FactFinder, ''Information: Subject Series—Estab and Firm Size: Employment Size of Establishments for the United States: 2007—2007 Economic Census,'' NAICS code 517110, Table EC0751SSSZ5; available at *http://factfinder2.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ECN_2007_US_51SSSZ5&prodType=table.*

[69] *Id.*

[70] U.S. Census Bureau, 2012 NAICS Definitions, ''515120 Television Broadcasting,'' at *http://www.census.gov./cgi-bin/sssd/naics/naicsrch.*

[71] 13 CFR 121.201; 2012 NAICS code 515120.

[72] U.S. Census Bureau, Table No. EC0751SSSZ4, *Information: Subject Series—Establishment and Firm Size: Receipts Size of Firms for the United States: 2007* (515120), *http://factfinder2.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ECN_2007_US_51SSSZ4&prodType=table.*

broadcast stations were small under the applicable SBA size standard.

24. Apart from the U.S. Census, the Commission has estimated the number of licensed commercial television stations to be 1,387 stations.[73] Of this total, 1,221 stations (or about 88 percent) had revenues of $38.5 million or less, according to Commission staff review of the BIA Kelsey Inc. Media Access Pro Television Database (BIA) on July 2, 2014. In addition, the Commission has estimated the number of licensed noncommercial educational (NCE) television stations to be 395.[74] NCE stations are non-profit, and therefore considered to be small entities.[75] Based on these data, we estimate that the majority of television broadcast stations are small entities.

25. We note, however, that in assessing whether a business concern qualifies as ''small'' under the above definition, business (control) affiliations [76] must be included. Because we do not include or aggregate revenues from affiliated companies in determining whether an entity meets the revenue threshold noted above, our estimate of the number of small entities affected is likely overstated. In addition, we note that one element of the definition of ''small business'' is that an entity not be dominant in its field of operation. We are unable at this time to define or quantify the criteria that would establish whether a specific television broadcast station is dominant in its field of operation. Accordingly, our estimate of small television stations potentially affected by the proposed rules includes those that could be dominant in their field of operation. For this reason, such estimate likely is over-inclusive.

4. Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements

26. The accompanying *Fifth FNPRM* seeks comment on, among other things, whether to extend for an additional three years the HD carriage exemption, which would affect small cable system operators and television broadcast stations. The exemption benefits small cable system operators by providing them with continued flexibility, and imposes no new regulatory compliance burdens on small television broadcast stations who need take no action as a result of the proposed extension.

5. Steps Taken To Minimize Significant Economic Impact on Small Entities, and Significant Alternatives Considered

27. The RFA requires an agency to describe any significant alternatives that it has considered in reaching its proposed approach, which may include the following four alternatives (among others): (1) The establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) the clarification, consolidation, or simplification of compliance or reporting requirements under the rule for small entities; (3) the use of performance, rather than design, standards; and (4) an exemption from coverage of the rule, or any part thereof, for small entities.[77] We seek comment on the applicability of any of these alternatives to affected small entities.

28. Extending the HD carriage exemption likely would not have an adverse economic impact on any small entities, and would have a positive economic impact on small cable system operators that choose to take advantage of the exemption. In addition, extending the exemption would not impose any significant burdens on small television stations. We invite small entities to submit comment on the impact of extending the HD carriage exemption, and on how the Commission could minimize any potential burdens on small entities.

6. Federal Rules That May Duplicate, Overlap, or Conflict With the Proposed Rule

29. None.

*B. Paperwork Reduction Act*

30. This document seeks comment on potential information collection requirements. The Commission, as part of its continuing effort to reduce paperwork burdens, invites the general public and the Office of Management and Budget (OMB) to comment on the potential information collection requirements contained in this document, as required by the Paperwork Reduction Act of 1995, Public Law 104–13.[78] In addition, pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, *see* 44 U.S.C. 3506(c)(4), we seek specific comment on how we might further reduce the potential information collection burden for small business concerns with fewer than 25 employees.[79]

*C. Ex Parte Rules*

31. The proceeding this document initiates shall be treated as a ''permit-but-disclose'' proceeding in accordance with the Commission's *ex parte* rules.[80] Persons making *ex parte* presentations must file a copy of any written presentation or a memorandum summarizing any oral presentation within two business days after the presentation (unless a different deadline applicable to the Sunshine period applies). Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentation must (1) list all persons attending or otherwise participating in the meeting at which the *ex parte* presentation was made, and (2) summarize all data presented and arguments made during the presentation. If the presentation consisted in whole or in part of the presentation of data or arguments already reflected in the presenter's written comments, memoranda or other filings in the proceeding, the presenter may provide citations to such data or arguments in his or her prior comments, memoranda, or other filings (specifying the relevant page and/or paragraph numbers where such data or arguments can be found) in lieu of summarizing them in the memorandum. Documents shown or given to Commission staff during *ex parte* meetings are deemed to be written *ex parte* presentations and must be filed consistent with rule 1.1206(b). In proceedings governed by rule 1.49(f) or for which the Commission has made available a method of electronic filing, written *ex parte* presentations and memoranda summarizing oral *ex parte* presentations, and all attachments thereto, must be filed through the electronic comment filing system available for that proceeding, and must be filed in their native format (*e.g.,* .doc, .xml, .ppt, searchable .pdf). Participants in this proceeding should familiarize themselves with the Commission's *ex parte* rules.

*D. Filing Requirements*

32. Pursuant to sections 1.415 and 1.419 of the Commission's rules,[81] interested parties may file comments and reply comments on or before the dates indicated on the first page of this

[73] *See Broadcast Station Totals as of June 30, 2014,* Press Release (MB rel. July 9, 2014) (*Broadcast Station Totals*) at *https://apps.fcc.gov/edocs_public/attachmatch/DOC–328096A1.pdf.*

[74] *See Broadcast Station Totals, supra.*

[75] *See generally* 5 U.S.C. 601(4), (6).

[76] ''[Business concerns] are affiliates of each other when one concern controls or has the power to control the other or a third party or parties controls or has the power to control both.'' 13 CFR 21.103(a)(1).

[77] 5 U.S.C. 603(c)(1) through (c)(4).

[78] Paperwork Reduction Act of 1995 (''PRA''), Pub. L. 104–13, 109 Stat 163 (1995) (codified in Chapter 35 of Title 44 U.S.C.).

[79] The Small Business Paperwork Relief Act of 2002 (SBPRA), Pub. L. 107–198, 116 Stat 729 (2002) (codified in Chapter 35 of title 44 U.S.C.); *see* 44 U.S.C. 3506(c)(4).

[80] 47 CFR 1.1200 *et seq.*

[81] *See* 47 CFR 1.415, 1419.

document. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS).

• *Electronic Filers:* Comments may be filed electronically using the Internet by accessing the ECFS: *http://fjallfoss.fcc.gov/ecfs2/.*

• *Paper Filers:* Parties who choose to file by paper must file an original and one copy of each filing. If more than one docket or rulemaking number appears in the caption of this proceeding, filers must submit two additional copies for each additional docket or rulemaking number.

33. Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.

• All hand-delivered or messenger-delivered paper filings for the Commission's Secretary must be delivered to FCC Headquarters at 445 12th Street SW., Room TW–A325, Washington, DC 20554. The filing hours are 8:00 a.m. to 7:00 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes and boxes must be disposed of *before* entering the building.

• Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743.

• U.S. Postal Service first-class, Express, and Priority mail must be addressed to 445 12th Street SW., Washington DC 20554.

34. 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).

35. *Availability of Documents.* Comments, reply comments, and *ex parte* submissions will be available for public inspection during regular business hours in the FCC Reference Center, Federal Communications Commission, 445 12th Street SW., CY–A257, Washington, DC 20554. These documents will also be available via ECFS. Documents will be available electronically in ASCII, Microsoft Word, and/or Adobe Acrobat.

36. For Additional Information: Contact Raelynn Remy of the Policy Division, Media Bureau, at *raelynn.remy@fcc.gov* or (202) 418–2936.

**V. Ordering Clauses**

37. *It is Ordered* that, pursuant to the authority found in sections 4, 303, 614, and 615 of the Communications Act of 1934, as amended, 47 U.S.C. 154, 303, 534, and 535, this *Fifth FNPRM* is *adopted.*

38. *It is further ordered* that the Consumer and Governmental Affairs Bureau, Reference Information Center, shall send a copy of this *Fifth FNPRM,* including the Initial Regulatory Flexibility Act Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

Federal Communications Commission.

**Marlene H. Dortch,**

*Secretary.*

[FR Doc. 2015–06943 Filed 3–26–15; 8:45 am]

**BILLING CODE 6712–01–P**

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## DEPARTMENT OF TRANSPORTATION

### Federal Motor Carrier Safety Administration

### 49 CFR Part 350

**[Docket No. FMCSA–2014–0470]**

### State Inspection Programs for Passenger-Carrying Vehicles; Listening Session

**AGENCY:** Federal Motor Carrier Safety Administration (FMCSA), DOT.

**ACTION:** Notice of public listening session.

**SUMMARY:** FMCSA announces that it will hold a public listening session on April 14, 2015, to solicit information concerning section 32710 of the Moving Ahead for Progress in the 21st Century Act (MAP–21). This provision requires FMCSA to complete a rulemaking proceeding to consider requiring States to establish a program for annual inspections of commercial motor vehicles (CMVs) designed or used to transport passengers. Additionally, under MAP–21, FMCSA must assess the risks associated with improperly maintained or inspected CMVs designed or used to transport passengers; the effectiveness of existing Federal standards for the inspection of such vehicles in mitigating the risks associated with improperly maintained vehicles and ensuring the safe and proper operation condition of such vehicles; and the costs and benefits of a mandatory inspection program. Any data regarding this topic would be appreciated. The session will be held at the Commercial Vehicle Safety Alliance's (CVSA) workshop in Jacksonville, Florida. All comments will be transcribed and placed in the docket referenced above for FMCSA's consideration. The entire proceeding will be webcast.

**DATES:** The listening session will be held on Tuesday, April 14, 2015, from 3:30 p.m. to 6 p.m., Local Time.

**ADDRESSES:** The listening session will be held at the Hyatt Regency Jacksonville Riverfront, 225 East Coastline Drive, Jacksonville, FL 32202, in the Clearwater Ballroom. In addition to attending the session in person, the Agency offers several ways to provide comments, as enumerated below.

*Internet Address for Live Webcast.* FMCSA will post specific information on how to participate via the Internet on the FMCSA Web site at *www.fmcsa.dot.gov* in advance of the listening sessions.

You may submit comments identified by Docket Number FMCSA–2014–0470 using any of the following methods:

• *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the online instructions for submitting comments.

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

• *Hand Delivery or Courier:* West Building, Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

• *Fax:* 202–493–2251.

Each submission must include the Agency name and the docket number for this notice. Note that DOT posts all comments received, without change, to *www.regulations.gov,* including any personal information included in a comment. Please see the Privacy Act heading below. To avoid duplication, please use only one of these four methods. See the ''Public Participation and Request for Comments'' portion of the **SUPPLEMENTARY INFORMATION** section for instructions on submitting comments.

• *Docket:* For access to the docket to read background documents or comments, go to *www.regulations.gov* at any time or visit Room W12–140 on the ground level of the West Building, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., ET, Monday through Friday, except Federal holidays. The online Federal document management system is available 24 hours each day, 365 days each year. If you would like acknowledgment that the Agency received your comments, please include a self-addressed, stamped envelope or postcard or print

the acknowledgment page that appears after submitting comments on-line.

**FOR FURTHER INFORMATION CONTACT:** Shannon L. Watson, Senior Policy Advisor, Federal Motor Carrier Safety Administration, 1200 New Jersey Avenue SE., Washington, DC 20590–0001 or by telephone at 202–366–2551. If you have questions on viewing or submitting material to the docket, contact Docket Services, telephone (202) 366–9826.

If you need sign language interpretation or any other accessibility accommodations, please contact Ms. Watson by close of business on Wednesday, April 8, 2015, to allow us to arrange for such services. FMCSA cannot guarantee that interpreter services requested on short notice will be provided.

**SUPPLEMENTARY INFORMATION:**

## Submitting Comments

If you submit a comment, please include the docket number for this notice (FMCSA–2014–0470), and provide a reason for each suggestion or recommendation. You may submit your comments and material online or by fax, mail, or hand delivery, but please use only one of these means. FMCSA recommends that you include your name and a mailing address, an email address, or a phone number in the body of your document so that FMCSA can contact you if there are questions regarding your submission.

To submit your comment online, go to *http://www.regulations.gov,* put the docket number, FMCSA–2014–0470, in the keyword box, and click ''Search.'' When the new screen appears, click on the ''Comment Now!'' button and type your comment into the text box on the following screen. Choose whether you are submitting your comment as an individual or on behalf of a third party and then submit. If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit comments by mail and would like to know that they reached the facility, please enclose a stamped, self-addressed postcard or envelope.

We will consider all comments and material received during the comment period and may draft a request for further comment to support consideration of further regulatory action.

## Viewing Comments and Documents

To view comments, as well as any documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov.* Insert the docket number, FMCSA–2014–0470, in the keyword box, and click ''Search.'' Next, click the ''Open Docket Folder'' button and choose the document to review. If you do not have access to the Internet, you may view the docket online by visiting the Docket Management Facility in Room W12–140 on the ground floor of the DOT West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., E.T., Monday through Friday, except Federal holidays.

## Privacy Act

In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, including any personal information the commenter provides, to *www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *www.dot.gov/privacy.*

## I. Background

On July 6, 2012, the President signed MAP–21 into law. The new law included certain requirements concerning State inspection programs for passenger-carrying vehicles (*e.g.,* motorcoaches). Specifically, section 32710 requires the Secretary of Transportation to complete a rulemaking proceeding to consider requiring States to establish a program for annual inspections of CMVs designed or used to transport passengers. FMCSA must also include an assessment of the following: (1) The risks associated with improperly maintained or inspected CMVs designed or used to transport passengers; (2) the effectiveness of existing Federal standards for the inspection of such vehicles in (a) mitigating the risks associated with improperly maintained vehicles; and (b) ensuring the safe and proper operation condition of such vehicles; and (3) the costs and benefits of a mandatory inspection program. Any data with regard to the topic would be appreciated.

To help inform consideration of the MAP–21 requirements, the Agency believes it would be helpful to conduct a public listening session to provide all interested parties the opportunity to share their views on the subject. The April 14 meeting is the third in a series of sessions. The previous listening sessions were announced on December 22, 2014 (79 FR 76295) and conducted on January 13 and January 18, 2015. The Agency requests information on the following questions:

- Does your State or the States in which you domicile buses conduct mandatory bus inspections? Are these inspections conducted annually and by State employees or 3rd party inspectors? If conducted by 3rd party inspectors, what oversight is or should be required? What is the cost of these inspections?
- If your State imposes mandatory inspection of buses, how do you assess the effectiveness of such inspections? For example, have you measured the occurrence of bus-involved crashes, injuries and/or fatalities before and after the imposition of a mandatory inspection requirement?
- Which vehicle defects are most prevalent at these inspections? What conclusions do you draw from the results of these inspections?
- Where should these inspections be performed? At a ''brick and mortar'' facility or at the carrier's place of business? If at the carrier's place of business, what accommodations must be made to ensure appropriate access (*e.g.* pits, lifts, etc.) to conduct full inspections of motorcoaches and other large vehicles? What should the fees be for the various types of inspections?
- How much does it cost to establish and run inspection programs on an annual basis? Would self-inspection or 3rd party inspections be an option to a State inspection? How would the costs differ? Do you envision other more preferable options?
- Should States allow fleets to self-inspect? How many fleets use their own mechanics, as opposed to 3rd party inspectors, to conduct bus inspections?
- Has your State or organization collected data related to crashes, injuries and/or fatalities attributable to improperly maintained or inspected buses? If so, what conclusions have you drawn from that data?

## II. Meeting Participation and Information FMCSA Seeks From the Public

The listening session is open to the public. Speakers should try to limit their remarks to 3–5 minutes. No preregistration is required. Attendees may submit material to the FMCSA staff at the session for inclusion in the pubic docket referenced at the beginning of this notice.

FMCSA will docket the transcripts of the webcast and a separate transcription of the listening session will be prepared by an official court reporter.

Issued on: March 24, 2015.

**Larry W. Minor,**

*Associate Administrator for Policy.*

[FR Doc. 2015–07054 Filed 3–26–15; 8:45 am]

BILLING CODE 4910–EX–P

**DEPARTMENT OF COMMERCE**

**National Oceanic and Atmospheric Administration**

**50 CFR Parts 223 and 224**

**[Docket No. 150122069–5272–01]**

**RIN 0648–XD740**

## Endangered and Threatened Species; 90–Day Finding on Two Petitions To List Porbeagle Sharks

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

**ACTION:** 90-day petition finding; request for information.

**SUMMARY:** We, NMFS, are accepting two 2010 petitions to list porbeagle sharks (*Lamna nasus*) on the Federal List of Endangered and Threatened Wildlife under the Endangered Species Act (ESA) of 1973, as amended. This action is being taken in response to a December 12, 2014, U.S. District Court decision that our previous rejection of the petitions in 2010 was arbitrary and capricious. To ensure a comprehensive review, we are soliciting scientific and commercial data and other information relevant to the status of porbeagle sharks worldwide. We will publish the results of that review and will make a finding as to whether the petitioned action is or is not warranted on or before December 12, 2015.

**DATES:** Written comments, data and information related to this petition finding must be received no later than 5 p.m. local time on May 12, 2015.

**ADDRESSES:** You may submit comments on this document, identified by NOAA–NMFS–2015–0013, by either of the following methods:

*Electronic Submission:* Submit all electronic public comments via the Federal e-Rulemaking Portal.

1. Go to *www.regulations.gov/#!docketDetail;D= NOAA-NMFS-2015-0013,*
2. Click the ''Comment Now!'' icon, complete the required fields
3. Enter or attach your comments.

- OR -

*Mail:* Submit written comments to Assistant Regional Administrator, Protected Resources Division, Attn: Porbeagle Shark Status Review, Greater Atlantic Regional Fisheries Office, National Marine Fisheries Service, 55 Great Republic Drive, Gloucester, MA 01930.

*Instructions:* Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered. All comments received are a part of the public record and will generally be posted without change for public viewing on *www.regulations.gov.* All personal identifying information (*e.g.,* name, address, etc.), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. We will accept anonymous comments (enter ''N/A'' in the required fields if you wish to remain anonymous).

The petitions and other pertinent information are also available electronically on our Web site at: *http://www.greateratlantic.fisheries.noaa.gov/protected/pcp/soc/porbeagle_shark.html.*

**FOR FURTHER INFORMATION CONTACT:** Kimberly Damon-Randall, NMFS, Greater Atlantic Region, (978) 281–9328; or Marta Nammack, NMFS, HQ, (301) 427–8469.

**SUPPLEMENTARY INFORMATION:**

### Background

We received a petition from Wild Earth Guardians (WEG) dated January 20, 2010, requesting that we list porbeagle sharks (*Lamna nasus*) throughout their entire range, or as Northwest Atlantic, Northeast Atlantic, and Mediterranean Distinct Population Segments (DPS) under the ESA, as well as designate critical habitat for the species. We also received a petition from the Humane Society of the United States (HSUS), dated January 21, 2010, requesting that we list a Northwest Atlantic DPS of porbeagle sharks as endangered in the North Atlantic under the ESA. Information contained in the petitions focused on the species' imperilment due to historical and continued overfishing; modification of habitat through pollution, climate change, and ocean acidification; failure of regulatory mechanisms; and low productivity of the species.

Section 4(b)(3)(A) of the ESA requires that, to the maximum extent practicable, within 90 days after receiving a petition, the Secretary make a finding whether the petition presents substantial scientific information indicating that the petitioned action may be warranted (90-day finding). The ESA implementing regulations for NMFS define ''substantial information'' as the amount of information that would lead a reasonable person to believe that the measure proposed in the petition may be warranted (50 CFR 424.14(b)(1)). If a positive 90-day finding is made, then we must promptly conduct a review of the status of the species concerned and publish a finding indicating whether the petitioned action is or is not warranted within one year (1-year finding).

On July 12, 2010, we published a 90-day finding in the **Federal Register** (75 FR 39656; *http://www.nmfs.noaa.gov/pr/species/frnotices/negative90d/porbeagle_shark_75_fr_39656.pdf*) stating that neither petition presented substantial information indicating that listing porbeagle sharks may be warranted. Accordingly, a status review of the species was not initiated.

In August 2011, the petitioners filed complaints in the U.S. District Court for the District of Columbia challenging our denial of the petitions (*Case 1:11–cv–01414–BJR HUMANE SOCIETY OF THE UNITED STATES* v. *BLANK et al.*). On November 14, 2014, the court published a Memorandum Opinion vacating the 2010 90-day finding for porbeagle shark, and ordering NMFS to prepare a new 90-day finding. The court entered final judgment on December 12, 2014. This document represents our new 90-day finding.

Given the length of time between when we received the petitions in 2010 and this new 90-day finding, we have taken into account both information submitted with and referenced in the petitions as well as all other new information readily available in our files regarding porbeagle sharks globally. We have thoroughly reviewed the Court's Memorandum Opinion, the 2010 petitions and all other information available in our files in preparing our new finding. As we did in 2010, we consulted with experts within the Greater Atlantic Regional Fisheries Office's Sustainable Fisheries Division, NMFS' Highly Migratory Species Management Division, Northeast Fisheries Science Center- Apex Predator Program, and the Southeast Fisheries Science Center in November and December 2014 to provide context for the petitions and the information in our files.

#### *The 2010 Petitions and New Information on Porbeagle Sharks*

Both petitions clearly identified themselves as petitions and included the identification information for the petitioner, as required in 50 CFR 424.14(a). The petitions indicated their recommended administrative measure and gave the scientific and common names for porbeagle sharks. The WEG petition requested that we list under the ESA porbeagle sharks throughout their entire range. Alternatively, the WEG petition proposed that porbeagle be listed under the ESA as three distinct population segments (DPSs) as follows: The Northwest Atlantic DPS, the

Northeast Atlantic DPS and the Mediterranean DPS. The petition states ''the species and DPSs face threats from historic and continued overfishing, as well as a low reproduction rate, which hinders its recovery.'' The information contained in the WEG petition focuses on historical and continued overfishing of the above named DPSs of porbeagle sharks globally. The HSUS petition only addresses a Northwest Atlantic DPS of porbeagle sharks, requesting they be listed as endangered in the Northwest Atlantic.

Several new references were available in our files since remand that were not available when the 2010 petitions were received. In 2009, the International Council for the Exploration of the Sea (ICES) and the International Commission for the Conservation of Atlantic Tunas (ICCAT) conducted a stock assessment for porbeagle sharks (ICES/ICCAT, 2009). The information in this report was considered in our 2010 90-day finding, and this report continues to be a good source of recent, comprehensive porbeagle shark data. However, there is a new Canadian assessment for the Northwest Atlantic stock based on information contained in Campana *et al.* 2012 (2012 Canadian assessment). Also, other new information is contained in recent ICCAT proceedings, regulatory documents, published literature and *FR* notices since the ICES/ICCAT 2009 stock assessment (Andrushchenko *et al.*/Canada, 2014; Bendall *et al.,* 2013; Campana *et al.,* 2012; Canada/ICCAT, 2014; CPC/ICCAT, 2014; Gallagher *et al.,* 2014; Kitamura and Matsunaga, 2010; Marua *et al.,* 2012; NEAFC/ICCAT, 2013; NMFS/HMS, 2013; SCRS, 2014; Semba *et al.,* 2013; 75 FR 250; 79 FR 75068; 50 CFR part 635).

Additionally, several new management actions were implemented or became effective prior to remand, but after the 2010 petitions were received. These include the addition of porbeagle sharks to Appendix II of the Convention on International Trade in Endangered Species of Wild Fauna and Flora, a 2013 prohibition on directed fishing for porbeagle in Canada and increasing protections in the European Union (EU) which will more closely regulate trade of the species.

In 2014, the Committee on the Status of Endangered Wildlife in Canada (COSEWIC) published a new assessment and status report on porbeagle sharks in Canada. The report reaffirms COSEWIC's designation of the species as ''endangered'' due to COSEWIC criterion A2b under the Species at Risk Act. The report states the species meets this criterion ''because the abundance of mature females has declined by 74–77% over the past 2.6 generations. Although the directed fishery has been suspended, the species continues to be taken as bycatch in a variety of other fisheries.'' As noted throughout the report, the species decline has halted, and while numbers of porbeagle remain low compared to pre-exploitation levels, the information does indicate the species trend is stable. The report states that in Canada, the ''greatest current threat to porbeagle is overfishing due to multiple bycatch fisheries, which are not closely monitored, where a large portion of the catch may be discarded and unreported.'' While this report is an update of a 2004 COSEWIC report, relied upon by the petitioners, which also assessed porbeagle as endangered based on the decline that the species has experienced, the emphasis the new status report places on the potential threat to the species from ongoing, unregulated bycatch in Canada is of concern and represents new information not previously considered. A status review is the appropriate means for assessing this potential threat.

COSEWIC also provides information on whether the Northwest Atlantic stock constitutes a single designatable unit. The report indicates that the Northeast and Northwest populations of porbeagle sharks are separate. This conclusion appears to be based solely on conventional tagging information, consistent with the petitions, and does not appear to incorporate any information from genetic studies. In our 2010 finding, we concluded, based on genetic information, that porbeagle from the Northeast and Northwest Atlantic are not discrete. While we believe genetics are a more reliable indicator of discreteness than tagging information, we recognize the uncertainty about the existence of discrete populations. The appropriate means for addressing this uncertainty is to consider the information in a review of the status of the species.

## Petition Finding

In light of the information described above, which indicates that the petitioned actions may be warranted, we are accepting the petitions and initiating a review of the status of the species.

## Information Solicited

To ensure that the status review is complete and based on the best available scientific and commercial information, we are soliciting information concerning porbeagle sharks. We request information from the public, concerned governmental agencies, Native American tribes, the scientific community, conservation groups, industry, or any other interested parties concerning the current and/or historical status of porbeagle sharks.

Specifically, we are soliciting information, including unpublished information, in the following areas: (1) Historical and current distribution and abundance of porbeagle sharks throughout their range; (2) historical and current population trends for porbeagle sharks; (3) life history and habitat requirements of porbeagle ; (4) genetics and population structure information (including morphology, ecology, behavior, etc.) for populations of porbeagle; (5) past, current, and future threats to porbeagle, including any current or planned activities that may adversely impact the species; (6) ongoing or planned efforts to protect and restore porbeagle and their habitat; and (7) management, regulatory, and enforcement information pertaining to porbeagle. We request that all information be accompanied by: (1) Supporting documentation such as maps, bibliographic references, or reprints of pertinent publications; and (2) the submitter's name, address, and any association, institution, or business that the person represents.

Please note that submissions merely stating support for or opposition to the action under consideration without providing supporting information, although noted, will not be considered in making a determination. Section 4(b)(1)(A) of the ESA directs that a determination must be made ''solely on the basis of the best scientific and commercial data available.'' On or before December 12, 2015, we will issue a 12-month determination based on a review of the best scientific and commercial data available, including all relevant information received from the public in response to this 90-day finding.

You may submit your information concerning this finding by one of the methods listed in the **ADDRESSES** section. Please note that in our final determination we may not consider comments we receive after the date specified in the **DATES** section. If you submit your information via *http://www.regulations.gov,* your entire submission including personal identifying information will be posted on the Web site. If your submission is made via hardcopy that includes personal identifying information, you may request at the top of your document that we withhold this information from public review. However, we cannot guarantee that we will be able to do so. We will post all hard copy submissions on *http://www.regulations.gov.*

Information and materials we receive, as well as supporting documentation we used in preparing this finding, will be available for public inspection, by appointment, during normal business hours at NMFS' Greater Atlantic Regional Fisheries Office.

## Authority

The authority for this action is the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*).

Dated: March 23, 2015.

**Samuel D. Rauch, III,**

*Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.*

[FR Doc. 2015–07073 Filed 3–26–15; 8:45 am]

BILLING CODE 3510–22–P

# Notices

Federal Register
Vol. 80, No. 59
Friday, March 27, 2015

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

## DEPARTMENT OF AGRICULTURE

### Submission for OMB Review; Comment Request

March 23, 2015.

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 April 27, 2015 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:* Animal Welfare.

*OMB Control Number:* 0579–0036.

*Summary of Collection:* The Laboratory Animal Welfare Act (AWA) (Pub. L. 89–544) enacted August 24, 1966, and as amended, requires the U.S. Department of Agriculture, (USDA), to regulate the humane care and handling of dogs, cats, guinea pigs, hamsters, rabbits, and nonhuman primates. This legislation was the result of extensive demand by organized animal welfare groups and private citizens requesting a Federal law covering the transportation, care, and handling of laboratory animals. The Animal and Plant Health Inspection Service (APHIS), Animal Care (AC) has the responsibility to enforce the AWA (7 U.S.C. 2131–2156) and the provisions of 9 CFR, Subchapter A, which implements the AWA. The purpose of the AWA is to ensure that animals used in research facilities or for exhibition purposes are provided humane care and treatment. The AWA assures the humane treatment of animals during transportation in commerce and protects the owners from the theft of their animals by preventing the sale or use of animals that were stolen. APHIS will collect information using several forms of burden.

In addition, APHIS is merging 0579–0361 and 0579–0392 into this information collection, 0579–0036. Upon the approval of this information collection, APHIS will retire 0579–0361 and 0579–0392.

*Need and Use of the Information:* APHIS will collect health certificates, program of veterinary care, application for license and record of acquisition, disposition and transportation of animals, and itineraries, among other things. The information is used to ensure dealers, exhibitors, research facilities, carriers, etc., are in compliance with the AWA and regulations and standards promulgated under this authority of the Act.

*Description of Respondents:* Business or other for-profit; Farms; Not-for-profits; Individuals; State, Local, and Tribal Governments.

*Number of Respondents:* 13,985.

*Frequency of Responses:* Recordkeeping; Reporting: On occasion.

*Total Burden Hours:* 136,364.

### Animal and Plant Health Inspection Service

*Title:* Poultry and Pork Products from Mexico Transiting the United States.

*OMB Control Number:* 0579–0145.

*Summary of Collection:* The Animal Health Protection Act (AHPA) of 2002 is the primary Federal law governing the protection of animal health. The law gives the Secretary of Agriculture broad authority to detect, control, or eradicate pests or diseases of livestock or poultry. The Animal & Plant Health Inspection Service (APHIS) of the U.S. Department of Agriculture (USDA) is the Agency charged with carrying out the disease prevention mission. This Agency regulates the importation of animals and animal products into the United States to guard against the introduction of exotic animal diseases. Disease prevention is the most effective method for maintaining a healthy animal population and enhancing the United States' ability to compete in exporting animals and animal products. The regulations under which APHIS conducts disease prevention activities are contained in Title 9, Chapter D, parts 91 through 99 of the Code of Federal Regulations.

*Need and Use of the Information:* APHIS will collect information to ensure that fresh pork and pork products, as well as poultry carcasses, parts, and products transiting the United States from Mexico pose a negligible risk of introducing classical swine fever and END into the United States. APHIS will also collect the name and address of the exporter, the origin and destination points of the commodities, how much and what type of commodity will be transiting; the intended port of entry, the date of transportation, the method and route of shipment, and other information concerning the transiting project that will enable APHIS to determine whether any disease introduction risk is associated with the transit and if so, what risk mitigation measures will be necessary to minimize that risk.

*Description of Respondents:* Business or other for-profit; Federal Government.

*Number of Respondents:* 29.

*Frequency of Responses:* Reporting: On occasion.

*Total Burden Hours:* 33.

**Animal and Plant Health Inspection Service**

*Title:* Pale Cyst Nematode; Quarantine and Regulations.

*OMB Control Number:* 0579–0322.

*Summary of Collection:* Under the Plant Protection Act (7 U.S.C. 7701–7772), The Secretary of Agriculture is authorized to prohibit or restrict the importation, entry, or movement of plants and plant pests to prevent the introduction of plant pests into the United States or their dissemination within the United States. The Animal and Plant Health Inspection Service (APHIS) amended the ''Domestic Quarantine Notices'' in 7 CFR part 301, subpart titled ''Potato Cyst Nematode'' (§ .86 through 301.86.9, referred to as the regulations) by quarantining parts of Bingham and Bonneville Counties, ID, due to the discovery of the Potato Cyst Nematode there and establishing restrictions on the interstate movement of regulated articles from the quarantined area.

*Need and Use of the Information:* APHIS will collect information using certificates, limited permits and compliance agreements to prevent the spread of PCN and to ensure that regulated articles can be moved safely from the quarantined area without spreading PCN. If APHIS did not collect this information, the spread of PCN in the United States could result in a loss of domestic or foreign makers for U.S. potatoes and other commodities.

*Description of Respondents:* Farms; Business or other for-profit.

*Number of Respondents:* 152.

*Frequency of Responses:* Reporting: On occasion.

*Total Burden Hours:* 342.

**Animal and Plant Health Inspection Service**

*Title:* Importation of Mangoes from Australia.

*OMB Control Number:* 0579–0391.

*Summary of Collection:* Under the Plant Protection Act (PPA) (7 U.S.C 7701—*et seq.*), the Secretary of Agriculture is authorized to carry out operations or measures to detect, eradicate, suppress, control, prevent, or retard the spread of plant pests new to the United States or not known to be widely distributed throughout the United States. The regulations in ''Subpart—Fruits and Vegetables'' (Title 7, CFR 319.56) prohibit or restrict the importation of fruits and vegetables into the U.S. from certain parts of the world. The Animal and Plant Health Inspection Service (APHIS) is responsible for carrying out these duties. APHIS has amended the fruits and vegetables regulations to allow, under certain conditions, the importation into the U.S. of commercial consignments of fresh mangoes from Australia.

*Need and Use of the Information:* Conditions for the importation of fresh mangoes from Australia include requirements for pest exclusion at the production site, irradiation treatment, fruit fly trapping inside and outside the production site, pest-excluding packinghouse procedures, port-of-entry inspections and accompanied by a phytosanitary certificate issued by the National Plant Protection Organization of Australia with an additional declaration confirming that the mangoes have been produced in accordance with the requirements. APHIS will use this information to allow the importation of commercial consignments of fresh mangoes from Australia into the United States. Failing to collect this information would cripple APHIS ability to ensure that mangoes from Australia are not carrying plant pests.

*Description of Respondents:* Federal Government.

*Number of Respondents:* 20.

*Frequency of Responses:* Reporting: On occasion.

*Total Burden Hours:* 50.

**Charlene Parker,**

*Departmental Information Collection Clearance Officer.*

[FR Doc. 2015–06973 Filed 3–26–15; 8:45 am]

**BILLING CODE 3410–34–P**

## COMMISSION ON CIVIL RIGHTS

### Sunshine Act Meeting Notice

**AGENCY:** United States Commission on Civil Rights.

**ACTION:** Briefing notice.

**DATES:** *Date and Time:* Monday, April 20, 2015; 9:00 a.m.–5:45 p.m. EST.

**ADDRESSES:** *Place:* John Jay College of Criminal Justice, 524 West 59th Street, New York, NY 10019.

**FOR FURTHER INFORMATION CONTACT:** Lenore Ostrowsky, Acting Chief, Public Affairs Unit (202) 376–8591.

Hearing-impaired persons who will attend the briefing and require the services of a sign language interpreter should contact Pamela Dunston at (202) 376–8105 or at *signlanguage@usccr.gov* at least seven business days before the scheduled date of the meeting.

**SUPPLEMENTARY INFORMATION:** This briefing is open to the public.

Topic: *Police Practices and Use of Force*

I. Introductory Remarks

II. Panel I. 9:10 a.m.–10:40 a.m.: Community Leaders, Civilian Review Boards, and Police Organizations

Speakers' Remarks and Questions from Commissioners

III. Panel II. Law 10:40 a.m.–12:10 p.m.: Enforcement Officials and Experts on Police Accountability and Use of Force

Speakers' Remarks and Questions from Commissioners

IV. LUNCH—12:10 p.m.–1:10 p.m.

V. Panel III. 1:15 p.m.–2:45 p.m.: Court Officials and Experts on Procedural Justice and Legal Reforms

Speakers' Remarks and Questions from Commissioners

VI. Panel IV. 2:45 p.m.–4:15 p.m.: Federal Agencies and Federally-funded Initiatives

Speakers' Remarks and Questions from Commissioners

VII. Panel V. 4:15 p.m.–5:45 p.m.: Researchers and Data Collection Experts

Speakers' Remarks and Questions from Commissioners

VIII. Adjourn Briefing—5:45 p.m.

Dated: March 25, 2015.

**David Mussatt,**

*Chief, Regional Programs Unit.*

[FR Doc. 2015–07171 Filed 3–25–15; 4:30 pm]

**BILLING CODE 6335–01–P**

## DEPARTMENT OF COMMERCE

### Bureau of the Census

### Census Scientific Advisory Committee; Public Meeting

**AGENCY:** Bureau of the Census, Department of Commerce.

**ACTION:** Notice of public meeting.

**SUMMARY:** The Bureau of the Census (Census Bureau) is giving notice of a meeting of the Census Scientific Advisory Committee (C–SAC). The Committee will address policy, research, and technical issues relating to a full range of Census Bureau programs and activities, including communications, decennial, demographic, economic, field operations, geographic, information technology, and statistics. The C–SAC will meet in a plenary session on April 16–17, 2015. Last minute changes to the schedule are possible, which could prevent giving advance public notice of schedule adjustments. Please visit the Census Advisory Committees Web site for the most current meeting agenda at: *http://www.census.gov/cac/*. The meeting will be available via webcast at:

*http://www.census.gov/newsroom/census-live.html.*

**DATES:** April 16–17, 2015. On April 16, the meeting will begin at approximately 8:30 a.m. and end at approximately 4 p.m. On April 17, the meeting will begin at approximately 8:30 a.m. and end at approximately 12:30 p.m.

**ADDRESSES:** The meeting will be held at the U.S. Census Bureau Auditorium, 4600 Silver Hill Road, Suitland, Maryland 20746.

**FOR FURTHER INFORMATION CONTACT:** Kim Collier, Assistant Division Chief, Customer Liaison and Marketing Services Office, *kimberly.l.collier@census.gov,* U.S. Department of Commerce, U.S. Census Bureau, Room 8H185, 4600 Silver Hill Road, Washington, DC 20233, telephone 301–763–6590. For TTY calls, please use the Federal Relay Service 1–800–877–8339.

**SUPPLEMENTARY INFORMATION:** Members of the C–SAC are appointed by the Director, U.S. Census Bureau. The Committee provides scientific and technical expertise, as appropriate, to address Census Bureau program needs and objectives. The Committee has been established in accordance with the Federal Advisory Committee Act (Title 5, United States Code, Appendix 2, Section 10).

All meetings are open to the public. A brief period will be set aside at the meeting for public comment on April 17. However, individuals with extensive questions or statements must submit them in writing to: *census.national.advisory.committee@census.gov* (subject line ''April 2015 C–SAC Meeting Public Comment''), or by letter submission to the Committee Liaison Officer, April 2015 C–SAC Meeting, Department of Commerce, U.S. Census Bureau, Room 8H185, 4600 Silver Hill Road, Washington, DC 20233.

If you plan to attend the meeting, please register by Tuesday, April 14, 2015. You may access the online registration from the following link: *https://www.regonline.com/censusscientificadvisorycommitteemeeting2015.* Seating is available to the public on a first-come, first-served basis.

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should also be directed to the Committee Liaison Officer as soon as known, and preferably two weeks prior to the meeting.

Due to increased security and for access to the meeting, please call 301–763–9906 upon arrival at the Census Bureau on the day of the meeting. A photo ID must be presented in order to receive your visitor's badge. Visitors are not allowed beyond the first floor.

Topics to be discussed include the following items:

- 2020 Census Update.
- Reorganized Census with Integrated Technology (ROCkIT).
- Census Enterprise Data Collection and Processing Systems (CEDCaP).
- 2015 Census Test Update.
- BIG Data.
- Center for Enterprise Dissemination Services and Consumer Innovation (CEDSCI).
- American Community Survey (ACS) Content Review Results.

Dated: March 20, 2015.

**John H. Thompson,**

*Director, Bureau of the Census.*

[FR Doc. 2015–07066 Filed 3–26–15; 8:45 am]

**BILLING CODE 3510–07–P**

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## DEPARTMENT OF COMMERCE

### International Trade Administration

### Proposed Information Collection; Comment Request; Applications for Watch Duty-Exemption and 7113 Jewelry Duty-Refund Program

**AGENCY:** International Trade 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 May 26, 2015.

**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 Supriya Kumar, Subsidies Enforcement Office, (202) 482–3530, *Supriya.Kumar@trade.gov* and fax number (202) 501–7952.

**SUPPLEMENTARY INFORMATION:**

#### I. Abstract

The Departments of Commerce and the Interior are required by Public Law 97–446, as amended by Public Law 103–465, Public Law 106–36 and Public Law 108–429, to administer the distribution of watch duty-exemptions and watch and jewelry duty-refunds to program producers in the U.S. insular possessions and the Northern Mariana Islands. The primary consideration in collecting information is the enforcement of the laws and the information gathered is limited to that necessary to prevent abuse of the program and to permit a fair and equitable distribution of its benefits. The Form ITA–340P is used to provide the data to assist in verification of duty-free shipments of watches into the United States and make certain the allocations are not exceeded. Forms ITA–360P and ITA–361P are necessary to implement the duty-refund program for the watch and jewelry producers. Form ITA–360P requires no information unless the recipient wishes to transfer the certificate. Form ITA–361P must be completed each time a certificate holder wishes to obtain a portion, or all, of the duty-refund authorized by the certificate. The duty-refund benefit is issued biannually and the forms are used for the distribution of the duty-refund benefit.

#### II. Method of Collection

Paper format or electronically

#### III. Data

*OMB Control Number:* 0625–0134.

*Form Number(s):* ITA–340P, ITA–360P, ITA–361P.

*Type of Review:* Regular submission (extension of currently approved information collection).

*Affected Public:* Business or other for-profit organizations.

*Estimated Number of Respondents:* 1.

*Estimated Time per Response:* 46 minutes for Form ITA–340P; 10 minutes for Form ITA–361P; and 1 minute to transfer certificate using Form ITA–360P.

*Estimated Total Annual Burden Hours:* 1.

*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: March 23, 2015.

**Glenna Mickelson,**

*Management Analyst, Office of the Chief Information Officer.*

[FR Doc. 2015–06948 Filed 3–26–15; 8:45 am]

**BILLING CODE 3510–DS–P**

## DEPARTMENT OF COMMERCE

### International Trade Administration

**[A–489–805]**

### Certain Pasta From Turkey: Final Results of Antidumping Duty New Shipper Review; 2013–2014

**AGENCY:** Enforcement and Compliance, International Trade Administration, Department of Commerce.

**SUMMARY:** The Department of Commerce (the Department) has conducted a new shipper review of the antidumping duty order on certain pasta (pasta) from Turkey. The period of review (POR) is July 1, 2013, through January 31, 2014, and covers Beşsan Makarna Gida San. Ve Tic. A.S. (Bessan). Because no interested party commented on the *Preliminary Results*,[1] we have not made any changes since the *Preliminary Results.* The final weighted-average dumping margin for the reviewed firm is listed below in the section entitled ''Final Results of Review.''

**DATES:** *Effective Date:* March 27, 2015.

**FOR FURTHER INFORMATION CONTACT:** Tyler Weinhold or Robert James, AD/CVD Operations, Office VI, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482–1121, or (202) 482–0649, respectively.

**SUPPLEMENTARY INFORMATION:**

#### Background

On January 7, 2015, the Department published the *Preliminary Results,* and invited interested parties to comment. The Department did not receive any comments on the *Preliminary Results.*

#### Period of Review

The POR covered by this proceeding is July 1, 2013, through January 31, 2014.

#### Scope of the Order

The merchandise covered by this order are certain non-egg dry pasta in packages of five pounds (2.27 kilograms) or less, whether or not enriched or fortified or containing milk or other optional ingredients such as chopped vegetables, vegetable purees, milk, gluten, diastases, vitamins, coloring and flavorings, and up to two percent egg white. The pasta covered by this scope is typically sold in the retail market, in fiberboard or cardboard cartons, or polyethylene or polypropylene bags of varying dimensions. Excluded from the scope of this review are refrigerated, frozen, or canned pastas, as well as all forms of egg pasta, with the exception of non-egg dry pasta containing up to two percent egg white.

The merchandise subject to review is currently classifiable under item 1902.19.20 of the Harmonized Tariff Schedule of the United States (HTSUS). Although the HTSUS subheading is provided for convenience and customs purposes, the written description of the merchandise subject to the order is dispositive.

#### Final Results of Review

As a result of this review, we determine that the following weighted-average dumping margin exists for the POR July 1, 2013, through January 31, 2014:

| Manufacturer/exporter | Weighted-average dumping margin (percent) |
|---|---|
| Beşsan Makarna Gida San. Ve Tic. A.S ..... | 0.00 |

#### Assessment Rates

Pursuant to section 751(a)(2)(A) of the Tariff Act of 1930, as amended (the Act) and 19 CFR 351.212(b), the Department will determine, and U.S. Customs and Border Protection (CBP) shall assess, antidumping duties on all appropriate entries of subject merchandise in accordance with the final results of this review. Because Bessan's weighted average dumping margin is zero, in accordance with the *Final Modification,* we will instruct CBP to liquidate all entries of subject merchandise during the POR produced and exported by Bessan without regard to antidumping duties.[2] For entries of subject merchandise during the POR produced and exported by Bessan for which it did not know its merchandise was destined for the United States, we will instruct CBP to liquidate unreviewed entries at the all-others rate if there is no rate for the intermediate company(ies) involved in the transaction.[3] We intend to issue assessment instructions to CBP 15 days after the date of publication of these final results of review.

#### Cash Deposit Requirements

The following deposit requirements will be effective upon publication of the notice of final results of new shipper review for all shipments of pasta from Turkey entered, or withdrawn from warehouse, for consumption on or after the date of publication as provided by section 751(a)(2)(C) of the Act: (1) The cash deposit rate for Bessan shall be zero; (2) for merchandise exported by manufacturers or exporters not covered in this review but covered in a prior segment of the proceeding, the cash deposit rate will continue to be the company-specific rate published for the most recent period in which the manufacturer or exporter participated; (3) if the exporter is not a firm covered in this review, a prior review, or the original less-than-fair-value investigation but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; (4) the cash deposit rate for all other manufacturers or exporters will continue to be 51.49 percent, the all-others rate established in the less-than-fair-value investigation.[4] These cash deposit requirements, when imposed, shall remain in effect until further notice.

#### Notification to Importers

This notice also serves as a reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Department's presumption that reimbursement of antidumping duties occurred and the subsequent

[1] *See Certain Pasta From Turkey: Preliminary Results of Antidumping Duty New Shipper Review; 2013–2014,* 80 FR 863 (January 7, 2015) (*Preliminary Results*) and accompanying Preliminary Decision Memorandum.

[2] *See Antidumping Proceedings: Calculation of the Weighted-Average Dumping Margin and Assessment Rate in Certain Antidumping Duty Proceedings; Final Modification,* 77 FR 8101, 8102 (February 14, 2012) (*Final Modification*).

[3] For a full discussion of this clarification, *see Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties,* 68 FR 23954 (May 6, 2003).

[4] *See Notice of Antidumping Duty Order and Amended Final Determination of Sales at Less Than Fair Value: Certain Pasta From Turkey,* 61 FR 38545 (July 24, 1996).

assessment of double antidumping duties.

**Administrative Protective Order**

This notice also serves as a reminder to parties subject to administrative protective orders (APO) of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305, which continues to govern business proprietary information in this segment of the proceeding. Timely written notification of the return or destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a violation which is subject to sanction.

We are issuing and publishing these results in accordance with sections 751(a)(1) and 777(i)(1) of the Act and 19 CFR 351.214.

Dated: March 18, 2015.

**Paul Piquado,**

*Assistant Secretary for Enforcement and Compliance.*

[FR Doc. 2015–06951 Filed 3–26–15; 8:45 am]

BILLING CODE 3510–DS–P

## DEPARTMENT OF COMMERCE

## Economic Development Administration

## Notice of Petitions by Firms for Determination of Eligibility To Apply for Trade Adjustment Assistance

**AGENCY:** Economic Development Administration, Department of Commerce.

**ACTION:** Notice and opportunity for public comment.

Pursuant to Section 251 of the Trade Act 1974, as amended (19 U.S.C. 2341 *et seq.*), the Economic Development Administration (EDA) has received petitions for certification of eligibility to apply for Trade Adjustment Assistance from the firms listed below. Accordingly, EDA has initiated investigations to determine whether increased imports into the United States of articles like or directly competitive with those produced by each of these firms contributed importantly to the total or partial separation of the firm's workers, or threat thereof, and to a decrease in sales or production of each petitioning firm.

LIST OF PETITIONS RECEIVED BY EDA FOR CERTIFICATION ELIGIBILITY TO APPLY FOR TRADE ADJUSTMENT ASSISTANCE

2/27/2015 through 3/23/2015

| Firm name | Firm address | Date accepted for investigation | Product(s) |
|---|---|---|---|
| Glass River Design, LLC ..... | 113 Salado Plaza Drive, Salado, TX 76571. | 3/13/2015 | The firm manufactures glass products for plumbing fixtures and counter tops, architectural glass panels, doors, and signage. |
| Matrix IV, Inc ..... | 610 Judd Street, Woodstock, IL 60098. | 3/13/2015 | The firm manufactures injection plastic resins into molds of various sizes and shapes. |

Any party having a substantial interest in these proceedings may request a public hearing on the matter. A written request for a hearing must be submitted to the Trade Adjustment Assistance for Firms Division, Room 71030, Economic Development Administration, U.S. Department of Commerce, Washington, DC 20230, no later than ten (10) calendar days following publication of this notice.

Please follow the requirements set forth in EDA's regulations at 13 CFR 315.9 for procedures to request a public hearing. The Catalog of Federal Domestic Assistance official number and title for the program under which these petitions are submitted is 11.313, Trade Adjustment Assistance for Firms.

Dated: March 23, 2015.

**Michael S. DeVillo,**

*Eligibility Examiner.*

[FR Doc. 2015–07057 Filed 3–26–15; 8:45 am]

BILLING CODE 3510–WH–P

## COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

## Procurement List; Proposed Additions and Deletions

**AGENCY:** Committee for Purchase From People Who Are Blind or Severely Disabled.

**ACTION:** Proposed additions to and deletions from the Procurement List.

**SUMMARY:** The Committee is proposing to add products and a service to the Procurement List that will be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities, and deletes products previously provided by such agency.

**DATES:** *Comments Must be Received on or Before:* 4/27/2015.

**ADDRESSES:** Committee for Purchase From People Who Are Blind or Severely Disabled, 1401 S. Clark Street, Suite 715, Arlington, Virginia 22202–4149.

*For Further Information or To Submit Comments Contact:* Barry S. Lineback, Telephone: (703) 603–7740, Fax: (703) 603–0655, or email *CMTEFedReg@AbilityOne.gov.*

**SUPPLEMENTARY INFORMATION:** This notice is published pursuant to 41 U.S.C. 8503(a)(2) and 41 CFR 51–2.3. Its purpose is to provide interested persons an opportunity to submit comments on the proposed actions.

**Additions**

If the Committee approves the proposed additions, the entities of the Federal Government identified in this notice will be required to procure the products and service listed below from nonprofit agencies employing persons who are blind or have other severe disabilities.

The following products and service are proposed for addition to the Procurement List for production by the nonprofit agencies listed:

*Products*

PRODUCT NAMEs/NSNs:

Neck Lanyard, Cord Style, J-Hook, Black, 36″ x .25″/8455–00–NIB–0040

Neck Lanyard, Strap Style, J-Hook, Black, 36″ x .75″/8455–00–NIB–0041

Neck Lanyard, Strap Style, J-Hook, Tan, 36″ x .75″/8455–00–NIB–0042

Neck Lanyard, Cord Style, J-Hook, Tan, 36″ x .25″/8455–00–NIB–0043

Clip Adapter, Strap, 100 PK/8455–00–NIB–0046

Holder, Identification, Smart Card,

RFID Shielded, Opaque, Bulk PK/8455–00–NIB–0047
*MANDATORY FOR PURCHASE BY:* Total Government Requirement
*MANDATORY SOURCE OF SUPPLY:* West Texas Lighthouse for the Blind, San Angelo, TX
*CONTRACTING ACTIVITY:* General Services Administration, Fort Worth, TX
*DISTRIBUTION:* A-List

*Service*

*SERVICE TYPE:* Custodial and Related Service
*SERVICE IS MANDATORY FOR:* GSA PBS Region 4, Federal Building & U.S. Courthouse, 100 West Troy Street, Dothan, AL
G. W. Andrews Federal Building & U.S. Courthouse, 701 Avenue A, Opelika, AL
Federal Building & U.S. Courthouse, 908 Alabama Street, Selma, AL
*MANDATORY SOURCE OF SUPPLY:* Goodwill Industries of Central Alabama, Inc., Montgomery, AL
*CONTRACTING ACTIVITY:* GSA, Public Buildings Service, Acquisition Division/Services Branch, Atlanta, GA

**Deletions**

The following products are proposed for deletion from the Procurement List:

*Products*

PRODUCT NAMEs/NSNs:
Tray, Desk, Plastic, Side Loading, Stackable, Legal, Beige/7520–01–094–4310
Tray, Desk, Plastic/7520–01–466–0483
*MANDATORY SOURCE OF SUPPLY:* LC Industries, Inc., Durham, NC
*CONTRACTING ACTIVITY:* General Services Administration, New York, NY

**Barry S. Lineback,**
*Director, Business Operations.*

[FR Doc. 2015–07047 Filed 3–26–15; 8:45 am]
BILLING CODE 6353–01–P

## DEPARTMENT OF DEFENSE

### Office of the Secretary

**[Docket ID: DoD–2015–OS–0026]**

### Proposed Collection; Comment Request

**AGENCY:** Defense Security Cooperation Agency, DoD.

**ACTION:** Notice.

**SUMMARY:** In compliance with the *Paperwork Reduction Act of 1995,* the Defense Security Cooperation Agency announces a proposed public information collection and seeks public comment on the provisions thereof. Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed information collection; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

**DATES:** Consideration will be given to all comments received by May 26, 2015.

**ADDRESSES:** You may submit comments, identified by docket number and title, by any of the following methods:

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

*Instructions:* All submissions received must include the agency name, docket number and title for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the Internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

Any associated form(s) for this collection may be located within the same electronic docket and downloaded for review/testing. Follow the instructions at *http://www.regulations.gov* for submitting comments. Please submit comments on any given form identified by docket number, form number, and title.

**FOR FURTHER INFORMATION CONTACT:** To request more information on this proposed information collection or to obtain a copy of the proposal and associated collection instruments, please write to: The Defense Security Cooperation Agency (DSCA) ATTN: David Frasher, 220 12th Street, South, Suite 203, Arlington, VA 22202–5408 or call (703) 601–4459 or Defense Institute of Security Assistance Management (DISAM), ATTN: Ernest McCallister, 2475 K Street, Wright-Patterson AFB, OH 45433–7803, or call Director of International Studies, at 937–713–3305.

**SUPPLEMENTARY INFORMATION:**

*Title; Associated Form; and OMB Number:* Security Cooperation Training Management System, SC–TMS TRAINING FORM, OMB Control Number 0704–XXXX.

*Needs and Uses:* Security Cooperation Training Management System (SC–TMS): Is a web based database used to exchange Security Cooperation training information between overseas Security Cooperation Offices, Geographical Combatant Commands, Military Departments, Defense Security Cooperation Agency, DoD Schoolhouses, Regional Centers, and International Host Nation Organizations. The Security Cooperation Training Management System (SC–TMS) is a tool used by the Security Cooperation community to manage International Military Student training data. Reports of annual training of Foreign nationals to Congress as required by 22 U.S.C. 2394 (Foreign Assistance Act (FAA)) and 22 U.S.C. 2770A (Arms Export Control Act (AECA)).

*Affected Public:* Individuals and Households.

*Annual Burden Hours:* 10,995 hours.

*Number of Respondents:* 43,980.

*Responses per Respondent:* 1.

*Annual Responses:* 43,980.

*Average Burden per Response:* 15 min.

*Frequency:* On occasion.

Respondents are foreign military and foreign civilian government employees in Department of Defense (DoD) training in support of U.S. foreign policy as prescribed by the President of the United States, Congress and Departments of State and Defense. Security Cooperation and Assistance programs as authorized by the Foreign Assistance Act (FAA), and the Arms Export Control Act (AECA) require collection of data to manage DoD training of international military students. If the information on the student form is not collected, DoD schoolhouses will not able to process students for attendance in resident or at mobile training locations in compliance with DepSecDef directive and federal law requiring the reporting of training of foreign nationals (ref. AECA).

Dated: March 23, 2015.

**Aaron Siegel,**
*Alternate OSD Federal Register Liaison Officer, Department of Defense.*

[FR Doc. 2015–07014 Filed 3–26–15; 8:45 am]
BILLING CODE 5001–06–P

## DEPARTMENT OF DEFENSE

### Office of the Secretary

**[Transmittal Nos. 15–02]**

### 36(b)(1) Arms Sales Notification

**AGENCY:** Defense Security Cooperation Agency, Department of Defense.

**ACTION:** Notice.

**SUMMARY:** The Department of Defense is publishing the unclassified text of a section 36(b)(1) arms sales notification. This is published to fulfill the requirements of section 155 of Public Law 104–164 dated July 21, 1996.

**FOR FURTHER INFORMATION CONTACT:** Ms. B. English, DSCA/DBO/CFM, (703) 601–3740.

The following is a copy of a letter to the Speaker of the House of Representatives, Transmittals 15–02 with attached transmittal and policy justification.

Dated: March 23, 2015.

**Aaron Siegel,**

*Alternate OSD Federal Register Liaison Officer, Department of Defense.*

DEFENSE SECURITY COOPERATION AGENCY
201 12TH STREET SOUTH, STE 203
ARLINGTON, VA 22202-5408

The Honorable John A. Boehner
Speaker of the House
U.S. House of Representatives
Washington, DC 20515

MAR 16 2015

Dear Mr. Speaker:

Pursuant to the reporting requirements of Section 36(b)(1) of the Arms Export Control Act, as amended, we are forwarding herewith Transmittal No. 15-02, concerning the Department of the Navy's proposed Letter(s) of Offer and Acceptance to Jordan for defense articles and services estimated to cost $80 million. After this letter is delivered to your office, we plan to issue a press statement to notify the public of this proposed sale.

Sincerely,

for J. W. Rixey
Vice Admiral, USN
Director

Enclosures:
1. Transmittal
2. Policy Justification
3. Regional Balance (Classified Document Provided Under Separate Cover)

Transmittal No. 15–02

Notice of Proposed Issuance of letter of Offer Pursuant to Section 36(b)(1) Of the Arms Export Control Act, as amended

(i) *Prospective Purchaser:* Jordan

(ii) *Total Estimated Value:*

| | |
|---|---|
| Major Defense Equipment * | $ 0 million. |
| Other | $ 80 million. |
| Total | $ 80 million. |

* As defined in Section 47(6) of the Arms Export Control Act.

(iii) *Description and Quantity or Quantities of Articles or Services under Consideration for Purchase:* two 35 Meter Coastal Patrol Boats with two MSI Defence Systems LTD SEAHAWK A2 DS30M–30mm Gun Weapon Systems with MK44 Bushmaster Cannons, 1,140 rounds of 30mm Target-Practice-Tracer (TP–T) ammunition, 4,020 rounds of 30mm High Explosive Incendiary with Tracer (HEI–T) ammunition, 60 rounds of 30mm inert dummy ammunition and two chaff systems, spare and repair parts, support equipment, publications and technical documentation, personnel training and training equipment, U.S. Government and contractor engineering, technical and logistics support services, and other related elements of logistical and program support.

(iv) *Military Department:* Navy (SAI)

(v) *Prior Related Cases, if any:* N/A

(vi) *Sales Commissions, Fee etc., Paid, Offered, or Agreed to be Paid:* None

(vii) *Sensitivity of Technology Contained in the Defense Article Proposed to be Sold:* None

(viii) *Date Report Delivered to Congress:* 16 March 2015

## POLICY JUSTIFICATION

The Government of Jordan has requested a possible sale of two 35 Meter Coastal Patrol Boats with two MSI Defence Systems LTD SEAHAWK A2 DS30M–30mm Gun Weapon Systems with MK44 Bushmaster Cannons, 1,140 rounds of 30mm Target-Practice-Tracer (TP–T) ammunition, 4,020 rounds of 30mm High Explosive Incendiary with Tracer (HEI–T) ammunition, 60 rounds of 30mm inert dummy ammunition and two chaff systems, spare and repair parts, support equipment, publications and technical documentation, personnel training and training equipment, U.S. Government and contractor engineering, technical and logistics support services, and other related elements of logistical and program support. The estimated cost is $80 million.

This proposed sale will contribute to the foreign policy and national security of the United States by helping to improve the security of a partner which has been, and continues to be, an important force for political stability and economic progress in the Middle East. It is vital to the U.S. national interest that Jordan develops and maintains a strong and ready self-defense capability and enhances its ability to protect its territorial waters.

Jordan will have no difficulty absorbing these boats into its armed forces.

The proposed sale of this equipment and support will not alter the basic military balance in the region.

The principal contractor is undetermined at this time and will be determined during negotiations. There are no known offset agreements proposed in connection with this potential sale.

Implementation of this proposed sale will require the temporary assignment of approximately two U.S. Government or contractor representatives in Jordan on an intermittent basis over the life of the case.

There will be no adverse impact on U.S. defense readiness as a result of this proposed sale.

[FR Doc. 2015–06960 Filed 3–26–15; 8:45 am]

BILLING CODE 5001–06–P

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## DEPARTMENT OF DEFENSE

### Department of the Air Force

**[Docket ID: USAF–2015–0001]**

### Privacy Act of 1974; System of Records

**AGENCY:** Department of the Air Force, DoD.

**ACTION:** Notice to alter a system of records.

**SUMMARY:** The Department of the Air Force proposes to alter a system of records notice, F036 AETC W entitled ''Air Force Institute of Technology Student Information System (AFITSIS) Records'' in its existing inventory of records systems subject to the Privacy Act of 1974, as amended.

This system integrates all aspects of student information management. It provides core functions required for resident student graduate education, management of students in civilian institution programs, and course management for civil engineering education programs. The system also provides support for registration, academic programs, course offerings, grades, education planning, candidate packages, resource scheduling, degree auditing, financial reimbursements/forecasting, and official transcript generation.

**DATES:** Comments will be accepted on or before April 27, 2015. This proposed action will be effective the date following the end of the comment period unless comments are received which result in a contrary determination.

**ADDRESSES:** You may submit comments, identified by docket number and title, by any of the following methods:

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

*Instructions:* All submissions received must include the agency name and docket number for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the Internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

**FOR FURTHER INFORMATION CONTACT:** Mr. Charles J. Shedrick, Department of the Air Force, Air Force Privacy Office, Office of Warfighting Integration and Chief Information Officer, ATTN: SAF/CIO A6, 1800 Air Force Pentagon, Washington, DC 20330–1800, or by phone at (571) 256–2515.

**SUPPLEMENTARY INFORMATION:** The Department of the Air Force's notices for systems of records subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended, have been published in the **Federal Register** and are available from the address in **FOR FURTHER INFORMATION CONTACT** or from the Defense Privacy and Civil Liberties Division Web site at *http://dpcld.defense.gov/.*

The proposed systems reports, as required by 5 U.S.C. 552a(r) of the Privacy Act of 1974, as amended, were submitted on January 7, 2015 to the House Committee on Oversight and Government Reform, the Senate Committee on Homeland Security and Governmental Affairs, and the Office of Management and Budget (OMB) pursuant to paragraph 4c of Appendix I to OMB Circular No. A–130, ''Federal Agency Responsibilities for Maintaining Records About Individuals,'' dated February 8, 1996 (February 20, 1996, 61 FR 6427).

Dated: March 23, 2015.

**Aaron Siegel,**

*Alternate OSD Federal Register Liaison Officer, Department of Defense.*

**F036 AETC W**

**SYSTEM NAME:**

Air Force Institute of Technology Student Information System (AFITSIS) Records (January 4, 2010, 75 FR 136).

**CHANGES:**

* * * * *

**SYSTEM NAME:**

Delete entry and replace with ''Air Force Institute of Technology Data Applications Knowledge System (AFITDAKS).''

* * * * *

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

Delete entry and replace with ''Air Force active duty members, reservists, Department of Defense (DoD) civilian employees, and other federal government employees attending civilian institutions.''

**CATEGORIES OF RECORDS IN THE SYSTEM:**

Delete entry and replace with ''Name, social security number (SSN), federal identification number (FIN), unique system created identification number, gender, race, date of birth, country of citizenship, mailing and home address, home telephone, personal email address, occupation, pay grade, rank, assigned unit identification code (UIC), service affiliation, government agency, course work, grades, academic program, emergency contact information, personal cell telephone, and security clearance.''

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

Delete entry and replace with ''10 U.S.C. 8013, Secretary of the Air Force; Air Force Instruction 36–2201, Air Force Training Program; Air Force Instruction 36–2301, Developmental Education; and E.O. 9397 (SSN), as amended.''

* * * * *

**ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:**

Delete entry and replace with ''In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act of 1974, as amended, these records contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

The DoD Blanket Routine Uses published at the beginning of the Air Force's compilation of systems of records notices may apply to this system.''

* * * * *

**STORAGE:**

Delete entry and replace with ''Records are stored electronically within the Air Force Institution of Technology Data storage.''

**RETRIEVABILITY:**

Delete entry and replace with ''Name, unique system-created identification number, and/or Social Security Number (SSN).''

**SAFEGUARDS:**

Delete entry and replace with ''Records are maintained in a secure facility on the installation; physical entry is restricted by security guards and presentation of authenticated identification badges at entry control points, and cipher locks and key cards for access into buildings. Records are accessed by the custodian of the record system and by person(s) responsible for servicing the record system in the performance of their official duties using Common Access Cards. Persons are properly screened and cleared for access. The information is protected by using user profiles, passwords, and encryption. User profiles are role-based and ensure that only data accessible to the individual's role will appear on the screen.''

* * * * *

**SYSTEM MANAGER(S) AND ADDRESS:**

Delete entry and replace with ''Director, Communications and Information, 2950 Hobson Way, Wright-Patterson AFB, Ohio 45433–7765.''

**NOTIFICATION PROCEDURES:**

Delete entry and replace with ''Individuals seeking to determine whether information about themselves is contained in this system of records should address written inquiries to Director, Communications and Information, 2950 Hobson Way, Wright-Patterson AFB, Ohio 45433–7765.

For verification purposes, individual should provide their full name and any details which may assist in locating records, and their signature.

In addition, the requester must provide a notarized statement or an unsworn declaration made in accordance with 28 U.S.C. 1746, in the following format:

If executed outside the United States: 'I declare (or certify, verify, or state) under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on (date). (Signature)'.

If executed within the United States, its territories, possessions, or commonwealths: 'I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct. Executed on (date). (Signature)'.''

**RECORD ACCESS PROCEDURES:**

Delete entry and replace with ''Individuals seeking access to information about themselves contained in this system of records should address written inquiries to Director, Communications and Information, 2950 Hobson Way, Wright-Patterson AFB, Ohio 45433–7765.

For verification purposes, individual should provide their full name and any details which may assist in locating records, and their signature. In addition, the requester must provide a notarized statement or an unsworn declaration made in accordance with 28 U.S.C., 1746, in the following format:

If executed outside the United States: 'I declare (or certify, verify, or state) under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on (date). (Signature)'.

If executed within the United States, its territories, possessions, or commonwealths: 'I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct. Executed on (date). (Signature)'.''

**CONTESTING RECORDS PROCEDURES:**

Delete entry and replace with ''The Air Force rules for accessing records, and for contesting contents and appealing initial agency determinations, are published in Air Force Instruction 33–332, The Air Force Privacy and Civil Liberties Program; 32 CFR part 806b; or may be obtained from the system manager.''

* * * * *

[FR Doc. 2015–07270 Filed 3–26–15; 8:45 am]

**BILLING CODE 5001–06–P**

## DEPARTMENT OF DEFENSE

### Office of the Secretary

**[Transmittal Nos. 15–04]**

### 36(b)(1) Arms Sales Notification

**AGENCY:** Defense Security Cooperation Agency, Department of Defense.

**ACTION:** Notice.

**SUMMARY:** The Department of Defense is publishing the unclassified text of a section 36(b)(1) arms sales notification. This is published to fulfill the requirements of section 155 of Public Law 104–164 dated July 21, 1996.

**FOR FURTHER INFORMATION CONTACT:** Ms. B. English, DSCA/DBO/CFM, (703) 601–3740.

The following is a copy of a letter to the Speaker of the House of Representatives, Transmittals 15–04 with attached transmittal, policy justification and Sensitivity of Technology.

Dated: March 23, 2015.

**Aaron Siegel,**

*Alternate OSD Federal Register Liaison Officer, Department of Defense.*

DEFENSE SECURITY COOPERATION AGENCY
201 12TH STREET SOUTH, STE 203
ARLINGTON, VA 22202-5408

The Honorable John A. Boehner
Speaker of the House
U.S. House of Representatives
Washington, DC 20515

MAR 16 2015

Dear Mr. Speaker:

Pursuant to the reporting requirements of Section 36(b)(1) of the Arms Export Control Act, as amended, we are forwarding herewith Transmittal No. 15-04, concerning the Department of the Army's proposed Letter(s) of Offer and Acceptance to Mexico for defense articles and services estimated to cost $110 million. After this letter is delivered to your office, we plan to issue a press statement to notify the public of this proposed sale.

Sincerely,

for J. W. Rixey
Vice Admiral, USN
Director

Enclosures:
1. Transmittal
2. Policy Justification
3. Sensitivity of Technology

Transmittal No. 15–04

Notice of Proposed Issuance of Letter of Offer Pursuant to Section 36(b)(1) of the Arms Export Control Act, as amended

(i) *Prospective Purchaser:* Mexico

(ii) *Total Estimated Value:*

| | |
|---|---|
| Major Defense Equipment * .. | $ 80 million. |
| Other ..... | $ 30 million. |
| Total ..... | $110 million. |

* as defined in Section 47(6) of the Arms Export Control Act.

(iii) *Description and Quantity or Quantities of Articles or Services under Consideration for Purchase:* three UH–60M Black Hawk helicopters in standard USG configuration, with designated unique equipment,

Government Furnished Equipment (GFE), six T700–GE–701D Engines, six H–764G Embedded Global Positioning System/Inertial Navigation Systems (EGIs), six M134 7.62mm Machine Guns, three Star Safire III Forward Looking Infrared Radar Systems, three Aviation Mission Planning Systems, twelve AN/AVS–9 Night Vision Goggles, and one Aviation Ground Power Unit. Also included are spare and repair parts, support equipment, communication equipment, facility construction, air worthiness support, publications and technical documentation, personnel training and training equipment, warranties, U.S. Government and contractor technical, engineering, and logistics support services, and other related element of logistics and program support.

(iv) *Military Department:* Army (UEU Amendment #2)

(v) *Prior Related Cases, if any:*
FMS case UEJ $110M–3Mar10
FMS case UEU–$190M–24Jun14

(vi) *Sales Commission, Fee, etc., Paid, Offered, or Agreed to be Paid:* None

(vii) *Sensitivity of Technology Contained in the Defense Article or Defense Services Proposed to be Sold:* See Attached Annex

(viii) *Date Report Delivered to Congress:* 16 March 2015

POLICY JUSTIFICATION

*Mexico—UH–60M Black Hawk Helicopters*

The Government of Mexico has requested a possible sale of three UH–60M Black Hawk helicopters in standard USG configuration, with designated unique equipment, Government Furnished Equipment (GFE), six T700–GE–701D Engines, six H–764G Embedded Global Positioning System/Inertial Navigation Systems (EGIs), six M134 7.62mm Machine Guns, three Star Safire III Forward Looking Infrared Radar Systems, three Aviation Mission Planning Systems, twelve AN/AVS–9 Night Vision Goggles, and one Aviation Ground Power Unit. Also included are spare and repair parts, support equipment, communication equipment, facility construction, air worthiness support, publications and technical documentation, personnel training and training equipment, warranties, U.S. Government and contractor technical, engineering, and logistics support services, and other related element of logistics and program support. The estimated cost is $110 million.

This proposed sale will contribute to the foreign policy and national security of the United States by helping to improve the security of a strategic partner. Mexico has been a strong partner in combating organized crime and drug trafficking organizations. The sale of these UH–60M helicopters to Mexico will significantly increase and strengthen its capability to provide in-country airlift support for its forces engaged in counter-drug operations.

Mexico intends to use these defense articles and services to modernize its armed forces and expand its existing naval/maritime support in its efforts to combat drug trafficking organizations.

The proposed sale of this equipment and support will not alter the basic military balance in the region.

The principal contractors will be the Sikorsky Aircraft Company in Stratford, Connecticut; and General Electric Aircraft Company (GEAC) in Lynn, Massachusetts. There are no known offset agreements in connection with this potential sale.

Implementation of this proposed sale may require the assignment of one additional U.S. Government representative and one contractor representative in country full-time to support the delivery and training for approximately two years.

There will be no adverse impact on U.S. defense readiness as a result of this proposed sale.

Transmittal No. 15–04

Notice of Proposed Issuance of Letter of Offer Pursuant to Section 36(b)(1) of the Arms Export Control Act, as amended

Annex

Item No. vii

(vii) *Sensitivity of Technology:*

1. The UH–60M Black Hawk helicopter is a medium lift aircraft, equipped with two T700–GE–701D Engines. The Navigation System for each helicopter will have Embedded Global Positioning System/Inertial Navigation (EGIs), two Digital Advanced Flight Control Systems (DAFCS), one ARN–149 Automatic Direction Finder, and one ARN–147 (VOR/ILS marker Beacon System). Each helicopter will also have one ARN–153 Tactical Navigation (TACAN), two air data computers, one Safire III Forward Looking Infrared Radar System, and one Radar Altimeter system. The communication equipment will include the AN/APX–118 or AN/APX–123 Identification Friend or Foe (IFF) system. The AN/ARC–210 RT–8100 Series Very/Ultra High Frequency (V/UHF) radio will be included in the UH–60M configuration.

2. The AN/APX–118 or AN/APX–123 Identification Friend or Foe (IFF) Transponder is capable of Modes 1, 2, 3, 3a and 4 and is Unclassified.

3. The AN/ARC–210 RT–8100 Series radio is a V/UHF voice and data capable radio using commercial encryption.

4. The H–764G Embedded Global Positioning System/Inertial Navigation System (EGI) unit provides EGI capabilities to the aircraft. The EGI will include Selective Availability Anti-Spoofing Module (SAASM) security modules to be used for secure GPS Precise Positioning Service if required.

5. The Star Safire III Forward Looking Infrared Radar System is a long-range, multisensory infrared imaging radar system. It is considered non-standard equipment for the UH–60 Black Hawk helicopter. It will be used to enhance night flying and provide a level of safety for passengers during night flights.

6. (U) If a technologically advanced adversary were to obtain knowledge of the specific hardware and software elements, the information could be used to develop countermeasures or equivalent systems which might reduce weapon system effectiveness or be used in the development of a system with similar or advanced capabilities.

7. A determination has been made that the recipient country can provide the same degree of protection for the sensitive technology being released as the U.S. Government. This sale is necessary in furtherance of the U.S. foreign policy and national security objectives outlined in the Policy Justification.

8. All defense articles and services listed in this transmittal have been authorized for release and export to the Government of Mexico.

[FR Doc. 2015–06976 Filed 3–26–15; 8:45 am]

BILLING CODE 5001–06–P

## DEPARTMENT OF EDUCATION

### National Advisory Committee on Institutional Quality and Integrity Meeting

**AGENCY:** National Advisory Committee on Institutional Quality and Integrity (NACIQI), Office of Postsecondary Education, U.S. Department of Education.

**ACTION:** Announcement of an open meeting.

**SUMMARY:** This notice sets forth the agenda for the June 25–26, 2015 meeting of the National Advisory Committee on Institutional Quality and Integrity (NACIQI), and provides information to members of the public on submitting written comments and on requesting to make oral comments at the meeting. The

notice of this meeting is required under Section 10(a)(2) of the Federal Advisory Committee Act (FACA) and Section 114(d)(1)(B) of the Higher Education Act (HEA) of 1965, as amended.

**DATES:** The NACIQI meeting will be held on June 25–26, 2015, from 8:00 a.m. to 5:30 p.m., at a location to be determined in the Washington DC area. The exact location of the meeting will be published in the **Federal Register** and on the Department Web site at *http://www2.ed.gov/about/bdscomm/list/naciqi.html#meetings* by May 25, 2015.

**ADDRESSES:** U.S. Department of Education, Office of Postsecondary Education, 1990 K Street NW., Room 8080, Washington, DC 20006.

**FOR FURTHER INFORMATION CONTACT:** Patricia Howes, Committee Coordinator, NACIQI, U.S. Department of Education, 1990 K Street NW., Room 8061, Washington, DC 20006–8129, telephone: (202) 502–7769, fax: (202) 502–7874, or email *Patricia.Howes@ed.gov.*

**SUPPLEMENTARY INFORMATION:**

*NACIQI's Statutory Authority and Function:* The NACIQI is established under Section 114 of the Higher Education Act of 1965, as amended (HEA), 20 U.S.C. 1011c. The NACIQI advises the Secretary of Education about:

- The establishment and enforcement of the criteria for recognition of accrediting agencies or associations under Subpart 2, Part H, Title IV of the HEA, as amended.
- The recognition of specific accrediting agencies or associations or a specific State public postsecondary vocational education or nurse education approval agency.
- The preparation and publication of the list of nationally recognized accrediting agencies and associations.
- The eligibility and certification process for institutions of higher education under Title IV of the HEA, together with recommendations for improvement in such process.
- The relationship between (1) accreditation of institutions of higher education and the certification and eligibility of such institutions, and (2) State licensing responsibilities with respect to such institutions.
- Any other advisory function relating to accreditation and institutional eligibility that the Secretary may prescribe.

*Meeting Agenda:* In addition to its review of accrediting agencies and State approval agencies for Secretarial recognition, the meeting agenda will include Committee discussions regarding the Committee's policy recommendations to advise the Secretary in preparation for the reauthorization of the Higher Education Act (HEA). Below is a list of agencies, including their current and requested scopes of recognition, scheduled for review during the June 25–26, 2015 meeting:

**Petitions for Recognition Based on a Compliance Report**

*Accrediting Agencies*

1. Accreditation Commission for Education in Nursing, Inc. (ACEN) (Current Scope: Accreditation of nursing education programs and schools, both postsecondary and higher degree, which offer a certificate, diploma, or a recognized professional degree including clinical doctorate, masters, baccalaureate, associate, diploma, and practical nursing programs in the United States and its territories, including those offered via distance education.)

2. American Optometric Association, Accreditation Council on Optometric Education (ACOE) (Current Scope: The accreditation in the United States of professional optometric degree programs, optometric technician (associate degree) programs, and optometric residency programs, and for the preaccreditation categories of Preliminary Approval for professional optometric degree programs and Candidacy Pending for optometric residency programs in Department of Veterans Affairs facilities.)

3. Association of Advanced Rabbinical and Talmudic Schools, Accreditation Commission (AARTS) (Current Scope: The accreditation and pre-accreditation (''Correspondent'' and ''Candidate'') within the United States of Advanced Rabbinical and Talmudic Schools.)

4. National Association of Schools of Dance, Commission on Accreditation (NASD) (Current Scope: The accreditation throughout the United States of freestanding institutions that offer dance and dance-related programs (both degree and non-degree-granting), including those offered via distance education.)

5. National Association of Schools of Music, Commission on Accreditation NASM) (Current Scope: The accreditation throughout the United States of freestanding institutions that offer music and music-related programs (both degree- and non-degree-granting), including those offered via distance education.)

6. National Association of Schools of Theatre, Commission on Accreditation (NAST) (Current Scope: The accreditation throughout the United States of freestanding institutions that offer theatre and theatre-related programs (both degree and non-degree-granting), including those offered via distance education.)

7. New England Association of Schools and Colleges, Commission on Institutions of Higher Education (NEA–CIHE) (Current Scope: The accreditation and pre-accreditation (''Candidacy status'') of institutions of higher education in Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, and Vermont that award bachelor's, master's, and/or doctoral degrees and associate degree-granting institutions in those states that include degrees in liberal arts or general studies among their offerings, including the accreditation of programs offered via distance education within these institutions).

8. North Central Association of Colleges and Schools, The Higher Learning Commission (NCA–HLC) (Current Scope: The accreditation and preaccreditation (''Candidate for Accreditation'') of degree-granting institutions of higher education in Arizona, Arkansas, Colorado, Illinois, Indiana, Iowa, Kansas, Michigan, Minnesota, Missouri, Nebraska, New Mexico, North Dakota, Ohio, Oklahoma, South Dakota, West Virginia, Wisconsin, and Wyoming, including the tribal institutions and the accreditation of programs offered via distance education and correspondence education within these institutions. This recognition extends to the Institutional Actions Council jointly with the Board of Trustees of the Commission for decisions on cases for continued accreditation or reaffirmation, and continued candidacy, and to the Appeals Body jointly with the Board of Trustees of the Commission for decisions related to initial candidacy or accreditation or reaffirmation of accreditation.)

**Request for an Expansion of Scope**

1. American Psychological Association, Commission on Accreditation (APA) (Current Scope: The accreditation in the United States of doctoral programs in clinical, counseling, school and combined professional-scientific psychology; predoctoral internship programs in professional psychology; and postdoctoral residency programs in professional psychology.) (Requested scope: The accreditation in the United States of doctoral programs in clinical, counseling, school and combined professional-scientific psychology; doctoral internship programs in health

service psychology; and postdoctoral residency programs in health service psychology.)

**Petition for Approval of a State Agency for Vocational Education Based on a Compliance Report**

1. Puerto Rico State Agency for the Approval of Public Postsecondary Vocational, Technical Institutions and Programs (PRHRDC) (Current Scope: The approval of public postsecondary, vocational-technical institutions.)

*Submission of written comments regarding a specific accrediting agency or state approval agency under review:* Written comments about the recognition of a specific accrediting or State agency must be received by May 1, 2015, in the *ThirdPartyComments@ed.gov* mailbox and include the subject line ''Written Comments: (agency name).'' The email must include the name(s), title, organization/affiliation, mailing address, email address, and telephone number of the person(s) making the comment. Comments should be submitted as a Microsoft Word document or in a medium compatible with Microsoft Word (not a PDF file) that is attached to an electronic mail message (email) or provided in the body of an email message. Comments about an agency's recognition after review of a compliance report must relate to the issues raised in the compliance report and the criteria for recognition cited in the Secretary's letter that requested the report. Third parties having concerns about agencies regarding matters outside the scope of a compliance report should report those concerns directly to the Department to be reviewed as a complaint. Only material submitted by the deadline to the email address listed in this notice, and in accordance with these instructions, becomes part of the official record concerning agencies scheduled for review and are considered by the Department and NACIQI in their deliberations. Please do not send material directly to NACIQI members.

*Submission of requests to make an oral comment regarding a specific accrediting agency or state approval agency under review:* Oral comments about agencies seeking renewal of recognition must relate to the issues raised in the agency's compliance report and the criteria for recognition cited in the Secretary's letter that requested the report. There are two methods by which the public may seek to make a third-party oral comment of three minutes concerning one of the agencies scheduled for review at the June 25–26, 2015 meeting.

*Method One:* Submit a request by email to the *ThirdPartyComments@ed.gov* mailbox. Please do not send material directly to NACIQI members. Requests must be received by May 1, 2015, and include the subject line ''Oral Comment Request: (agency name).'' The email must include the name(s), title, organization/affiliation, mailing address, email address, telephone number, of the person(s) requesting to speak, and a brief summary (not to exceed one page) of the principal points to be made during the oral presentation. All individuals submitting an advance request in accordance with this notice will be afforded an opportunity to speak.

*Method Two:* Register at the meeting location on June 25, 2015, to make an oral comment during NACIQI's deliberations concerning a particular agency or institution scheduled for review. The requestor must provide his or her name, title, organization/affiliation, mailing address, email address, and telephone number. A total of up to fifteen minutes during each agency review will be allotted for oral commenters who register on June 25, 2015. Individuals will be selected on a first-come, first-served basis. If selected, each commenter may not exceed three minutes.

The oral comments made will become part of the official record and will be considered by the Department and NACIQI in their deliberations. No individual in attendance or making oral presentations may distribute written materials at the meeting.

*Access to Records of the Meeting:* The Department will post the official report of the meeting on the NACIQI Web site 90 days after the meeting. Pursuant to the FACA, the public may also inspect the materials at 1990 K Street NW., Washington, DC, by emailing *aslrecordsmanager@ed.gov* or by calling (202) 219–7067 to schedule an appointment.

*Reasonable Accommodations:* The meeting site is accessible to individuals with disabilities. If you will need an auxiliary aid or service to participate in the meeting (*e.g.,* interpreting service, assistive listening device, or materials in an alternate format), notify the contact person listed in this notice at least two weeks before the scheduled meeting date. Although we will attempt to meet a request received after that date, we may not be able to make available the requested auxiliary aid or service because of insufficient time to arrange it.

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

You may also access documents of the Department published in the **Federal Register** by using the article search feature at: *www.federalregister.gov.* Specifically, through the advanced search feature at this site, you can limit your search to documents published by the Department. Delegation of Authority: The Secretary of Education has delegated authority to Jamienne S. Studley, Deputy Under Secretary, to perform the functions and duties of the Assistant Secretary for Postsecondary Education.

**Authority:** 20 U.S.C. 1011c.

**Jamienne S. Studley,**

*Deputy Under Secretary.*

[FR Doc. 2015–07076 Filed 3–26–15; 8:45 am]

BILLING CODE 4000–01–P

## DEPARTMENT OF EDUCATION

### Application Deadline for Fiscal Year (FY) 2015; Small, Rural School Achievement Program

Catalogue of Federal Domestic Assistance (CFDA) Number: 84.358A.

**AGENCY:** Office of Elementary and Secondary Education, Department of Education.

**ACTION:** Notice.

**SUMMARY:** Under the Small, Rural School Achievement (SRSA) program, the U.S. Department of Education (Department) awards grants on a formula basis to eligible local educational agencies (LEAs) to address the unique needs of rural school districts. In this notice, we establish the deadline for submission of fiscal year (FY) 2015 SRSA grant applications. An eligible LEA that is required to submit an application must do so electronically by the deadline in this notice.

**DATES:** *Application Deadline:* June 30, 2015, 4:30:00 p.m., Washington, DC, time.

**FOR FURTHER INFORMATION CONTACT:** Eric Schulz, U.S. Department of Education, 400 Maryland Avenue SW., Room 3E107, Washington, DC 20202. Telephone: (202) 401–0039 or by email: *reap@ed.gov.*

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

**SUPPLEMENTARY INFORMATION:**

**Which LEAs are eligible for an award under the SRSA program?**

An LEA (including a public charter school that is considered an LEA under State law) is eligible for an award under the SRSA program if—

(a) The total number of students in average daily attendance at all of the schools served by the LEA is fewer than 600, or each county in which a school served by the LEA is located has a total population density of fewer than 10 persons per square mile; and

(b)(1) All of the schools served by the LEA are designated with a school locale code of 7 or 8 by the Department's National Center for Education Statistics (NCES); or

(2) The Secretary has determined, based on a demonstration by the LEA and concurrence of the State educational agency, that the LEA is located in an area defined as rural by a governmental agency of the State.

**Note:** The school locale codes are the locale codes determined on the basis of the NCES school code methodology in place on the date of enactment of section 6211(b) of the Elementary and Secondary Education Act of 1965, as amended.

**Which eligible LEAs must submit an application to receive an FY 2015 SRSA grant award?**

An eligible LEA must submit an application to receive an FY 2015 SRSA grant award if that LEA has never submitted an application for SRSA funds in any prior year.

All eligible LEAs that need to submit an application to receive an SRSA grant award in a given year are highlighted in yellow on the SRSA eligibility spreadsheets, which are posted annually on the SRSA program Web site at *www2.ed.gov/programs/reapsrsa/eligibility.html.*

Under the regulations in 34 CFR 75.104(a), the Secretary makes a grant only to an eligible party that submits an application. Given the limited purpose served by the application under the SRSA program, the Secretary considers the application requirement to be met if an LEA submitted an SRSA application for any prior year. In this circumstance, unless an LEA advises the Secretary by the application deadline that it is withdrawing its application, the Secretary deems the application that an LEA previously submitted to remain in effect for FY 2015 funding, and the LEA does not have to submit an additional application.

We intend to provide, by March 30, 2015, a list of LEAs eligible for FY 2015 funds on the Department's Web site at *http://www2.ed.gov/programs/reapsrsa/eligibility.html.* This list will indicate which eligible LEAs must submit an electronic application to the Department to receive an FY 2015 SRSA grant award, and which eligible LEAs are considered already to have met the application requirement.

Eligible LEAs that need to submit an application in order to receive FY 2015 SRSA funds must do so electronically by the deadline established in this notice.

*Electronic Submission of Applications:* An eligible LEA that is required to submit an application to receive FY 2015 SRSA funds must submit an electronic application by June 30, 2015, 4:30:00 p.m., Washington, DC, time. If it submits its application after this deadline, the LEA will receive a grant award only to the extent that funds are available after the Department awards grants to other eligible LEAs under the program.

Applications to receive FY 2015 SRSA funds may be obtained from, and must be submitted electronically using, the G5 system, accessible through the Department's G5 site at: *www.G5.gov.* When applicants access this site, they will receive specific instructions regarding the information to include in the SRSA application.

*Accessible Format:* Individuals with disabilities can obtain this document and a copy of the application package in an accessible format (*e.g.,* braille, large print, audiotape, or computer disc) on request to the program contact person listed under **FOR FURTHER INFORMATION CONTACT**.

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

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

**Program Authority:** 20 U.S.C. 7345–7345b.

Dated: March 24, 2015.

**Deborah S. Delisle,**

*Assistant Secretary for Elementary and Secondary Education.*

[FR Doc. 2015–07138 Filed 3–26–15; 8:45 am]

BILLING CODE 4000–01–P

## ENVIRONMENTAL PROTECTION AGENCY

**[EPA–HQ–SFUND–2004–0006; FRL—9923–65–OEI]**

## Information Collection Request Submitted to OMB for Review and Approval; Comment Request; Community Right-to-Know Reporting Requirements Under Sections 311 and 312 of the Emergency Planning and Community Right-to-Know Act (EPCRA) (Renewal)

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice.

**SUMMARY:** The Environmental Protection Agency (EPA) has submitted an information collection request (ICR), ''Community Right-to-Know Reporting Requirements under Sections 311 and 312 of the Emergency Planning and Community Right-to-Know Act (EPCRA) (Renewal)'' (EPA ICR No. 1352.13, OMB Control No. 2050–0072) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*). This is a proposed extension of the ICR, which is currently approved through April 30, 2015. Public comments were previously requested via the **Federal Register** (79 FR 71753) on December 3, 2014 during a 60-day comment period. This notice allows for an additional 30 days for public comments. A fuller description of the ICR is given below, including its estimated burden and cost to the public. An Agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

**DATES:** Additional comments may be submitted on or before April 27, 2015.

**ADDRESSES:** Submit your comments, referencing Docket ID Number, EPA–HQ–SFUND–2004–0006, to (1) EPA online using *www.regulations.gov* (our preferred method), by email to *superfund.docket@epa.gov* or by mail to: EPA Docket Center, Environmental Protection Agency, Mail Code 28221T,

1200 Pennsylvania Ave. NW., Washington, DC 20460, and (2) OMB via email to *oira_submission@omb.eop.gov.* Address comments to OMB Desk Officer for EPA.

EPA's policy is that all comments received will be included in the public docket without change including any personal information provided, unless the comment includes profanity, threats, information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute.

**FOR FURTHER INFORMATION CONTACT:** Sicy Jacob, Office of Emergency Management, Mail Code 5104A, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460; telephone number: (202) 564–8019; email address: *jacob.sicy@epa.gov.*

**SUPPLEMENTARY INFORMATION:** Supporting documents, which explain in detail the information that the EPA will be collecting, are available in the public docket for this ICR. The docket can be viewed online at *www.regulations.gov* or in person at the EPA Docket Center, WJC West, Room 3334, 1301 Constitution Ave. NW., Washington, DC. The telephone number for the Docket Center is 202–566–1744. For additional information about EPA's public docket, visit *http://www.epa.gov/dockets.*

*Abstract:* Sections 311 and 312 of the Emergency Planning and Community Right-to-Know Act (EPCRA), 1986 (42 U.S.C. 11011, 11012) require owners and operators of facilities subject to OSHA Hazard Communication Standard (HCS) to submit an inventory form of chemicals or MSDSs (for those chemicals that exceed thresholds, specified in 40 CFR part 370) to the State Emergency Response Commission (SERC), Tribal Emergency Response Commission (TERC), Local Emergency Planning Committee (LEPC), Tribal Emergency Planning Committee (TEPC) and the local fire department (LFD) with jurisdiction over their facility.

The submittal of an inventory form allows local emergency planners/responders and the community to have access to information regarding the hazards of a chemical at any given facility.

*Form Numbers:* EPA Form No. 8700–30.

*Respondents/affected entities:* Facilities required to prepare or have available a material safety data sheet for any hazardous chemical under the OSHA Hazard Communication Standard.

*Respondent's obligation to respond:* Mandatory under EPCRA Sections 311 and 312.

*Estimated number of respondents:* 403,052 respondents.

*Frequency of response:* Annually.

*Total estimated burden:* 5,915,254 hours (per year). Burden is defined at 5 CFR 1320.03(b).

*Total estimated cost:* $254,413,726 (per year), which includes $6,593,300 annualized capital or operation & maintenance costs.

*Changes in the Estimates:* There is an increase of 2,006,122 hours in the total estimated respondent burden compared with the ICR currently approved by OMB. This increase is due to a revised estimate of facilities subject to EPCRA sections 311 and 312.

**Courtney Kerwin,**

*Acting Director, Collection Strategies Division.*

[FR Doc. 2015–07026 Filed 3–26–15; 8:45 am]

**BILLING CODE 6560–50–P**

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## ENVIRONMENTAL PROTECTION AGENCY

**[EPA–HQ–OECA–2014–0078; FRL–9925–08–OEI]**

## Information Collection Request Submitted to OMB for Review and Approval; Comment Request; NESHAP for Metal Coil Surface Coating Plants (Renewal)

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice.

**SUMMARY:** The Environmental Protection Agency (EPA) has submitted an information collection request (ICR), ''NESHAP for Metal Coil Surface Coating Plants (40 CFR part 63, subpart SSSS) (Renewal)'' (EPA ICR No. 1957.07, OMB Control No. 2060–0487) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*). This is a proposed extension of the ICR, which is currently approved through April 30, 2015. Public comments were previously requested via the **Federal Register** (79 FR 30117) on May 27, 2014 during a 60-day comment period. This notice allows for an additional 30 days for public comments. A fuller description of the ICR is given below, including its estimated burden and cost to the public. An Agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

**DATES:** Additional comments may be submitted on or before April 27, 2015.

**ADDRESSES:** Submit your comments, referencing Docket ID Number EPA–HQ–OECA–2014–0078, to (1) EPA online using *www.regulations.gov* (our preferred method), by email to *docket.oeca@epa.gov,* or by mail to: EPA Docket Center, Environmental Protection Agency, Mail Code 28221T, 1200 Pennsylvania Ave. NW., Washington, DC 20460, and (2) OMB via email to *oira_submission@omb.eop.gov.* Address comments to OMB Desk Officer for EPA.

EPA's policy is that all comments received will be included in the public docket without change including any personal information provided, unless the comment includes profanity, threats, information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute.

**FOR FURTHER INFORMATION CONTACT:** Patrick Yellin, Monitoring, Assistance, and Media Programs Division, Office of Compliance, Mail Code 2227A, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460; telephone number: (202) 564–2970; fax number: (202) 564–0050; email address: *yellin.patrick@epa.gov.*

**SUPPLEMENTARY INFORMATION:** Supporting documents, which explain in detail the information that the EPA will be collecting, are available in the public docket for this ICR. The docket can be viewed online at *www.regulations.gov* or in person at the EPA Docket Center, EPA West, Room 3334, 1301 Constitution Ave., NW., Washington, DC. The telephone number for the Docket Center is 202–566–1744. For additional information about EPA's public docket, visit *http://www.epa.gov/dockets.*

*Abstract:* This ICR affects respondents from new and existing coil coating line facilities that are major sources of hazardous air pollutant (HAP). Coil coating line is the process in which special equipment is used to apply an organic coating to the surface of metal coils. All NESHAP standards require initial notifications, performance tests, and periodic reports by the owners/operators of the affected facilities. Respondents are also required to maintain records of the occurrence and duration of any startup, shutdown, or malfunction in the operation of an affected facility, or any period during which the monitoring system is inoperative. The provisions of this Subpart do not apply to coil coating lines that are part of research or laboratory equipment, or coil coating

lines in which 85 percent of the metal coil coated; unless the coating line is controlled by a common control device. The required semiannual reports are used to determine periods of excess emissions, identify problems at the facility, verify operation/maintenance procedures and for compliance determinations. This information is being collected to assure compliance with 40 CFR part 63, Subpart SSSS.

*Form Numbers:* None.

*Respondents/affected entities:* Metal coil surface coating plants.

*Respondent's obligation to respond:* Mandatory (40 CFR part 63, Subpart SSSS).

*Estimated number of respondents:* 89 (total).

*Frequency of response:* Initially, semiannually, and occasionally.

*Total estimated burden:* 25,145 hours (per year). Burden is defined at 5 CFR 1320.3(b).

*Total estimated cost:* $2,552,959 (per year), includes $91,200 annualized capital or operation & maintenance costs.

*Changes in the Estimates:* There is an increase of 5,244 hours in the total estimated respondent burden compared with the ICR currently approved by OMB. This increase is due to an adjustment of burden estimates based on industry comment received from consultation during the renewal of this ICR.

**Courtney Kerwin,**

*Acting Director, Collection Strategies Division.*

[FR Doc. 2015–07027 Filed 3–26–15; 8:45 am]

**BILLING CODE 6560–50–P**

## ENVIRONMENTAL PROTECTION AGENCY

**[FRL–9925–10–Region–5]**

## Notice of Final Decision To Reissue the Vickery Environmental, Inc. Land-Ban Exemption

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice of Final Decision on a Request by Vickery Environmental, Inc. of Vickery, Ohio to Reissue its Exemption from the Hazardous and Solid Waste Amendments of the Resource Conservation and Recovery Act.

**SUMMARY:** Notice is hereby given by the U.S. Environmental Protection Agency (U.S. EPA or Agency) that an exemption to the land disposal restrictions under the 1984 Hazardous and Solid Waste Amendments (HSWA) to the Resource Conservation and Recovery Act (RCRA) has been granted to Vickery Environmental, Inc. (VEI) of Vickery, Ohio for four Class I injection wells located in Vickery, Ohio. As required by 40 CFR part 148, VEI has demonstrated, to a reasonable degree of certainty, that there will be no migration of hazardous constituents out of the injection zone or into an underground source of drinking water (USDW) for at least 10,000 years. This final decision allows the continued underground injection by VEI of only those hazardous wastes designated by the codes in Table 1 through its four Class I hazardous waste injection wells identified as #2, #4, #5 and #6. This decision constitutes a final U.S. EPA action for which there is no administrative appeal.

**DATES:** This action is effective as of March 27, 2015.

**FOR FURTHER INFORMATION CONTACT:** Stephen Roy, Lead Petition Reviewer, U.S. EPA, Region 5, Water Division, Underground Injection Control Branch, WU–16J, Environmental Protection Agency, 77 W. Jackson Blvd., Chicago, Illinois 60604–3590; telephone number: (312) 886–6556; fax number (312) 692–2951; email address: *roy.stephen@epa.gov.* Copies of the petition and all pertinent information are on file and are part of the Administrative Record. It is recommended that you contact the lead reviewer prior to reviewing the Administrative Record.

**SUPPLEMENTARY INFORMATION:** VEI submitted a request for reissuance of its existing exemption from the land disposal restrictions of hazardous waste in September, 2007. U.S. EPA staff reviewed all data pertaining to the petition, including, but not limited to, well construction, well operations, regional and local geology, seismic activity, penetrations of the confining zone, and computational models of the injection zone. U.S. EPA has determined that the hydrogeological and geochemical conditions at the site and the nature of the waste streams are such that reliable predictions can be made that fluid movement conditions are such that injected fluids will not migrate out of the injection zone within 10,000 years, as set forth at 40 CFR part 148. The injection zone includes the injection interval into which fluid is directly emplaced and the overlying arrestment interval into which it may diffuse. The injection interval for the VEI facility is composed of the Mt. Simon Sandstone between 2791 and 2950 feet below ground level. The arrestment interval for the VEI facility is composed of the Rome, Conasauga, Kerbel and Knox Formations between 2360 and 2791 feet below ground level. The confining zone at the VEI facility is composed of the Black River and Wells Creek Formations between 1816 and 2360 feet below ground level. The confining zone is separated from the lowermost underground source of drinking water (at a depth of 574 feet below ground level) by a sequence of permeable and less permeable sedimentary rocks. This sequence provides additional protection from fluid migration into drinking water sources.

U.S. EPA issued a draft decision, which described the reasons for granting this exemption in more detail, a fact sheet, which summarized these reasons, and a public notice on December 5, 2014, pursuant to 40 CFR 124.10. U.S. EPA held a public hearing on January 8, 2015, but no one elected to comment on the draft decision at the hearing. The public comment period ended on January 20, 2015. U.S. EPA received comments from VEI but no other parties during the comment period. U.S. EPA has prepared a response to VEI's comments, which can be viewed at the following URL: *http://www.epa.gov/region5/water/uic/pubpdf/vei-response-to-comments.pdf.* This document is part of the Administrative Record for this decision. U.S. EPA is issuing the final exemption with the changes identified in the response to comments.

### Conditions

This exemption is subject to the following conditions. Non-compliance with any of these conditions is grounds for termination of the exemption:

(1) The exemption applies to the four existing hazardous waste injection wells, #2, #4, #5, and #6 located at the VEI facility at 3956 State Route 412, Vickery, Ohio.

(2) Injection of restricted hazardous waste is limited to the part of the Mt. Simon Sandstone at depths between 2791 and 2950 feet below the surface level.

(3) Only restricted wastes designated by the RCRA waste codes found in Table 1 may be injected.

(4) Maximum concentrations of chemicals that are allowed to be injected are listed in Table 2.

(5) The average specific gravity of the injected waste stream must be no less than 1.08 over a one-year period.

(6) VEI may inject up to a combined total of 240 gallons per minute into Well #2, #4, #5, and #6, based on a monthly average.

(7) This exemption is approved for the 20-year modeled injection period, which ends on June 30, 2027. VEI may petition U.S. EPA for a reissuance of the

exemption beyond that date, provided that a new and complete petition and no-migration demonstration is received at U.S. EPA, Region 5, by January 31, 2027.

(8) VEI must submit, within 90 days after the exemption is granted, an approvable plan to demonstrate that chemicals listed in Table 2 are not or cannot be injected above the listed limits. Upon U.S. EPA's approval of this plan, VEI shall implement the plan per the schedule in the approved plan.

(9) VEI must submit copies of the reports on the annual bottom-hole pressure surveys conducted in well #2, #4, #5 or #6 to U.S. EPA when these reports are submitted to the Ohio Environmental Protection Agency (Ohio EPA). The reports must include a comparison of reservoir parameters determined from the fall-off test, such as permeability and long-term shut-in pressure, with parameters used in the approved no-migration petition.

(10) VEI must submit copies of the reports on the annual radioactive tracer surveys and annulus pressure tests for wells #2, #4, #5 and #6 to U.S. EPA when these reports are submitted to Ohio EPA.

(11) VEI shall notify U.S. EPA in writing if any injection well loses mechanical integrity, prior to any workover or plugging when these notifications are submitted to Ohio EPA.

(12) The petitioner must fully comply with all requirements set forth in Underground Injection Control Permits 03–72–009–PTO–I, 03–72–011–PTO–I, 03–72–012–PTO–I, and 03–72–013–PTO–I issued by Ohio EPA.

(13) Upon the expiration, cancellation, reissuance, or modification of the permits referenced above, this exemption is subject to review.

(14) Whenever U.S. EPA determines that the basis for approval of a petition under 40 CFR §§ 148.23 and 148.24 may no longer be valid, U.S. EPA may terminate this exemption and will require a new demonstration in accordance with 40 CFR § 148.20.

TABLE 1—LIST OF RCRA WASTE CODES APPROVED FOR INJECTION

| | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|
| D001 | D002 | D003 | D004 | D005 | D006 | D007 | D008 | D009 | D010 | D011 | D012 |
| D013 | D014 | D015 | D016 | D017 | D018 | D019 | D020 | D021 | D022 | D023 | D024 |
| D025 | D026 | D027 | D028 | D029 | D030 | D031 | D032 | D033 | D034 | D035 | D036 |
| D037 | D038 | D039 | D040 | D041 | D042 | D043 | F001 | F002 | F003 | F004 | F005 |
| F006 | F007 | F008 | F009 | F010 | F011 | F012 | F019 | F020 | F021 | F022 | F023 |
| F024 | F025 | F026 | F027 | F028 | F032 | F034 | F035 | F037 | F038 | F039 | K001 |
| K002 | K003 | K004 | K005 | K006 | K007 | K008 | K009 | K010 | K011 | K013 | K014 |
| K015 | K016 | K017 | K018 | K019 | K020 | K021 | K022 | K023 | K024 | K025 | K026 |
| K027 | K028 | K029 | K030 | K031 | K032 | K033 | K034 | K035 | K036 | K037 | K038 |
| K039 | K040 | K041 | K042 | K043 | K044 | K045 | K046 | K047 | K048 | K049 | K050 |
| K051 | K052 | K060 | K061 | K062 | K069 | K071 | K073 | K083 | K084 | K085 | K086 |
| K087 | K088 | K093 | K094 | K095 | K096 | K097 | K098 | K099 | K100 | K101 | K102 |
| K103 | K104 | K105 | K106 | K107 | K108 | K109 | K110 | K111 | K112 | K113 | K114 |
| K115 | K116 | K117 | K118 | K123 | K124 | K125 | K126 | K131 | K132 | K136 | K140 |
| K141 | K142 | K143 | K144 | K145 | K147 | K148 | K149 | K150 | K151 | K156 | K157 |
| K158 | K159 | K161 | K169 | K170 | K171 | K172 | K174 | K175 | K176 | K177 | K178 |
| K181 | P001 | P002 | P003 | P004 | P005 | P006 | P007 | P008 | P009 | P010 | P011 |
| P012 | P013 | P014 | P015 | P016 | P017 | P018 | P020 | P021 | P022 | P023 | P024 |
| P026 | P027 | P028 | P029 | P030 | P031 | P033 | P034 | P036 | P037 | P038 | P039 |
| P040 | P041 | P042 | P043 | P044 | P045 | P046 | P047 | P048 | P049 | P050 | P051 |
| P054 | P056 | P057 | P058 | P059 | P060 | P062 | P063 | P064 | P065 | P066 | P067 |
| P068 | P069 | P070 | P071 | P072 | P073 | P074 | P075 | P076 | P077 | P078 | P081 |
| P082 | P084 | P085 | P087 | P088 | P089 | P092 | P093 | P094 | P095 | P096 | P097 |
| P098 | P099 | P101 | P102 | P103 | P104 | P105 | P106 | P108 | P109 | P110 | P111 |
| P112 | P113 | P114 | P115 | P116 | P118 | P119 | P120 | P121 | P122 | P123 | P127 |
| P128 | P185 | P188 | P189 | P190 | P191 | P192 | P194 | P196 | P197 | P198 | P199 |
| P201 | P202 | P203 | P204 | P205 | U001 | U002 | U003 | U004 | U005 | U006 | U007 |
| U008 | U009 | U010 | U011 | U012 | U014 | U015 | U016 | U017 | U018 | U019 | U020 |
| U021 | U022 | U023 | U024 | U025 | U026 | U027 | U028 | U029 | U030 | U031 | U032 |
| U033 | U034 | U035 | U036 | U037 | U038 | U039 | U041 | U042 | U043 | U044 | U045 |
| U046 | U047 | U048 | U049 | U050 | U051 | U052 | U053 | U055 | U056 | U057 | U058 |
| U059 | U060 | U061 | U062 | U063 | U064 | U066 | U067 | U068 | U069 | U070 | U071 |
| U072 | U073 | U074 | U075 | U076 | U077 | U078 | U079 | U080 | U081 | U082 | U083 |
| U084 | U085 | U086 | U087 | U088 | U089 | U090 | U091 | U092 | U093 | U094 | U095 |
| U096 | U097 | U098 | U099 | U101 | U102 | U103 | U105 | U106 | U107 | U108 | U109 |
| U110 | U111 | U112 | U113 | U114 | U115 | U116 | U117 | U118 | U119 | U120 | U121 |
| U122 | U123 | U124 | U125 | U126 | U127 | U128 | U129 | U130 | U131 | U132 | U133 |
| U134 | U135 | U136 | U137 | U138 | U139 | U140 | U141 | U142 | U143 | U144 | U145 |
| U146 | U147 | U148 | U149 | U150 | U151 | U152 | U153 | U154 | U155 | U156 | U157 |
| U158 | U159 | U160 | U161 | U162 | U163 | U164 | U165 | U166 | U167 | U168 | U169 |
| U170 | U171 | U172 | U173 | U174 | U176 | U177 | U178 | U179 | U180 | U181 | U182 |
| U183 | U184 | U185 | U186 | U187 | U188 | U189 | U190 | U191 | U192 | U193 | U194 |
| U196 | U197 | U200 | U201 | U202 | U203 | U204 | U205 | U206 | U207 | U208 | U209 |
| U210 | U211 | U213 | U214 | U215 | U216 | U217 | U218 | U219 | U220 | U221 | U222 |
| U223 | U225 | U226 | U227 | U228 | U234 | U235 | U236 | U237 | U238 | U239 | U240 |
| U243 | U244 | U246 | U247 | U248 | U249 | U271 | U278 | U279 | U280 | U328 | U353 |
| U359 | U364 | U367 | U372 | U373 | U387 | U389 | U394 | U395 | U404 | U409 | U410 |
| U411 | ..... | ..... | ..... | ..... | ..... | ..... | ..... | ..... | ..... | ..... | ..... |

TABLE 2—MAXIMUM CONCENTRATIONS OF CHEMICAL CONTAMINANTS THAT ARE HAZARDOUS AT LESS THAN ONE PART PER BILLION

| Chemical constituent | Health based limit (mg/L) | Maximum allowable initial concentration (mg/L) | Vickery limit (%) |
|---|---|---|---|
| Acetyl chloride | 2.00E–04 | 2.00E+05 | 20 |
| Acrylamide (2-Propenamide) | 8.00E–06 | 8.00E+03 | 0.80 |
| Acrylonitrile (2-Propenenitrile or Vinyl Cyanide) | 6.00E–05 | 6.00E+04 | 6.00 |
| Aldrin | 2.00E–07 | 2.00E+02 | 0.02 |
| Allyl Chloride ( 3-chloroprop(yl)ene) | 3.00E–05 | 3.00E+04 | 3.00 |
| Bendiocarb (2,2-Dimethyl-1,3-benzodioxol methylcarbamate) | 3.00E–04 | 3.00E+05 | 30 |
| Benzal chloride | 2.00E–05 | 2.00E+04 | 2.0 |
| Benz[a]anthracene (1,2-Benzanthracene) | 1.30E–04 | 1.30E+05 | 13 |
| Benzidine | 2.00E–07 | 2.00E+02 | 0.02 |
| Benzo[b]fluoranthene | 1.80E–04 | 1.80E+05 | 18 |
| Benzo[k]fluoranthene | 1.70E–04 | 1.70E+05 | 17 |
| Benzo[g,h,I]-perylene | 7.60E–04 | 7.60E+05 | 76 |
| Benzo[a]pyrene | 2.00E–04 | 2.00E+05 | 20 |
| Benzotrichloride | 3.00E–06 | 3.00E+03 | 0.30 |
| Benzyl chloride ((Chloromethyl)benzene) | 2.00E–04 | 2.00E+05 | 20 |
| alpha BHC (see Lindane) alpha-hexachlorocyclohexane | 6.00E–06 | 6.00E+03 | 0.60 |
| beta BHC (see Lindane) beta-hexachlorocyclohexane | 2.00E–05 | 2.00E+04 | 2 |
| delta BHC (see Lindane) delta-hexachlorocyclohexane | 2.00E–04 | 2.00E+05 | 20 |
| Bromoacetone (1-Bromo-2-propanone) | 3.00E–05 | 3.00E+04 | 3 |
| Bromodichloromethane (Trihalomethane) | 6.00E–04 | 6.00E+05 | 60 |
| Brucine (2,3-Dimethoxystrychnidin-10-one) | 3.00E–04 | 3.00E+05 | 30 |
| Carbendazim (1H-benzimidazol-2-yl carbamic acid methyl ester) | 4.00E–04 | 4.00E+05 | 40 |
| Carbon oxyfluoride | 5.00E–04 | 5.00E+05 | 50 |
| Chlorinated fluorocarbons, not otherwise specified | 5.00E–04 | 5.00E+05 | 50 |
| Chloroacetaldehyde | 5.90E–04 | 5.90E+05 | 59 |
| Chlorodibromomethane | 4.00E–04 | 4.00E+05 | 40 |
| Chloroethers | 3.00E–05 | 3.00E+04 | 3 |
| 2-Chloroethyl vinyl ether | 3.00E–05 | 3.00E+04 | 3 |
| Chloromethyl methyl ether | 3.00E–05 | 3.00E+04 | 3 |
| Chloroprene | 3.00E–05 | 3.00E+04 | 3 |
| m-Cumenyl methylcarbamate | 3.00E–04 | 3.00E+05 | 30 |
| Cyclohexane | 9.00E–05 | 9.00E+04 | 9 |
| 2,4-Dichlorophenoxyacetic acid (2,4–D), salts, esters | 2.00E–04 | 2.00E+05 | 20 |
| p,p′-Dichlorodipheyldichloroethane (p,p′-DDD) | 1.00E–04 | 1.00E+05 | 10 |
| p,p′-Dichlorodipheyldichloroethylene (p,p′-DDE) | 1.00E–04 | 1.00E+05 | 10 |
| p,p′-Dichlorodiphehylotrichloroethane (p,p′-DDT) | 1.00E–04 | 1.00E+05 | 10 |
| Dibenz[a,h]anthracene | 3.00E–04 | 3.00E+05 | 30 |
| Dibromochloropropane | 2.00E–04 | 2.00E+05 | 20 |
| 2,3-Dibromo-1-propanol phosphate(3:1) | 3.00E–04 | 3.00E+05 | 30 |
| Dichlorobenzene | 2.00E–04 | 2.00E+05 | 20 |
| 3,3'-Dichlorobenzidine | 8.00E–05 | 8.00E+04 | 8 |
| sym-Dichloroethyl ether | 3.00E–05 | 3.00E+04 | 3 |
| sym-Dichloromethyl ether | 1.60E–07 | 1.60E+02 | 0.016 |
| Dichloropropane | 6.00E–05 | 6.00E+04 | 6 |
| Dichloropropanol | 6.00E–05 | 6.00E+04 | 6 |
| Dichloropropene | 3.00E–05 | 3.00E+04 | 3 |
| cis-1,3-Dichloropropene | 3.00E–05 | 3.00E+04 | 3 |
| trans-1,3-Dichloropropene | 3.00E–05 | 3.00E+04 | 3 |
| Dieldrin | 2.00E–06 | 2.00E+03 | 0.2 |
| Diethylene glycol, dicarbamate | 3.00E–04 | 3.00E+05 | 30 |
| O,O-Diethyl O-pyrazinyl phosphorothioate | 4.00E–04 | 4.00E+05 | 40 |
| Dimetilan | 3.00E–04 | 3.00E+05 | 30 |
| 2,6-Dinitrotoluene | 3.10E–04 | 3.10E+05 | 31 |
| Di-n-octyl phthalate | 4.90E–04 | 4.90E+05 | 49 |
| Di-n-propylnitrosamine | 5.00E–06 | 5.00E+03 | 0.5 |
| 1,2-Diphenylhydrazine | 5.00E–05 | 5.00E+04 | 5 |
| Dithiocarbamates (total) | 9.00E–04 | 9.00E+05 | 90 |
| Ethylene dibromide | 5.00E–05 | 5.00E+04 | 5 |
| Ethylidene chloride | 7.00E–04 | 7.00E+05 | 70 |
| Famphur | 3.00E–04 | 3.00E+05 | 30 |
| Fluoroacetic acid, sodium salt | 7.00E–04 | 7.00E+05 | 70 |
| Formetanate hydrochloride | 3.00E–04 | 3.00E+05 | 30 |
| Formparanate | 3.00E–04 | 3.00E+05 | 30 |
| Heptachlor (and its epoxide) | 2.00E–04 | 2.00E+05 | 20 |
| 1,2,3,4,6,7,8-Heptachlorodibenzofuran | 2.50E–05 | 2.50E+04 | 2.5 |
| 1,2,3,4,7,8,9-Heptachlorodibenzofuran | 2.50E–05 | 2.50E+04 | 2.5 |
| 1,2,3,4,6,7,8-Heptachlorodibenzo-p-dioxin | 2.50E–05 | 2.50E+04 | 2.5 |
| Hexachlorobutadiene | 5.00E–04 | 5.00E+05 | 50 |
| Hexachlorodibenzo-p-dioxins | 2.50E–05 | 2.50E+04 | 2.5 |

TABLE 2—MAXIMUM CONCENTRATIONS OF CHEMICAL CONTAMINANTS THAT ARE HAZARDOUS AT LESS THAN ONE PART PER BILLION—Continued

| Chemical constituent | Health based limit (mg/L) | Maximum allowable initial concentration (mg/L) | Vickery limit (%) |
|---|---|---|---|
| Hexaethyl tetraphosphate | 4.00E–04 | 4.00E+05 | 40 |
| Hydrazine | 1.00E–05 | 1.00E+04 | 1 |
| Indeno[1,2,3-cd] pyrene | 4.30E–04 | 4.30E+05 | 43 |
| Isolan | 3.00E–04 | 3.00E+05 | 30 |
| Lindane (1,2,3,4,5,6-hexa-chlorocyclohexane, gamma isomer) | 2.00E–04 | 2.00E+05 | 20 |
| Manganese dimethyldithiocarbamate | 9.00E–04 | 9.00E+05 | 90 |
| Mercury fulminate | 1.00E–04 | 1.00E+05 | 10 |
| Methiocarb | 5.00E–04 | 5.00E+05 | 50 |
| Methyl chlorocarbonate | 5.90E–04 | 5.90E+05 | 59 |
| Metolcarb | 3.00E–04 | 3.00E+05 | 30 |
| N-methyl-N′-nitro-N-nitroso-guanidine (MNNG) | 1.50E–04 | 1.50E+05 | 15 |
| Naphthalene | 6.00E–04 | 6.00E+05 | 60 |
| p-Nitrophenol | 1.30E–04 | 1.30E+05 | 13 |
| N-Nitrosodiethanolamine | 1.00E–05 | 1.00E+04 | 1 |
| N-Nitrosodiethylamine | 2.00E–07 | 2.00E+02 | 0.02 |
| N-Nitrosodimethylamine | 7.00E–07 | 7.00E+02 | 0.07 |
| N-Nitrosodi-n-butylamine | 6.00E–06 | 6.00E+03 | 0.6 |
| N-Nitrosomethylethylamine | 2.00E–06 | 2.00E+03 | 0.2 |
| N-Nitrosomethylvinylamine | 1.50E–04 | 1.50E+05 | 15 |
| N-Nitroso-N-methylurea | 1.50E–04 | 1.50E+05 | 15 |
| N-Nitroso-N-methlurethane | 1.50E–04 | 1.50E+05 | 15 |
| N-Nitrosopyrrolidine | 2.00E–05 | 2.00E+04 | 2 |
| 1,2,3,4,6,7,8,9-Octachlorodibenzofuran | 5.00E–05 | 5.00E+04 | 5 |
| 1,2,3,4,6,7,8,9-Octachlorodibenzo-p-dioxin | 5.00E–05 | 5.00E+04 | 5 |
| Parathion | 6.00E–04 | 6.00E+05 | 60 |
| Pebulate | 8.00E–04 | 8.00E+05 | 80 |
| Pentachlorodibenzofurans, total | 2.50E–05 | 2.50E+04 | 2.5 |
| Pentachlorodibenzo-p-dioxin, total | 2.50E–05 | 2.50E+04 | 2.5 |
| Pentachlorophenols and their chlorophenoxy derivative acids, esters amines and salts. | 7.60E–05 | 7.60E+04 | 7.6 |
| 1,3-Pentadiene | 3.00E–05 | 3.00E+04 | 3 |
| Phorate | 3.00E–04 | 3.00E+05 | 30 |
| Phosgene | 2.00E–04 | 2.00E+05 | 20 |
| Phosphorithioic and phosphordithioic acid esters | 3.00E–04 | 3.00E+05 | 30 |
| Physostigmine | 3.00E–04 | 3.00E+05 | 30 |
| Physostigmine salicylate | 3.00E–04 | 3.00E+05 | 30 |
| Polychlorinated Biphenyls | 5.00E–04 | 5.00E+05 | 50 |
| Prosulfocarb | 6.00E–04 | 6.00E+05 | 60 |
| Reserpine | 3.00E–04 | 3.00E+05 | 30 |
| Streptozotocin | 1.50E–04 | 1.50E+05 | 15 |
| Sulfur phosphide | 3.00E–04 | 3.00E+05 | 30 |
| Tars | 3.00E–04 | 3.00E+05 | 30 |
| Tetrachlorodibenzofurans | 1.00E–05 | 1.00E+04 | 1 |
| Tetrachlorodibenzo-p-dioxins | 3.00E–08 | 3.00E+01 | 0.003 |
| 1,1,2,2-Tetrachloroethane | 2.00E–04 | 2.00E+05 | 20 |
| Tetraethyl lead | 3.50E–06 | 3.50E+03 | 0.35 |
| Thiodicarb | 3.00E–04 | 3.00E+05 | 30 |
| Thiofanox | 3.00E–04 | 3.00E+05 | 30 |
| Tirpate | 3.00E–04 | 3.00E+05 | 30 |
| Trichlorobenzene | 1.20E–04 | 1.20E+05 | 12 |
| Trichloromethanethiol | 2.00E–04 | 2.00E+05 | 20 |
| Triethylamine | 5.00E–04 | 5.00E+05 | 50 |

*Electronic Access.* You may access this **Federal Register** document electronically from the Government Printing Office under the ''**Federal Register**'' listings at FDSys (*http://www.gpo.gov/fdsys/browse/collection.action?collectionCode=FR).*

Dated: March 10, 2015.

**Kevin M. Pierard,**

*Acting Director, Water Division.*

[FR Doc. 2015–06970 Filed 3–26–15; 8:45 am]

BILLING CODE 6560–50–P

## ENVIRONMENTAL PROTECTION AGENCY

**[EPA–HQ–OECA–2014–0097; FRL–9923–32–OEI]**

### Information Collection Request Submitted to OMB for Review and Approval; Comment Request; NESHAP for Plating and Polishing Area Sources (Renewal)

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice.

**SUMMARY:** The Environmental Protection Agency (EPA) has submitted an information collection request (ICR), ''NESHAP for Plating and Polishing Area Sources (40 CFR part 63, subpart WWWWWW) (Renewal)'' (EPA ICR No. 2294.04, OMB Control No. 2060–0623), to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq*). This is a proposed extension of the ICR, which is currently approved through April 30, 2015. Public comments were previously requested via the **Federal Register** (79 FR 30117) on May 27, 2014 during a 60-day comment period. This notice allows for an additional 30 days for public comments. A fuller description of the ICR is given below, including its estimated burden and cost to the public. An Agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

**DATES:** Additional comments may be submitted on or before April 27, 2015.

**ADDRESSES:** Submit your comments, referencing Docket ID Number EPA–HQ–OECA–2014–0097, to (1) EPA online using *www.regulations.gov* (our preferred method), or by email to *docket.oeca@epa.gov,* or by mail to: EPA Docket Center, Environmental Protection Agency, Mail Code 28221T, 1200 Pennsylvania Ave. NW., Washington, DC 20460; and (2) OMB via email to *oira_submission@omb.eop.gov.* Address comments to OMB Desk Officer for EPA.

EPA's policy is that all comments received will be included in the public docket without change including any personal information provided, unless the comment includes profanity, threats, information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute.

**FOR FURTHER INFORMATION CONTACT:** Patrick Yellin, Monitoring, Assistance, and Media Programs Division, Office of Compliance, Mail Code 2227A, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460; telephone number: (202) 564–2970; fax number: (202) 564–0050; email address: *yellin.patrick@epa.gov.*

**SUPPLEMENTARY INFORMATION:** Supporting documents, which explain in detail the information that the EPA will be collecting, are available in the public docket for this ICR. The docket can be viewed online at *www.regulations.gov* or in person at the EPA Docket Center, EPA WJC West, Room 3334, 1301 Constitution Ave. NW., Washington, DC. The telephone number for the Docket Center is 202–566–1744. For additional information about EPA's public docket, visit: *http://www.epa.gov/dockets.*

*Abstract:* The National Emission Standards for Hazardous Air Pollutants (NESHAP) for Plating and Polishing Area Sources regulations apply to respondents that are plating and polishing facilities engaged in any of the following processes: Non-chromium electroplating; electroless or non-electrolytic plating; other non-electrolytic metal coating processes such as chromate conversion coating, nickel acetate sealing, sodium dichromate sealing, manganese phosphate coating, thermal spraying; dry mechanical polishing of finished metals and formed products after plating or thermal spraying, electroforming, and electro-polishing. New facilities include those that commenced construction or reconstruction after the date of proposal. The required annual reports are used to determine periods of excess emissions, identify problems at the facility, verify operation/maintenance procedures and for compliance determinations. This information is also collected to assure compliance with 40 CFR part 63, subpart WWWWWW.

*Form Numbers:* None.

*Respondents/affected entities:* Owners and operators of plating and polishing facilities.

*Respondent's obligation to respond:* Mandatory (40 CFR part 63, subpart WWWWWW).

*Estimated number of respondents:* 2,900 (total).

*Frequency of response:* Initially and annually.

*Total estimated burden:* 64,315 hours (per year). Burden is defined at 5 CFR 1320.3(b).

*Total estimated cost:* $6,304,966 (per year), which includes $8,314 in annualized capital/start-up costs and 0 in operation & maintenance costs.

*Changes in the Estimates:* There is an increase of 31,208 hours in the total estimated respondent burden compared with the ICR currently approved by OMB. The change in burden and cost estimates occurred as a result of updating the burden tables to accurately reflect the reporting and recordkeeping requirements of the rule.

**Courtney Kerwin,**

*Acting Director, Collection Strategies Division.*

[FR Doc. 2015–07028 Filed 3–26–15; 8:45 am]

**BILLING CODE 6560–50–P**

## ENVIRONMENTAL PROTECTION AGENCY

**[EPA–HQ–OPP–2015–0058; FRL–9922–78]**

### Registration Review; Draft Human Health and/or Ecological Risk Assessment; Notice of Availability

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice.

**SUMMARY:** This notice announces the availability of EPA's draft human health and/or ecological risk assessment for the registration review of propoxycarbazone-sodium, and opens a public comment period on this document. Registration review is EPA's periodic review of pesticide registrations to ensure that each pesticide continues to satisfy the statutory standard for registration, that is, the pesticide can perform its intended function without unreasonable adverse effects on human health or the environment. As part of the registration review process, the Agency has completed a comprehensive draft human health and ecological risk assessment for all uses of the previously listed pesticide chemical. The ecological risk assessment includes or will include an assessment of risks to listed species, and the human health and ecological risk assessments includes or will include a determination of endocrine disrupter effects for the case. After reviewing comments received during the public comment period, EPA may issue revised risk assessments, explain any changes to the draft risk assessments, and respond to comments. The Agency also will request public input on any proposed risk mitigation measures before completing a proposed registration review decision for the previously listed pesticide chemical. Through this program, EPA is ensuring that each pesticide's registration is based on current scientific and other knowledge, including its effects on human health and the environment registration is based on current

scientific and other knowledge, including its effects on human health and the environment.

**DATES:** Comments must be received on or before May 26, 2015.

**ADDRESSES:** Submit your comments, identified by docket identification (ID) number EPA–HQ–OPP–2015–0058, by one of the following methods:

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

**FOR FURTHER INFORMATION CONTACT:** *For pesticide specific information contact:* Chemical Review Manager identified in the table in Unit III.A. for the pesticide of interest.

*For general questions on the registration review program, contact:* Richard Dumas, Pesticide Re-Evaluation Division (7508P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001; telephone number: (703) 305–8015; email address: *dumas.richard@epa.gov.*

**SUPPLEMENTARY INFORMATION:**

## I. General Information

### *A. Does this action apply to me?*

This action is directed to the public in general, and may be of interest to a wide range of stakeholders including environmental, human health, farm worker, and agricultural advocates; the chemical industry; pesticide users; and members of the public interested in the sale, distribution, or use of pesticides. Since others also may be interested, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the applicability of this action to a particular entity, consult the Chemical Review Manager listed under **FOR FURTHER INFORMATION CONTACT**.

### *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 preparing and submitting your comments, see the commenting tips at *http://www.epa.gov/dockets/comments.html.*

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

## II. Authority

EPA is conducting its registration review of dimethoate, flurprimido, fosamine ammonium, propoxur, propoxycarbazone-sodium, and tetrachlorvinphos pursuant to section 3(g) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) and the Procedural Regulations for Registration Review at 40 CFR part 155, subpart C. Section 3(g) of FIFRA provides, among other things, that the registrations of pesticides are to be reviewed every 15 years. Under FIFRA, a pesticide product may be registered or remain registered only if it meets the statutory standard for registration given in FIFRA section 3(c)(5) (7 U.S.C. 136a(c)(5)). When used in accordance with widespread and commonly recognized practice, the pesticide product must perform its intended function without unreasonable adverse effects on the environment; that is, without any unreasonable risk to man or the environment, or a human dietary risk from residues that result from the use of a pesticide in or on food.

## III. Registration Reviews

As directed by FIFRA section 3(g), EPA is reviewing the pesticide registration for propoxycarbazone-sodium to ensure that it continues to satisfy the FIFRA standard for registration—that is, this pesticide can still be used without unreasonable adverse effects on human health or the environment. Information on the type of pesticide, target pests and uses sites can be found later in this document. EPA has completed draft human health and/or ecological risk assessments for all propoxycarbazone-sodium, uses.

Pursuant to 40 CFR 155.53(c), EPA is providing an opportunity, through this notice of availability, for interested parties to provide comments and input concerning the Agency's draft human health and ecological risk assessment for propoxycarbazone-sodium. Such comments and input could address, among other things, the Agency's risk assessment methodologies and assumptions, as applied to this draft risk assessment. The Agency will consider all comments received during the public comment period and make changes, as appropriate, to the draft human health and ecological risk assessments. EPA will then, as needed, issue revised risk assessments, explain any changes to the draft risk assessments, and respond to the comments. In the **Federal Register** notice announcing the availability of the revised risk assessments, if a revised risk assessment indicates risks of concern, the Agency may provide a comment period for the public to submit suggestions for mitigating the risks identified in the revised risk assessment before developing a proposed registration review decision. Alternatively, the Agency may seek public comment on a proposed registration review decision without revising the risk assessments for any given chemical. At present, EPA is releasing registration review draft risk assessments for the pesticide case identified in the following table and further described after the table.

TABLE—REGISTRATION REVIEW DRAFT RISK ASSESSMENTS

| Registration review case name and No. | Pesticide docket ID No. | Chemical review manager, telephone number, and email address |
|---|---|---|
| Propoxycarbazone-sodium (Case 7264) | EPA–HQ–OPP–2015–0095 | Lata Venkateshwara, (703) 308–2722, *Venkateshwara.lata@epa.gov* |

*Propoxycarbazone-sodium* (Draft Risk Assessments). The registration review docket for propoxycarbazone-sodium (EPA–HQ–OPP–2015–0095) is opening for public comment on the Preliminary Work Plan (PWP), the combined summary document and draft human health risk assessment, and the combined problem formulation and draft ecological risk assessment. Propoxycarbazone-sodium is a selective post-emergence herbicide belonging to the sulfonamide class of herbicides. It is formulated as a water dispersible granule, and is currently registered for use in control of certain grasses and broadleaf weeds in wheat, triticale, pastureland, rangeland, and conservation reserve program. There are no registered residential uses. EPA has completed comprehensive draft human health and draft ecological risk assessments for all propoxycarbazone-sodium uses.

1. *Other related information.* Additional information on propoxycarbazone-sodium is available on the Pesticide Registration Review Status Web page for this pesticide, *http://www.epa.gov/pesticides/chemicalsearch/*. Information on the Agency's registration review program and its implementing regulation is available at *http://www.epa.gov/oppsrrd1/registration_review.*

2. *Information submission requirements.* Anyone may submit data or information in response to this document. To be considered during a pesticide's registration review, the submitted data or information must meet the following requirements:

- To ensure that EPA will consider data or information submitted, interested persons must submit the data or information during the comment period. The Agency may, at its discretion, consider data or information submitted at a later date.
- The data or information submitted must be presented in a legible and useable form. For example, an English translation must accompany any material that is not in English and a written transcript must accompany any information submitted as an audiographic or videographic record. Written material may be submitted in paper or electronic form.
- Submitters must clearly identify the source of any submitted data or information.
- Submitters may request the Agency to reconsider data or information that the Agency rejected in a previous review. However, submitters must explain why they believe the Agency should reconsider the data or information in the pesticide's registration review.

As provided in 40 CFR 155.58, the registration review docket for each pesticide case will remain publicly accessible through the duration of the registration review process; that is, until all actions required in the final decision on the registration review case have been completed.

**Authority:** 7 U.S.C. 136 *et seq.*

Dated: March 13, 2015.

**Richard P. Keigwin, Jr.,**

*Director, Pesticide Re-Evaluation Division, Office of Pesticide Programs.*

[FR Doc. 2015–06939 Filed 3–26–15; 8:45 am]

BILLING CODE 6560–50–P

## ENVIRONMENTAL PROTECTION AGENCY

**[EPA–HQ–OPP–2015–0060; FRL–9923–74]**

## Registration Review Interim Decisions; Notice of Availability

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice.

**SUMMARY:** This notice announces the availability of EPA's final/interim registration review decisions for several pesticide cases. Registration review is EPA's periodic review of pesticide registrations to ensure that each pesticide continues to satisfy the statutory standard for registration, that is, that the pesticide can perform its intended function without causing unreasonable adverse effects on human health or the environment. Through this program, EPA is ensuring that each pesticide's registration is based on current scientific and other knowledge, including its effects on human health and the environment.

**FOR FURTHER INFORMATION CONTACT:**

*For pesticide specific information, contact:* The Chemical Review Manager for the pesticide of interest identified in the table in Unit II.A.

*For general information on the registration review program, contact:* Richard Dumas, Pesticide Re-Evaluation Division (7508P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001; telephone number: (703) 308–8015; email address: *dumas.richard@epa.gov.*

**SUPPLEMENTARY INFORMATION:**

### I. General Information

*A. Does this action apply to me?*

This action is directed to the public in general, and may be of interest to a wide range of stakeholders including environmental, human health, farm worker, and agricultural advocates; the chemical industry; pesticide users; and members of the public interested in the sale, distribution, or use of pesticides. Since others also may be interested, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the applicability of this action to a particular entity, consult the pesticide specific contact person listed under **FOR FURTHER INFORMATION CONTACT**.

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

The docket for this action, identified by docket identification (ID) number EPA–HQ–OPP–2015–0060, is available at *http://www.regulations.gov* or at the Office of Pesticide Programs Regulatory Public Docket (OPP Docket) in the Environmental Protection Agency Docket Center (EPA/DC), West William Jefferson Clinton Bldg., Rm. 3334, 1301 Constitution Ave. NW., Washington, DC 20460–0001. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the OPP Docket is (703) 305–5805. Please review the visitor instructions and additional information about the docket available at *http://www.epa.gov/dockets.*

### II. What action is the Agency taking?

Pursuant to 40 CFR 155.58(c), this notice announces the availability of EPA's interim registration review

decision for fluazinam (case 7013), flumetsulam (case 7229), flutolanil (case 7010), hexaflumuron (case 7413), iron salts (case 4058), piperalin (case 3114), quinclorac (case 7222) and triflumizole (case 7003).

Pursuant to 40 CFR 155.57, a registration review decision is the Agency's determination whether a pesticide meets, or does not meet, the standard for registration in FIFRA. EPA has such a determination for the cases listed in the table below. The interim registration review decisions for each case are found in the respective pesticide dockets. Information in the dockets describes the Agency's rationale for issuing each interim decision for fluazinam (case 7013), flumetsulam (case 7229), flutolanil (case 7010), hexaflumuron (case 7413), iron salts (case 4058), piperalin (case 3114), quinclorac (case 7222), and triflumizole (case 7003), EPA has considered the following chemicals/cases in light of the FIFRA standard for registration: Fluazinam (case 7013), flumetsulam (case 7229), flutolanil (case 7010), hexaflumuron (case 7413), iron salts (case 4058), piperalin (case 3114), quinclorac (case 7222), and triflumizole (case 7003), the Interim Decision documents in the docket describe the Agency's rationale for issuing a registration review final/interim decision for each of these pesticides.

In addition to the interim registration review decision document, the registration review docket for fluazinam, flumetsulam, flutolanil, hexaflumuron, iron salts, piperalin, quinclorac, and triflumizole also includes other relevant documents related to the registration review of these cases. The proposed interim registration review decisions were posted to the docket and the public was invited to submit any comments or new information.

TABLE—REGISTRATION REVIEW INTERIM DECISIONS

| Registration review case name and No. | Pesticide Docket ID No. | Chemical Review Manager, telephone number, email address |
|---|---|---|
| Fluazinam (case 7013) | EPA–HQ–OPP–2009–0039 | Lata Venkateshwara, (703) 308–2722, *venkateshwara.lata@epa.gov*. |
| Flumetsulam (case 7229) | EPA–HQ–OPP–2008–0625 | Katherine St. Clair, (703) 347–8778, *stclair.katherine@epa.gov*. |
| Flutolanil (case 7010) | EPA–HQ–OPP–2008–0148 | Garland Waleko, (703) 308–8049, *waleko.garland@epa.gov*. |
| Hexaflumuron (case 7413) | EPA–HQ–OPP–2009–0568 | Ricardo Jones, (703) 347–0493, *jones.ricardo@epa.gov*. |
| Iron salts (case 4058) | EPA–HQ–OPP–2008–0626 | Katherine St. Clair, (703) 347–8778, *stclair.katherine@epa.gov*. |
| Piperalin (case 3114) | EPA–HQ–OPP–2009–0483 | Matthew Manupella, (703) 347–0411, *manupella.matthew@epa.gov*. |
| Quinclorac (case 7222) | EPA–HQ–OPP–2007–1135 | Margaret Hathaway, (703) 305–5076, *hathaway.margaret@epa.gov*. |
| Triflumizole (case 7003) | EPA–HQ–OPP–2006–0115 | Steven Snyderman, (703) 347–0249, *snyderman.steven@epa.gov*. |

*Fluazinam.* Interim Decision (EPA–HQ–OPP–2009–0039). The registration review docket for fluazinam (EPA–HQ–OPP–2009–0039) opened in a notice published in the **Federal Register** of September 23, 2009 (74 FR 48559) (FRL–8434–6). Fluazinam is a contact fungicide of the pyridinamine class registered for agricultural use on a variety of crops, including peanuts, potatoes, and beans. EPA conducted a human health risk assessment and did not identify any risks of concern. In addition, EPA conducted an environmental fate and effects risk assessment. Based on low-risk estimates, and the conservative nature of the risk assessment, the Agency has determined that fluazinam use does not pose unreasonable risks to the environment from currently registered uses of fluazinam. The Agency is not proposing mitigation changes at this time. EPA published an interim proposed registration review decision in the **Federal Register** on September 24, 2014 (79 FR 57084) (FRL–9916–39). Two comments were received on the proposed interim decision, which did not change the conclusions of the decision. At this time in registration review, it is premature to make an endangered species effects determination for federally listed species and their designated critical habitats under the Endangered Species Act (ESA). Fluazinam has also not been evaluated under the Endocrine Disruptor Screening Program (EDSP). Therefore, the Agency's final registration review decision is dependent upon the results of the evaluation of risks to threatened and endangered species and of potential endocrine disruptor risk. Pending the outcome of these actions, EPA is issuing an interim registration review decision for fluazinam at this time.

*Flumetsulam.* Interim Decision (EPA–HQ–OPP–2008–0625). Flumetsulam has been registered as a pesticide in the United States since 1985, and is currently registered for use as an herbicide for control of broadleaf weeds in field corn and soybeans. Flumetsulam is registered only for agricultural uses; there are no registered residential or public recreational uses of flumetsulam. EPA conducted a human health risk assessment and did not identify any risks of concern. No human health mitigation is being undertaken for flumetsulam at this time by the Agency. The Agency also conducted an ecological risk assessment for existing flumetsulam uses listed above. For existing uses, risks of concern were identified for listed and non-listed aquatic and terrestrial plant species from the use of flumetsulam on corn and soybeans. Listed aquatic and terrestrial animals may also be affected through indirect effects because of the potential effects on listed and non-listed aquatic and terrestrial plant species. EPA published a proposed interim registration review decision for flumetsulam in the **Federal Register** on September 24, 2014 (79 FR 57084) (FRL–9916–39). The document includes various label changes to mitigate risks to non-target plants by reducing spray drift. Comments from three stakeholders were received on the proposed interim decision; these comments did not change the conclusions of the decision or the proposed mitigation to address ecological risks. At this time in registration review, it is premature to make an endangered species effects determination for federally listed species and their designated critical habitats under the ESA. Also, flumetsulam has not yet been evaluated under the EDSP. Therefore, the Agency's final registration review decision is dependent upon the results of the evaluation of risks to threatened and endangered species and of potential endocrine disruptor risk. Pending the outcome of these actions, EPA is issuing an interim registration review decision for flumetsulam at this time.

*Flutolanil.* Interim Decision (EPA–HQ–OPP–2008–0148). Flutolanil is a systemic benzanilide fungicide first registered by EPA in 1993, used to control fungal diseases in both food crops (peanuts, potatoes, rice) and non-food sites (turf, greenhouse, field-grown and potted ornamentals). Flutolanil has

both protective and curative activity. EPA completed a qualitative draft human health risk assessment for all flutolanil uses and for proposed label amendments for brassica (cole) leafy vegetables (Crop Group 5), turnip greens, rice, turf, and peanuts. No risks of concern were identified. The Agency also conducted an ecological risk assessment for existing and proposed uses listed above. For existing uses, risks of concern were identified for freshwater fish and estuarine/marine invertebrates in the water column and sediment, and for terrestrial dicots and aquatic non-vascular plants for some uses. EPA published an interim proposed registration review decision in the **Federal Register** on September 24, 2014. One comment was received on the proposed interim decision, which did not change the conclusions of the decision or the proposed mitigation to address risks to aquatic organisms. At this time in registration review, it is premature to make an endangered species effects determination for federally listed species and their designated critical habitats under the ESA. Flutolanil has also not been evaluated under the EDSP. Therefore, the Agency's final registration review decision is dependent upon the results of the evaluation of risks to threatened and endangered species and of potential endocrine disruptor risk. Pending the outcome of these actions, EPA is issuing an interim registration review decision for flutolanil at this time.

*Hexaflumuron.* Interim Decision (EPA–HQ–OPP–2009–0568). Hexaflumuron is an insecticide/termiticide applied in above- and below-ground termite bait systems, and is intended to be used near commercial, recreational or residential structures. EPA completed a qualitative human health risk assessment and no risks of concern were identified. The Agency also conducted an ecological risk assessment and determined that hexaflumuron does not pose unreasonable risk to the environment. The Agency has made an endangered species effects determination of ''no effects'' for aquatic organisms and a determination of ''no habitat modification'' to all designated critical habitats under the ESA. EPA published an interim proposed registration review decision for hexaflumuron in the **Federal Register** on September 24, 2014. Hexaflumuron has not been evaluated under EDSP. Therefore, the Agency's final registration review decision is dependent on the result of the Section 7 Endangered Species consultation with the Fish and Wildlife Service, and the potential endocrine disruptor risk. Pending the outcome of these actions, EPA is issuing an interim registration review decision for hexaflumuron at this time.

*Iron Salts.* Interim Decision (EPA–HQ–OPP–2008–0626). The iron salts registration review case includes two active chemicals, ferric sulfate and ferrous sulfate monohydrate. Iron is the fourth most abundant element and the second most abundant metal in the earth's crustal rocks. Iron occurs in a wide variety of minerals, and it is present in foods naturally and through added ingredients. Iron salts are herbicides registered for use on outdoor lawns and ornamentals to control mosses in a variety of residential and commercial areas. There are no registered agricultural uses of iron salts products. EPA conducted a human health risk assessment and did not identify any risks of concern. The Agency relied upon the previous iron salts human health risk assessment, completed for the iron salts Reregistration Eligibility Decision (RED), to support the registration review of iron salts since no significant changes have been made since the RED that impact the risk conclusions for this case. The Agency also conducted an ecological risk assessment for existing uses of iron salts listed above. For existing uses, EPA does not expect iron salts to have direct or indirect adverse effects to non-listed and listed terrestrial vertebrates, terrestrial plants, terrestrial invertebrates, and aquatic organisms or to adversely modify any designated critical habitat for such species and has made a ''no effect'' determination under the ESA for those species and designated critical habitat for such species. EPA published an interim proposed registration review decision for iron salts in the **Federal Register** on September 24, 2014. One comment was received on the proposed interim decision; the comment did not change the conclusions of the decision. At this time in registration review, iron salts has not yet been evaluated under the EDSP. Therefore, the Agency's final registration review decision is dependent upon the results of the evaluation of potential endocrine disruptor risk. Pending the completion of EDSP work for this case, EPA is issuing an interim registration review decision for iron salts at this time.

*Piperalin.* Interim Decision (EPA–HQ–OPP–2009–0483). Currently, piperalin is registered exclusively for use to control powdery mildew on ornamental plants, shrubs, vines, and trees grown in commercial greenhouses and other similar enclosed structures with nonporous coverings. EPA conducted a human health risk assessment and did not identify any risks of concern. The Agency did not conduct a comprehensive ecological risk assessment since the use pattern does not likely result in outdoor exposures. No risks of concern were identified and the Agency has made a ''no effect'' determination for federally listed endangered and threatened (listed) species as well as a ''no habitat modification'' determination for all designated critical habitat. Piperalin has not been evaluated under the EDSP. Therefore, the Agency's final registration review decision is dependent upon the result of the evaluation of potential endocrine disruptor risk. The EPA is issuing an interim registration review decision for piperalin.

*Quinclorac.* Interim Decision (EPA–HQ–OPP–2007–1135). Quinclorac is a systemic herbicide used to control broadleaf and grass weeds via ground spray or aerial application. Currently registered uses of quinclorac include turf grasses, sorghum, wheat, rangeland/pasture, rights-of way/fencerow/hedgerow, grass grown for seed, fallow land, grass forage/fodder/hay, rice, rhubarb, and low growing berry (except strawberry) subgroup 13–07H. EPA conducted a human health risk assessment and did not identify any risks of concern. No human health mitigation is being undertaken for quinclorac at this time by the Agency. However, a data gap is identified by the Quinclorac human health risk assessment: An updated analytical standard for the quinclorac DMA salt to the EPA National Pesticide Standards Repository. The Agency also conducted an ecological risk assessment for existing listed above. For existing uses, risks of concern were identified for listed and non-listed terrestrial plant species as well as listed aquatic vascular plants from use of quinclorac on rice. EPA published an interim proposed registration review decision for quinclorac in the **Federal Register** on September 24, 2014. The document includes various label changes to mitigate risks to terrestrial plants by reducing spray drift and also calls for updates to quinclorac tolerances. One comment was received on the proposed interim decision, which did not change the conclusions of the decision or the proposed mitigation to address ecological risks. At this time in registration review, it is premature to make an endangered species effects determination for federally listed species and their designated critical

habitats under the ESA. Quinclorac has also not yet been evaluated under the EDSP. Therefore, the Agency's final registration review decision is dependent upon the results of the evaluation of risks to threatened and endangered species and of potential endocrine disruptor risk. Pending the outcome of these actions, EPA is issuing an interim registration review decision for quinclorac this time.

*Triflumizole.* Interim Decision (EPA–HQ–OPP–2006–0115). Triflumizole is a broad spectrum, imidazole fungicide (group 3) that inhibits ergosterol biosynthesis in fungi, acting as a systemic fungicide. Triflumizole is registered for application to a number of food and non-food crops, including ornamentals in greenhouses/shade houses, interior scapes, and Christmas trees/conifers on nurseries and plantations. It is also used as a preplant seed piece treatment on pineapples. EPA conducted a quantitative human health risk assessment and identified occupational handler and post-application exposure risks of concern for several use scenarios. To mitigate the occupational handler risks of concern when applying triflumizole with open cab air blast equipment to apple, pear, and cherry, the technical registrant Chemtura agreed to require additional personal protective equipment of a chemical resistant hat. To address occupational post-application risks of concern, the registrant agreed to increase re-entry intervals (REIs) for grapes (table and raisin) to 1-day and hops to 3 days. The ecological risk assessment identified potential risks to listed mammals, birds, herpatofauna, freshwater fish, and aquatic estuarine/marine invertebrates. To mitigate potential chronic risk to non-listed mammals, the registrant agreed to label changes reducing the number of applications per year for certain crops and increasing the retreatment interval (RTI) to reflect typical usage. EPA published a proposed interim registration review decision for triflumizole in the **Federal Register** on September 24, 2014. The document includes the various label changes to mitigate risks detailed previously. Only one comment from the Center for Biological Diversity was received on the proposed interim decision; this comment did not change the conclusions of the decision or the proposed mitigation to address the risks. At this time in registration review, it is premature to make an endangered species effects determination for federally listed species and their designated critical habitats under the ESA. Also, triflumizole has not yet been evaluated under the EDSP. Therefore, the Agency's final registration review decision is dependent upon the results of the evaluation of risks to threatened and endangered species and of potential endocrine disruptor risk. Pending the outcome of these actions, EPA is issuing an interim registration review decision for triflumizole at this time.

Pursuant to 40 CFR 155.58(c), the registration review case docket for fluazinam (case 7013), flumetsulam (case 7229), flutolanil (case 7010), hexaflumuron (case 7413), iron salts (case 4058), piperalin (case 3114), quinclorac (case 7222), and triflumizole (case 7003) will remain open until all actions required in the final/interim decision have been completed.

Background on the registration review program is provided at: *http://www.epa.gov/oppsrrd1/registration_review.* Links to earlier documents related to the registration review of these pesticides are provided at: *http://www2.epa.gov/pesticide-reevaluation/individualpesticides-registration-review.*

**Authority:** 7 U.S.C. 136 *et seq.*

Dated: March 17, 2015.

**Richard P. Keigwin, Jr.,**

*Director, Pesticide Re-Evaluation Division, Office of Pesticide Programs.*

[FR Doc. 2015–07004 Filed 3–26–15; 8:45 am]

**BILLING CODE 6560–50–P**

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## ENVIRONMENTAL PROTECTION AGENCY

**[ER–FRL–9020–2]**

## Environmental Impact Statements; Notice of Availability

**AGENCY:** Office of Federal Activities, General Information (202) 564–7146 or *http://www.epa.gov/compliance/nepa/.*

Weekly receipt of Environmental Impact Statements.

Filed 03/16/2015 Through 03/20/2015.

Pursuant to 40 CFR 1506.9.

### Notice

Section 309(a) of the Clean Air Act requires that EPA make public its comments on EISs issued by other Federal agencies. EPA's comment letters on EISs are available at: *http://www.epa.gov/compliance/nepa/eisdata.html.*

EIS No. 20150075, Draft Supplement, FHWA, AK, Sterling Highway MP 45—60 Project, Comment Period Ends: 05/26/2015, Contact: John Lohrey 907–586–7418

EIS No. 20150076, Final EIS, BLM, ID, Thompson Creek Mine Expansion and Public Land Disposal Proposed Resource Management Plan Amendment, Review Period Ends: 04/27/2015, Contact: Ken Gardner 208–879–6210

EIS No. 20150077, Final EIS, USFS, CO, Eldora Mountain Resort Ski Area Projects, Review Period Ends: 05/04/2015, Contact: K. Reid Armstrong 303–541–2532

EIS No. 20150078, Draft EIS, NRC, IL, Generic—License Renewal of Nuclear Plants, Supplement 55 Regarding Braidwood Station Units 1 and 2, Comment Period Ends: 05/12/2015, Contact: Tam Tran 301–415–3617

EIS No. 20150079, Final EIS, NRC, TN, Generic- License Renewal of Nuclear Plants, Supplement 53 Regarding Sequoyah Nuclear Station Units 1 and 2, Review Period Ends: 04/27/2015, Contact: David Drucker 301–415–6223

EIS No. 20150080, Final EIS, BLM, CO, Proposed Resource Management Plan Amendment for Oil and Gas Development in the White River Field Office, Review Period Ends: 04/27/2015, Contact: Heather Sauls 970–878–3855

EIS No. 20150081, Second Final EIS, BLM, USFS, ID, Smoky Canyon Mine Panels F and G Lease and Mine Plan Modification Project, Review Period Ends: 04/27/2015, Contact: Diane Wheeler 208–557–5839

The U.S. Department of the Interior's Bureau of Land Management and The U.S. Department of Agriculture's Forest Service are joint lead agencies for the above project.

EIS No. 20150082, Final EIS, BR, CA, Long-term Water Transfers, Review Period Ends: 04/27/2015, Contact: Brad Hubbard 916–978–5204

Dated: March 25, 2015.

**Cliff Rader,**

*Director, NEPA Compliance Division, Office of Federal Activities.*

[FR Doc. 2015–07137 Filed 3–26–15; 8:45 am]

**BILLING CODE 6560–50–P**

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## ENVIRONMENTAL PROTECTION AGENCY

**[EPA–HQ–OEI–2011–0096; FRL–9924–15–OEI]**

## Information Collection Request Submitted to OMB for Review and Approval; Comment Request; Cross-Media Electronic Reporting Rule (Renewal)

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice.

**SUMMARY:** The Environmental Protection Agency has submitted an information

collection request (ICR), ''Cross-Media Electronic Reporting Rule (Renewal)'' (EPA ICR No. 2002.06, OMB Control No. 2025–0003) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*). This is a proposed extension of the ICR, which is currently approved through April 30, 2015. Public comments were previously requested via the **Federal Register** (79 FR 65391) on November 4, 2014 during a 60-day comment period. This notice allows for an additional 30 days for public comments. A fuller description of the ICR is given below, including its estimated burden and cost to the public. An Agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

**DATES:** Additional comments may be submitted on or before April 27, 2015.

**ADDRESSES:** Submit your comments, referencing Docket ID Number EPA–HQ–OEI–2011–0096, to (1) EPA online using *www.regulations.gov* (our preferred method), by email to *oei.docket@epa.gov,* or by mail to: EPA Docket Center, Environmental Protection Agency, Mail Code 28221T, 1200 Pennsylvania Ave. NW., Washington, DC 20460, and (2) OMB via email to *oira_submission@omb.eop.gov.* Address comments to OMB Desk Officer for EPA.

EPA's policy is that all comments received will be included in the public docket without change including any personal information provided, unless the comment includes profanity, threats, information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute.

**FOR FURTHER INFORMATION CONTACT:** Karen Seeh, Office of Environmental Information, (2823T), Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460; telephone number: 202–566–1175; fax number: 202–566–1684; email address: *seeh.karen@epa.gov.*

**SUPPLEMENTARY INFORMATION:** Supporting documents which explain in detail the information that the EPA will be collecting are available in the public docket for this ICR. The docket can be viewed online at *www.regulations.gov* or in person at the EPA Docket Center, WJC West, Room 3334, 1301 Constitution Ave. NW., Washington, DC. The telephone number for the Docket Center is 202–566–1744. For additional information about EPA's public docket, visit *http://www.epa.gov/dockets.*

*Abstract:* The scope of this ICR is the electronic reporting components of CROMERR, which is designed to: (i) Allow EPA to comply with the Government Paperwork Elimination Act of 1998; (ii) provide a uniform, technology-neutral framework for electronic reporting across all EPA programs; (iii) allow EPA programs to offer electronic reporting as they become ready for CROMERRR; and (iv) provide states with a streamlined process—together with a uniform set of standards—for approval of their electronic reporting provisions for all their EPA-authorized programs. In order to accommodate CBI, the information collected must be in accordance with the confidentiality regulations set forth in 40 CFR part 2, subpart B. Additionally, EPA will ensure that the information collection procedures comply with the Privacy Act of 1974 and the OMB Circular 108.

*Form Numbers:* None.

*Respondents/affected entities:* Entities that report electronically to EPA and state or local government authorized programs; and state and local government authorized programs implementing electronic reporting.

*Respondent's obligation to respond:* Required to obtain or retain a benefit (Cross-Media Electronic Reporting Rule (CROMERR) established to ensure compliance with the Government Paperwork Elimination Act (GPEA)).

*Estimated number of respondents:* 102,387 (total).

*Frequency of response:* On occasion.

*Total estimated burden:* 49,604 hours (per year). Burden is defined at 5 CFR 1320.03(b).

*Total estimated cost:* $2,995,642 (per year), including $1,121,481 in annualized capital or operation & maintenance costs.

*Changes in the Estimates:* There is an increase of 9,841 hours in the total estimated respondent burden compared with the ICR currently approved by OMB. This increase occurred due to a change in the respondent burden estimation based on data from the previous ICR.

**Courtney Kerwin,**

*Acting Director, Collection Strategies Division.*

[FR Doc. 2015–07029 Filed 3–26–15; 8:45 am]

BILLING CODE 6560–50–P

## FEDERAL RESERVE SYSTEM

### Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The applications will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than April 23, 2015.

A. Federal Reserve Bank of Dallas (Robert L. Triplett III, Senior Vice President) 2200 North Pearl Street, Dallas, Texas 75201–2272:

1. *CCBS Holding LLC,* Irving, Texas; to become a bank holding company by acquiring up to 77.37 percent of the voting shares of Canyon Bancorporation, Inc., Tucson, Arizona, and thereby indirectly acquire voting shares of Canyon Community Bank, National Association, Tucson, Arizona.

Board of Governors of the Federal Reserve System, March 24, 2015.

**Michael J. Lewandowski,**

*Associate Secretary of the Board.*

[FR Doc. 2015–07032 Filed 3–26–15; 8:45 am]

BILLING CODE 6210–01–P

## FEDERAL RESERVE SYSTEM

### Change in Bank Control Notices; Acquisitions of Shares of a Bank or Bank Holding Company

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire shares of a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. The notices also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than April 13, 2015.

A. Federal Reserve Bank of Atlanta (Chapelle Davis, Assistant Vice President) 1000 Peachtree Street NE., Atlanta, Georgia 30309:

1. *Ronald Young Schram, Palm Beach, Florida, and Frank Jay Hessel,* Coral Gables, Florida, both to retain voting shares of Flagler Bank, West Palm Beach, Florida.

Board of Governors of the Federal Reserve System, March 24, 2015.

**Michael J. Lewandowski,**

*Associate Secretary of the Board.*

[FR Doc. 2015–07033 Filed 3–26–15; 8:45 am]

**BILLING CODE 6210–01–P**

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## FEDERAL RESERVE SYSTEM

### Proposed Agency Information Collection Activities; Comment Request

**AGENCY:** Board of Governors of the Federal Reserve System.

**SUMMARY:** On June 15, 1984, the Office of Management and Budget (OMB) delegated to the Board of Governors of the Federal Reserve System (Board) its approval authority under the Paperwork Reduction Act (PRA), to approve of and assign OMB control numbers to collection of information requests and requirements conducted or sponsored by the Board. Board-approved collections of information are incorporated into the official OMB inventory of currently approved collections of information. Copies of the PRA Submission, supporting statements and approved collection of information instruments are placed into OMB's public docket files. The Federal Reserve may not conduct or sponsor, and the respondent is not required to respond to, an information collection that has been extended, revised, or implemented on or after October 1, 1995, unless it displays a currently valid OMB control number.

**DATES:** Comments must be submitted on or before May 26, 2015.

**ADDRESSES:** You may submit comments, identified by *HC Financial Statements,* by any of the following methods:

- Agency Web site: *http://www.federalreserve.gov.* Follow the instructions for submitting comments at *http://www.federalreserve.gov/apps/foia/proposedregs.aspx* .
- Federal eRulemaking Portal: *http://www.regulations.gov.* Follow the instructions for submitting comments.
- Email: *regs.comments@federalreserve.gov.* Include OMB number in the subject line of the message.
- FAX: (202) 452–3819 or (202) 452–3102.
- Mail: Robert deV. Frierson, Secretary, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue NW., Washington, DC 20551.

All public comments are available from the Board's Web site at *http://www.federalreserve.gov/apps/foia/proposedregs.aspx* as submitted, unless modified for technical reasons. Accordingly, your comments will not be edited to remove any identifying or contact information. Public comments may also be viewed electronically or in paper form in Room 3515, 1801 K Street (between 18th and 19th Streets NW.) Washington, DC 20006 between 9:00 a.m. and 5:00 p.m. on weekdays.

Additionally, commenters may send a copy of their comments to the OMB Desk Officer—Shagufta Ahmed—Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 10235 725 17th Street NW., Washington, DC 20503 or by fax to (202) 395–6974.

**FOR FURTHER INFORMATION CONTACT:** A copy of the PRA OMB submission, including the proposed reporting form and instructions, supporting statement, and other documentation will be placed into OMB's public docket files, once approved. These documents will also be made available on the Federal Reserve Board's public Web site at: *http://www.federalreserve.gov/apps/reportforms/review.aspx* or may be requested from the agency clearance officer, whose name appears below.

Federal Reserve Board Acting Clearance Officer—Mark Tokarski—Office of the Chief Data Officer, Board of Governors of the Federal Reserve System, Washington, DC 20551, (202) 452–3829. Telecommunications Device for the Deaf (TDD) users may contact (202) 263–4869, Board of Governors of the Federal Reserve System, Washington, DC 20551.

**SUPPLEMENTARY INFORMATION:**

#### Request for Comment on Information Collection Proposals

The following information collections, which are being handled under this delegated authority, have received initial Board approval and are hereby published for comment. At the end of the comment period, the proposed information collections, along with an analysis of comments and recommendations received, will be submitted to the Board for final approval under OMB delegated authority. Comments are invited on the following:

a. Whether the proposed collection of information is necessary for the proper performance of the Federal Reserve's functions; including whether the information has practical utility;

b. The accuracy of the Federal Reserve's estimate of the burden of the proposed information collection, 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 information collection on respondents, including through the use of automated collection techniques or other forms of information technology; and

e. Estimates of capital or start up costs and costs of operation, maintenance, and purchase of services to provide information.

#### Proposal To Approve Under OMB Delegated Authority the Revision, Without Extension, of the Following Reports:

1. *Report title:* Consolidated Financial Statements for Holding Companies, Parent Company Only Financial Statements for Large Holding Companies, Parent Company Only Financial Statements for Small Holding Companies, Financial Statements for Employee Stock Ownership Plan Holding Companies.[1]

*Agency form number:* FR Y–9C, FR Y–9LP, FR Y–9SP, FR Y–9ES.

*OMB control number:* 7100–0128.

*Frequency:* Quarterly, semiannually, annually.

[1] The family of FR Y–9 reporting forms also contains the Supplement to the Consolidated Financial Statements for Holding Companies (FR Y–9CS) which is not being revised.

*Reporters:* Bank holding companies (BHCs), savings and loan holding companies (SLHCs), and securities holding companies (SHCs) (collectively, ''holding companies'' (HCs)).

*Estimated annual reporting hours:* FR Y–9C (non Advanced Approaches): 130,964 hours; FR Y–9C (Advanced Approaches): 2,500 hours; FR Y–9LP: 17,178 hours; FR Y–9SP: 47,412 hours; FR Y–9ES: 43 hours.

*Estimated average hours per response:* FR Y–9C (non Advanced Approaches): 50.84 hours; FR Y–9C (Advanced Approaches): 52.09 hours; FR Y–9LP: 5.25 hours; FR Y–9SP: 5.40 hours; FR Y–9ES: 0.50 hours.

*Number of respondents:* FR Y–9C (non Advanced Approaches): 644; FR Y–9C (Advanced Approaches): 12; FR Y–9LP: 818; FR Y–9SP: 4,390; FR Y–9ES: 86.

*General description of report:* This information collection is mandatory for BHCs (12 U.S.C. 1844(c)). Additionally, section 10 of Home Owners' Loan Act (HOLA) (12 U.S.C. 1467a(b))and 1850a(c)(1)(A), respectively, authorize the Federal Reserve to require that SLHCs and supervised SHCs file the FR Y–9C with the Federal Reserve. Confidential treatment is not routinely given to the financial data in this report. However, confidential treatment for the reporting information, in whole or in part, can be requested in accordance with the instructions to the form, pursuant to sections (b)(4), (b)(6), or (b)(8) of the Freedom of Information Act (FOIA) (5 U.S.C. 522(b)(4), (b)(6), and (b)(8)).

*Abstract:* Pursuant to the Bank Holding Company Act of 1956, as amended, and HOLA, the Federal Reserve requires HCs to provide standardized financial statements to fulfill the Federal Reserve's statutory obligation to supervise these organizations. HCs file the FR Y–9C and FR Y–9LP quarterly, the FR Y–9SP semiannually, and the FR Y–9ES annually.

2. *Report title:* Consolidated Holding Company Report of Equity Investments in Nonfinancial Companies.

*Agency form number:* FR Y–12.

*OMB control number:* 7100–0300.

*Frequency:* Quarterly and semiannually.

*Reporters:* BHCs and SLHCs.

*Estimated annual reporting hours:* FR Y–9C filers: 1,584 hours; FR Y–9SP filers: 132 hours.

*Estimated average hours per response:* 16.50 hours.

*Number of respondents:* FR Y–9C filers: 24; FR Y–9SP filers: 4.

*General description of report:* This collection of information is mandatory pursuant to Section 5(c) of the BHC Act (12 U.S.C. 1844(c)) and section 10 of HOLA (12 U.S.C. 1467a(b)). The FR Y–12 data are not considered confidential. However, confidential treatment for the reporting information, in whole or in part, can be requested in accordance with the instructions to the form, pursuant to sections (b)(4), (b)(6), or (b)(8) of FOIA (5 U.S.C. 522(b)(4), (b)(6), and (b)(8)).

*Abstract:* The FR Y–12 collects information from certain domestic BHCs and SLHCs on their equity investments in nonfinancial companies. The FR Y–12 data serve as an important risk-monitoring device for institutions active in this business line by allowing supervisory staff to monitor an institution's activity between review dates. They also serve as an early warning mechanism, to identity institutions whose activities in this area are growing rapidly and therefore warrant special supervisory attention. Respondents report the FR Y–12 either quarterly or semi-annually based on reporting threshold criteria.

3. *Report title:* Banking Organization System Risk Report.

*Agency form number:* FR Y–15.

*OMB control number:* 7100–0352.

*Frequency:* Annually.

*Reporters:* BHCs with total consolidated assets of $50 billion or more, and any U.S.-based organizations identified as global systemically important banks (GSIBs) that do not otherwise meet the consolidated assets threshold for BHCs.

*Estimated annual reporting hours:* 9,735 hours.

*Estimated average hours per response:* 295 hours.

*Number of respondents:* 33.

*General description of report:* This collection of information is mandatory pursuant to section 5 of the BHC Act (12 U.S.C. 1844(c)). Except for those items subject to a delayed release, the individual data items collected on the FR Y–15 will be made available to the public for report dates beginning December 31, 2013. Though confidential treatment will not be routinely given to the financial data collected on the FR Y–15, respondents may request such treatment for any information that they believe is subject to an exemption from disclosure pursuant to sections (b)(4), (b)(6), or (b)(8) of FOIA (5 U.S.C. 522(b)(4), (b)(6), and (b)(8)).

*Abstract:* The FR Y–15 annual report collects systemic risk data from U.S. BHCs with total consolidated assets of $50 billion or more, and any U.S.-based organizations identified as GSIBs that do not otherwise meet the consolidated assets threshold for BHCs. The profile of the institutions which are subject to enhanced prudential standards under section 165 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (DFA).

4. *Report title:* Financial Statements of U.S. Nonbank Subsidiaries of U.S. Holding Companies and the Abbreviated Financial Statements of U.S. Nonbank Subsidiaries of U.S. Holding Companies.

*Agency form number:* FR Y–11 and FR Y–11S.

*OMB control number:* 7100–0244.

*Frequency:* Quarterly and annually.

*Reporters:* HCs.

*Estimated annual reporting hours:* FR Y–11 (quarterly): 15,966 hours; FR Y–11 (annual): 2,441 hours; FR Y–11S: 429 hours.

*Estimated average hours per response:* FR Y–11: 6.80 hours; FR Y–11S: 1 hour.

*Number of respondents:* FR Y–11 (quarterly): 587; FR Y–11 (annual): 359; FR Y–11S: 429.

*General description of report:* This information collection is mandatory (12 U.S.C. 1844(c)). Confidential treatment is not routinely given to the data in these reports. However, confidential treatment for the reporting information, in whole or in part, can be requested in accordance with the instructions to the form, pursuant to sections (b)(4), (b)(6)and (b)(8) of FOIA (5 U.S.C. 522(b)(4), (b)(6) and (b)(8)).

*Abstract:* The FR Y–11 and FR Y–11S reporting forms collect financial information for individual non-functionally regulated U.S. nonbank subsidiaries of domestic HCs. HCs file the FR Y–11 on a quarterly or annual basis or the FR Y–11S annually based on size thresholds, and for the FR Y–11S, based on an additional threshold related to the percentage of consolidated assets of the top-tier organization. The FR Y–11 family of reports data are used with other HC data to assess the condition of HCs that are heavily engaged in nonbanking activities and to monitor the volume, nature, and condition of their nonbanking operations.

5. *Report title:* Financial Statements of Foreign Subsidiaries of U.S. Banking Organizations and the Abbreviated Financial Statements of Foreign Subsidiaries of U.S. Banking Organizations.

*Agency form number:* FR 2314 and FR 2314S.

*OMB control number:* 7100–0073.

*Frequency:* Quarterly and annually.

*Reporters:* Foreign subsidiaries of U.S. state member banks (SMBs), Edge and agreement corporations, and HCs.

*Estimated annual reporting hours:* FR 2314 (quarterly): 18,427 hours; FR 2314

(annual): 2,554 hours; FR 2314S: 480 hours.

*Estimated average hours per response:* FR 2314: 6.60 hours; FR 2314S: 1 hour.

*Number of respondents:* FR 2314 (quarterly): 698; FR 2314 (annual): 387; FR 2314S: 480.

*General description of report:* This information collection is mandatory (12 U.S.C. 324, 602, 625, and 1844(c)). Confidential treatment is not routinely given to the data in these reports. However, confidential treatment for the reporting information, in whole or in part, can be requested in accordance with the instructions to the form, pursuant to sections (b)(4), (b)(6) and (b)(8) of FOIA (5 U.S.C. 522(b)(4) (b)(6) and (b)(8)).

*Abstract:* The FR 2314 and FR 2314S reporting forms collect financial information for non-functionally regulated direct or indirect foreign subsidiaries of U.S. SMBs, Edge and agreement corporations, and HCs. Parent organizations (SMBs, Edge and agreement corporations, or HCs) file the FR 2314 on a quarterly or annual basis or the FR 2314S annually based on additional size thresholds. The FR 2314 family of reports data are used to identify current and potential problems at the foreign subsidiaries of U.S. parent companies, to monitor the activities of U.S. banking organizations in specific countries, and to develop a better understanding of activities within the industry, in general, and of individual institutions, in particular.

6. *Report title:* Financial Statements of U.S. Nonbank Subsidiaries Held by Foreign Banking Organizations, the Abbreviated Financial Statements of U.S. Nonbank Subsidiaries Held by Foreign Banking Organizations, and the Capital and Asset Report for Foreign Banking Organizations.

*Agency form number:* FR Y–7N, FR Y–7NS, and FR Y–7Q.

*OMB control number:* 7100–0125.

*Frequency:* Quarterly and annually.

*Reporters:* Foreign banking organizations (FBOs).

*Estimated annual reporting hours:* FR Y–7N (quarterly): 5,168 hours; FR Y–7N (annual): 612 hours; FR Y–7NS: 74 hours; FR Y–7Q (quarterly): 434 hours; FR Y–7Q (annual): 164 hours.

*Estimated average hours per response:* FR Y–7N (quarterly): 6.8 hours; FR Y–7N (annual): 6.8 hours; FR Y–7NS: 1 hour; FR Y–7Q (quarterly): 1.75 hours; FR Y–7Q (annual): 1.5 hours.

*Number of respondents:* FR Y–7N (quarterly): 190; FR Y–7N (annual): 90; FR Y–7NS: 74; FR Y–7Q (quarterly): 62; FR Y–7Q (annual): 109.

*General description of report:* This information collection is mandatory (12 U.S.C. 1844(c)) and sections 8(c) and 13 of the International Banking Act (12 U.S.C. 3106(c) and 3108)). Overall, the Federal Reserve does not consider these data to be confidential. However, individual respondents may request confidential treatment for any of these reports pursuant to sections (b)(4), (b)(6), or (b)(8) of FOIA (5 U.S.C. 522(b)(4), (b)(6), and (b)(8)). The applicability of these exemptions would need to be determined on a case-by-case basis.

*Abstract:* The FR Y–7N and FR Y–7NS collect financial information for non-functionally regulated U.S. nonbank subsidiaries held by FBOs other than through a U.S. BHC, U.S. financial holding company (FHC), or U.S. bank. FBOs file the FR Y–7N quarterly or annually or the FR Y–7NS annually predominantly based on asset size thresholds. The FR Y–7Q collects consolidated regulatory capital information from all FBOs either quarterly or annually. The FR Y–7Q is filed quarterly by FBOs that have effectively elected to become FHCs and by FBOs that have total consolidated assets of $50 billion or more, regardless of FHC status. All other FBOs file the FR Y–7Q annually.

7. *Report title:* Quarterly Savings and Loan Holding Company Report.

*Agency form number:* FR 2320.

*OMB control number:* 7100–0345.

*Frequency:* Quarterly.

*Reporters:* SLHCs.

*Estimated annual reporting hours:* 180 hours.

*Estimated average hours per response:* 2.5 hours.

*Number of respondents:* 18.

*General description of report:* This information collection is mandatory pursuant to section 312 of the DFA and section 10 of HOLA, as amended by section 369 of the DFA, (12 U.S.C. 1467a(b)(2)), as amended by Public Law 111–201, 369(8). Data items C572, C573, and C574 on Schedule HC may be protected from disclosure under exemption 4 of FOIA (5 U.S.C. 552(b)(4)). With regard to the remaining data items on Schedule HC, the Federal Reserve has determined that institutions may request confidential treatment for any FR 2320 data item or for all FR 2320 data items, and confidential treatment will be reviewed on a case-by-case basis.

*Abstract:* The FR 2320 collects select parent only and consolidated balance sheet and income statement financial data and organizational structure date from SLHCs exempt from initially filing Federal Reserve regulatory reports. The FR 2320 is used by the Federal Reserve to analyze the overall financial condition of exempt SLHCs to ensure safe and sound operations.

8. *Report title:* Savings Association Holding Company Report.

*Agency form number:* FR H–(b)11.

*OMB control number:* 7100–0334.

*Frequency:* Quarterly.

*Reporters:* SLHCs.

*Estimated annual reporting hours:* 264 hours.

*Estimated average hours per response:* 2 hours.

*Number of respondents:* 33.

*General description of report:* This information collection is mandatory (12 U.S.C. 1467a(b)(2)(A)). The FR H–(b)11 covers 6 different items. However, the Federal Reserve has determined that supplemental information in response to a ''yes'' answer for the Quarterly Savings and Loan Holding Company Report (FR 2320; OMB No. 7100–0345) FR 2320's questions 24, 25, and 26 may be protected from disclosure under exemption 4 of FOIA, which covers ''trade secrets and commercial or financial information obtained from a person [that is] privileged or confidential'' (5 U.S.C. 522(b)(4)). Confidential treatment for the remaining portion of the reporting information can be requested in accordance with the instructions to the form, pursuant to sections (b)(4), (b)(6), or (b)(8) of FOIA (5 U.S.C.522(b)(4), (b)(6), and (b)(8)).

*Abstract:* The FR H–(b)11 collects from exempt SLHCS information on filings with the Securities and Exchange Commission (SEC), reports provided by the nationally recognized statistical rating organizations and securities analysts, supplemental information for select questions from the FR 2320, financial statements, and other materially important events and exhibits. The Federal Reserve uses the FR H–(b)11 data to analyze the overall financial condition of exempt SLHCs to ensure safe and sound operations.

9. *Report title:* Consolidated Report of Condition and Income for Edge and Agreement Corporations.

*Agency form number:* FR 2886b.

*OMB control number:* 7100–0086.

*Frequency:* Quarterly and annually.

*Reporters:* Banking Edge and agreement corporations and investment (nonbanking) Edge and agreement corporations.

*Estimated annual reporting hours:* Banking Edge and agreement corporations (quarterly): 424 hours; banking Edge and agreement corporations (annual): 15 hours; investment Edge and agreement corporations (quarterly): 768 hours; investment Edge and agreement corporations (annual): 182 hours.

*Estimated average hours per response:* Banking Edge and agreement

corporations: 15.15 hours; investment Edge and agreement corporations: 9.60 hours.

*Number of respondents:* Banking Edge and agreement corporations (quarterly): 7; banking Edge and agreement corporations (annual): 1; investment Edge and agreement corporations (quarterly): 20; investment Edge and agreement corporations (annual): 19.

*General description of report:* This information is mandatory (12 U.S.C. 602, 625). In addition, with respect to the contact information collected in the Patriot Act Contact Information section, the Board's regulation's (12 CFR part 211.5(m)) instruct Edge and agreement corporations to comply with the information sharing regulations that the Department of the Treasury issued pursuant to Section 314(a) of the USA Patriot Act of 2001, Public Law 107–56, 115 Stat. 307 (31 U.S.C. 5318(h)); and implemented at 31 CFR part 1010.520(b).

For Edge corporations engaged in banking, current Schedules RC–M (with the exception of item 3) and RC–V are held confidential pursuant to Section (b)(4) of FOIA (5 U.S.C. 552(b)(4)). For investment Edge corporations, only information collected on Schedule RC–M (with the exception of item 3) are given confidential treatment pursuant to Section (b)(4) of FOIA (5 U.S.C. 552(b)(4)).

In addition, the information provided in the Patriot Act Contact Information section may be withheld as confidential under FOIA to prevent unauthorized individuals from falsely posing as an institution's point-of-contact in order to gain access to the highly sensitive and confidential communications sent by email between the Financial Crimes Enforcement Network or federal law enforcement officials and the Patriot Act point-of-contact. The identity and contact information of private individuals, which is collected and maintained for law enforcement purposes under the Patriot Act, may be exempt from disclosure pursuant to exemption 7(C) of FOIA (5 U.S.C. 552(b)(7)(C)). Lastly, the language indicating that the Emergency Contact information will not be released to the public will be removed.

*Abstract:* The FR 2886b collects quarterly financial data from banking Edge and agreement corporations and investment (nonbanking) Edge and agreement corporations. Except for examination reports, it provides the only financial data available for these corporations. The Federal Reserve is solely responsible for authorizing, supervising, and assigning ratings to Edge and agreement corporations. The Federal Reserve uses the data collected on the FR 2886b to identify present and potential problems and monitor and develop a better understanding of activities within the industry.

*Current Actions:* The Federal Reserve proposes to add questions regarding confidential treatment in the form of check boxes to all of the reports listed above so institutions may indicate whether they are requesting confidential treatment for any portion of the data provided, and whether they are submitting a formal justification with the data or separately. The proposed revision would enhance existing processes related to the handling of data confidentiality requests. The questions regarding confidential treatment in the form of check boxes would be effective June 30, 2015.

Board of Governors of the Federal Reserve System, March 24, 2015.

**Robert deV. Frierson,**

*Secretary of the Board.*

[FR Doc. 2015–07067 Filed 3–26–15; 8:45 am]

**BILLING CODE 6210–01–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### Prospective Grant of Exclusive License: Small Molecule Therapeutics Against Hepatitis C Virus Infection

**AGENCY:** National Institutes of Health, HHS.

**ACTION:** Notice.

**SUMMARY:** This is notice, in accordance with 35 U.S.C. 209 and 37 CFR part 404, that the National Institutes of Health, Department of Health and Human Services, is contemplating the grant of a start-up exclusive commercial patent license agreement to practice the inventions embodied in U.S. provisional patent application no. 61/909,414 (NIH Ref. No. E–011–2014/0–US–01) filed November 27, 2013; International PCT application no. PCT/US2014/066680 (NIH Ref. No. E–011–2014/0–PCT–02) filed November 20, 2014; Taiwanese patent application no. 103141004 (NIH Ref. No. E–011–2014/0–TW–03) filed November 26, 2014; and U.S. provisional patent application no. 62/011,462 (NIH Ref. No. E–161–2014/0–US–01) filed June 12, 2014; all entitled, ''Heterocyclic Compounds and Methods of Use Thereof;'' and all continuing applications and foreign counterparts to Virotas Biopharmaceuticals, LLC, a company having a place of business in California. The patent rights in these inventions have (a) been assigned to the United States of America, as represented by the Secretary, Department of Health and Human Services who has delegated authority for the licensing of inventions to the National Institutes of Health or (b) been exclusively licensed to the National Institutes of Health.

The prospective exclusive license territory may be ''worldwide'', and the field of use may be limited to the following: ''Prevention and treatment of Hepatitis C Virus infection.''

**DATES:** Only written comments and/or applications for a license which are received by the NIH Office of Technology Transfer on or before April 13, 2015 will be considered.

**ADDRESSES:** Requests for copies of the patent application, inquiries, comments, and other materials relating to the contemplated exclusive license should be directed to: Kevin W. Chang, Ph.D., Senior Licensing and Patenting Manager, Office of Technology Transfer, National Institutes of Health, 6011 Executive Boulevard, Suite 325, Rockville, MD 20852–3804; Telephone: (301) 435–5018; Facsimile: (301) 402–0220; Email: *changke@mail.nih.gov.*

**SUPPLEMENTARY INFORMATION:** The subject technologies are small molecule compounds for the treatment of HCV infection identified using a novel cell-based high throughput assay. Some of these compounds are derivatives of chlorcyclizine that show potent antiviral properties against HCV. Chlorcyclizine is already on the market for the treatment of allergic reactions, have been used extensively in humans, and have excellent safety profiles with known pharmaceutical properties. The other compounds are also heterocyclic compounds that show anti-HCV activity. The subject technologies can potentially be used in combination with each other and/or with other HCV therapeutics.

The prospective start-up exclusive commercial patent license will be royalty bearing and will comply with the terms and conditions of 35 U.S.C. 209 and 37 CFR part 404. The prospective start-up exclusive commercial patent license may be granted unless within fifteen (15) days from the date of this published notice, the NIH receives written evidence and argument that establishes that the grant of the license would not be consistent with the requirements of 35 U.S.C. 209 and 37 CFR part 404.

Applications for a license in the field of use filed in response to this notice will be treated as objections to the grant of the contemplated exclusive license. Comments and objections submitted to this notice will not be made available

for public inspection and, to the extent permitted by law, will not be released under the Freedom of Information Act, 5 U.S.C. 552.

Dated: March 23, 2015.

**Richard U. Rodriguez,**

*Acting Director, Office of Technology Transfer, National Institutes of Health.*

[FR Doc. 2015–06974 Filed 3–26–15; 8:45 am]

**BILLING CODE 4140–01–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Centers for Disease Control and Prevention

**[30Day–15–15CF]**

### Agency Forms Undergoing Paperwork Reduction Act Review

The Centers for Disease Control and Prevention (CDC) has submitted the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The notice for the proposed information collection is published to obtain comments from the public and affected agencies.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address any of the following: (a) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (c) Enhance the quality, utility, and clarity of the information to be collected; (d) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses; and (e) Assess information collection costs.

To request additional information on the proposed project or to obtain a copy of the information collection plan and instruments, call (404) 639–7570 or send an email to *omb@cdc.gov.* Written comments and/or suggestions regarding the items contained in this notice should be directed to the Attention: CDC Desk Officer, Office of Management and Budget, Washington, DC 20503 or by fax to (202) 395–5806. Written comments should be received within 30 days of this notice.

**Proposed Project**

Health Insurance Plans Research Study—New—Office of Health System Collaboration, Office of the Associate Director for Policy, Office of the Director, Centers for Disease Control and Prevention (CDC).

*Background and Brief Description*

The CDC Office of the Associate Director for Policy intends to request that the Office of Management and Budget (OMB) approve a new collection of information under the Paperwork Reduction Act for three years. This data collection will occur once, and respondents will be surveyed once.

The Health Insurance Plans Research Study will uniquely examine the prevalence, characteristics, and differences of prevention and wellness programs offered by health insurance plans in this critical era of healthcare reform. There are no known studies that have addressed the prevalence of prevention and wellness programs across health plans or explored the granular details of these programs as this study is intended to do. Not conducting this study would be one less step toward increasing healthy years of life.

Furthermore, the Health Insurance Plans Research Study will address the priorities and goals of the CDC Office of the Associate Director for Policy, Office of Health System Collaboration: (a) Identify and catalyze policy opportunities such as the Affordable Care Act to enhance healthcare transformation, (b) advance CDC's public health-healthcare strategy to improve population health, (c) strengthen strategic partnerships with healthcare systems and payers, federal and non-federal, and (d) fully leverage performance measures as a tool to improve the health of individuals across health systems and payers.

The results of this study are of great interest not only to the CDC Office of the Associate Director for Policy but to other CDC Centers, Institutes, and Offices; and other federal agencies and partners such as the Health Resources and Services Administration (HRSA), the members of the CDC Advisory Committee to the Director, and the CDC Public Health-Health Care Collaboration Workgroup (federal, state, and local public health; public and private organizations; healthcare providers; professional membership associations; and academia representation).

CDC will select a sample of approximately 150 commercial health insurance plans in the United States that differ by size and geography, in the 50 states and the District of Columbia, to complete a web-based survey, the *Prevention and Wellness Assessment Survey.* The project team will provide information and instructions about the survey to health plan points of contact in advance. The team will also make information and instructions available on the Web site, eliminating any interactions between the respondent and the project team, unless a respondent(s) has questions or concerns during completion of the survey.

The *Prevention and Wellness Assessment Survey* will take approximately 30 minutes to complete per respondent for a total estimated burden of 75 hours. Key health plan contacts (*e.g.,* medical directors, nurse directors, or other healthcare professional) will incur burden associated with coordinating the time and identifying a person to take the survey. The burden associated with this activity is estimated at 30 minutes per key health plan contact for a maximum of one key contact per health plan (1 key contact × 150 health plans = 150 key contacts), resulting in a total burden of 75 hours. In addition, administrative support staff at select health plans may assist with coordinating communications between key health plan points of contact and America's Health Insurance (AHIP). The estimated administrative support burden is 30 minutes per health plan, resulting in a total burden of 75 hours.

Following the analysis of survey data, the project team will conduct one-hour telephone interviews with no more than nine health plans (1 hour × 9 health plans) to gain a better understanding of lessons learned and best practices associated with the design and implementation of prevention and wellness programs by commercial health insurance plans. The project team will use this information to build upon the knowledge gained through the survey. For example, there may be differences in how health plans structure prevention and wellness programs for different employer accounts based on employer requests. The estimated burden is one hour per health plan, resulting in a total burden of nine hours.

Best practices in outreach will be utilized to maximize survey response rates. Key health plan contacts at non-responding health plans will receive follow up by telephone, and one-to-one assistance will be provided if needed.

The government intends to accomplish the following as a result of this data collection: (a) Identify high priority opportunities for public health and healthcare collaboration, (b) inform a public health-healthcare strategic agenda, (c) improve the use of clinical preventive services, and (d) improve capacity of healthcare systems to incorporate public health practices and principles. At the conclusion of this study, a formal report, two issue briefs, and potentially a manuscript for publication will be produced.

There are no costs to respondents other than their time. The total estimated annualized burden hours are 234.

ESTIMATED ANNUALIZED BURDEN HOURS

| Type of respondent | Form name | Number of respondents | Number of responses per respondent | Average burden per response (in hours) |
|---|---|---|---|---|
| Physician, Nurse, or Other Healthcare Professional (To Complete Survey). | Prevention and Wellness Assessment Survey | 150 | 1 | 30/60 |
| Key Health Plan Contact | Coordinating & Identifying Activity | 150 | 1 | 30/60 |
| Administrative Support | Communication Coordination Activity | 150 | 1 | 30/60 |
| Physician, Nurse, or Other Healthcare Professional (To Complete 1-hour Interview Post Survey). | Telephone Interview | 9 | 1 | 1 |

**Leroy A. Richardson,**

*Chief, Information Collection Review Office, Office of Scientific Integrity, Office of the Associate Director for Science, Office of the Director, Centers for Disease Control and Prevention.*

[FR Doc. 2015–07034 Filed 3–26–15; 8:45 am]

**BILLING CODE 4163–18–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Centers for Disease Control and Prevention

**[30Day–15–15GD]**

### Withdrawal of Information Collection

**AGENCY:** National Institute for Occupational Safety and Health (NIOSH), Centers for Disease Control and Prevention.

In compliance with the requirement of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995.

[FR Doc. 2015–06655 Filed 3–23–15; 8:45 a.m.]

*Subject:* Emergency Self Escape for Coal Miners.

*Action:* Notice withdrawal.

**SUMMARY:** The Centers for Disease Control and Prevention requests withdrawal from publication the 30-Day **Federal Register** Notice (FRN) 15–15GD concerning the *Emergency Self Escape for Coal Miners* ([FR Doc. 2015–06655 Filed 3–23–15; 8:45 a.m.]), which was submitted on March 19, 2015 for public inspection in the **Federal Register**.

CDC published the notice as a Proposed Data Collections Submitted for Public Comment and Recommendations, when, in fact, the notice should have received publication as Agency Forms Undergoing Paperwork Reduction Act Review.

**DATES:** The 30-day FRN published on [03/24/15] at [Vol. 80, No. 56 Page 15618–15619] is withdrawn as of [03/24/15].

**FOR FURTHER INFORMATION CONTACT:** (404) 639–7570 or send comments to CDC Leroy Richardson, 1600 Clifton Road, MS D–74, Atlanta, GA 30333 or send an email to *omb@cdc.gov.*

**SUPPLEMENTARY INFORMATION:** N/A.

**Leroy A. Richardson,**

*Chief, Information Collection Review Office, Office of Scientific Integrity, Office of the Associate Director for Science, Office of the Director, Centers for Disease Control and Prevention.*

[FR Doc. 2015–07039 Filed 3–26–15; 8:45 am]

**BILLING CODE 4163–18–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Centers for Disease Control and Prevention

**[60Day–15–0914; Docket No. CDC–2015–0012]**

### Proposed Data Collection Submitted for Public Comment and Recommendations

**AGENCY:** Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

**ACTION:** Notice with comment period.

**SUMMARY:** The Centers for Disease Control and Prevention (CDC), as part of its continuing efforts to reduce public burden and maximize the utility of government information, 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. This notice invites comment on Workplace Violence Prevention Programs in New Jersey Healthcare Facilities (OMB No. 0920–0914, expires 02/29/2016). The National Institute for Occupational Safety and Health (NIOSH) is requesting a two year extension in order to complete nursing home interviews.

**DATES:** Written comments must be received on or before May 26, 2015.

**ADDRESSES:** You may submit comments, identified by Docket No. CDC–2015–0012 by any of the following methods:

*Federal eRulemaking Portal: Regulation.gov.* Follow the instructions for submitting comments.

*Mail:* Leroy A. Richardson, Information Collection Review Office, Centers for Disease Control and Prevention, 1600 Clifton Road NE., MS–D74, Atlanta, Georgia 30329.

*Instructions:* All submissions received must include the agency name and Docket Number. All relevant comments received will be posted without change to *Regulations.gov*, including any personal information provided. For access to the docket to read background documents or comments received, go to *Regulations.gov*.

**Please note:** All public comment should be submitted through the Federal eRulemaking portal (Regulations.gov) or by U.S. mail to the address listed above.

**FOR FURTHER INFORMATION CONTACT:** To request more information on the proposed project or to obtain a copy of the information collection plan and instruments, contact the Information Collection Review Office, Centers for Disease Control and Prevention, 1600 Clifton Road NE., MS–D74, Atlanta, Georgia 30329; phone: 404–639–7570; Email: *omb@cdc.gov.*

**SUPPLEMENTARY INFORMATION:** Under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501–3520), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. In addition, the PRA also requires Federal agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each new proposed collection, each proposed extension of existing collection of information, and each reinstatement of previously approved information collection before submitting the collection to OMB for approval. To comply with this requirement, we are publishing this notice of a proposed data collection as described below.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; to develop, acquire, install and utilize technology and systems for the purpose of collecting, validating and verifying information, processing and maintaining information, and disclosing and providing information; to train personnel and to be able to respond to a collection of information, to search data sources, to complete and review the collection of information; and to transmit or otherwise disclose the information.

**Proposed Project**

Workplace Violence Prevention Programs in New Jersey Healthcare Facilities (OMB No. 0920–0914, expires 02/29/2016)—Extension—National Institute for Occupational Safety and Health (NIOSH), Centers for Disease Control and Prevention (CDC).

*Background and Brief Description*

The National Institute for Occupational Safety and Health (NIOSH) is requesting a two-year extension to complete the nursing home interviews for the project entitled ''Workplace Violence Prevention Programs in New Jersey Healthcare Facilities''. The long-term goal of the proposed project is to reduce violence against healthcare workers. The objective of the proposed study is two-fold: (1) To examine healthcare facility compliance with the New Jersey Violence Prevention in Health Care Facilities Act, and (2) to evaluate the effectiveness of the regulations in this Act in reducing assault injuries to workers.

Our central hypothesis is that facilities with high compliance with the regulations will have lower rates of employee violence-related injury. NIOSH received OMB approval (0920–0914) to evaluate the legislation at hospitals and at nursing homes, to conduct a nurse survey and to conduct a home healthcare aide survey. Data collection is complete for the hospitals, the nurse survey, and the home healthcare aide survey. We are requesting an extension to evaluate the legislation at nursing homes.

First, we will conduct face-to-face interviews with the Chairs of the Violence Prevention Committees in 40 nursing homes (20 in New Jersey and 20 in Virginia) who are in charge of overseeing compliance efforts. The purpose of the interviews is to measure compliance to the state regulations (violence prevention policies, reporting systems for violent events, violence prevention committee, written violence prevention plan, violence risk assessments, post incident response and violence prevention training). The details of their Workplace Violence Prevention Program are in their existing policies and procedures. Second, we will also collect assault injury data from nursing home's violent event reports three years pre-regulation (2009–2011) and three years post-regulation (2012–2014). This data is captured in existing Occupational Safety and Health Administration (OSHA) logs and is publicly available. The purpose of collecting these data is to evaluate changes in assault injury rates before and after enactment of the regulations. A contractor will conduct the interviews, collect the nursing home's policies and procedures, and collect the assault injury data (OSHA logs).

Healthcare workers are nearly five times more likely to be victims of violence than workers in all industries combined. While healthcare workers are not at particularly high risk for job-related homicide, nearly 60% of all nonfatal assaults occurring in private industry are experienced in healthcare occupations.

Six states have enacted laws to reduce violence against healthcare workers by requiring workplace violence prevention programs. However, little is understood about how effective these laws are in reducing violence against healthcare workers. We will test our central hypothesis by accomplishing the following specific aims:

1. Compare the comprehensiveness of nursing home workplace violence prevention programs before and after enactment of the New Jersey regulations in nursing homes; Working hypothesis: Based on our preliminary research, we hypothesize that enactment of the regulations will improve the comprehensiveness of nursing home workplace violence prevention program policies, procedures and training.

2. Examine patterns of assault injuries to nursing home workers before and after enactment of the regulations; Working hypothesis: Based on our preliminary research, we hypothesize that rates of assault injuries to nursing home workers will decrease following enactment of the regulations.

Healthcare facilities falling under the regulations are eligible for study inclusion (*i.e.,* nursing homes). A contractor will conduct face-to-face interviews with the chairs of the Violence Prevention Committees at 40 nursing homes, who as stated in regulations, are in charge of overseeing compliance efforts. These individuals will include nursing home administrators. The purpose of the interviews is to measure compliance to the state regulations (Aim 1). The interview form was pilot-tested by the study team in the fall 2010 and includes the following components as mandated in the regulations: Violence prevention policies, reporting systems for violent events, violence prevention committee, written violence prevention plan, violence risk assessments, post incident response and violence prevention training. The nursing home's policy and procedures documents will be obtained by the contractor to provide details about their workplace violence prevention program; a NIOSH employee will complete the abstraction form from the policy and procedures documents received from the contractor. Questions will also be asked about barriers and facilitators to developing the violence prevention program. These data will be collected in the post-regulation time period.

A contractor will also collect assault injury data from nursing home violent event reports three years pre-regulation (2009–2011) and three years post-regulation (2012–2014). This data will be collected from existing OSHA logs; a NIOSH employee will fill out the Employee Incident Form from the OSHA logs received from the contractor. The purpose of collecting these data is to evaluate changes in assault injury rates before and after enactment of the regulations (Aim 2). The following information will be abstracted from the OSHA logs: Date, time and location of the incident; identity, job title and job task of the victim; identity of the perpetrator; description of the violent act, including whether a weapon was used; description of physical injuries; number of employees in the vicinity when the incident occurred, and their actions in response to the incident; recommendations of police advisors, employees or consultants, and; actions taken by the facility in response to the incident. No employee or perpetrator identifiable information will be collected.

There are no costs to respondents other than their time. The total estimated burden hours are 120.

ESTIMATED ANNUALIZED BURDEN HOURS

| Type of respondents | Form name | Number of respondents | Number of responses per respondent | Average burden per esponse (in hours) | Total burden (in hours) |
|---|---|---|---|---|---|
| Nursing Home Administrator | Interview | 40 | 1 | 1 | 40 |
| Nursing Home Administrator | Abstraction Form | 40 | 1 | 1 | 40 |
| Nursing Home Administrator | Employee Incident Form | 40 | 1 | 1 | 40 |
| Total | | | | | 120 |

**Leroy A. Richardson,**

*Chief, Information Collection Review Office, Office of Scientific Integrity, Office of the Associate Director for Science, Office of the Director, Centers for Disease Control and Prevention.*

[FR Doc. 2015–07038 Filed 3–26–15; 8:45 am]

BILLING CODE 4163–18–P

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health Statement of Organization, Functions, and Delegations of Authority

Part N, National Institutes of Health (NIH), of the Statement of Organization, Functions, and Delegations of Authority for the Department of Health and Human Services (40 FR 22859, May 27, 1975, as amended most recently at 77 FR 1941, January 12, 2012, and redesignated from Part HN as Part N at 60 FR 56605, November 9, 1995), is amended as set forth below to rename the National Center for Complementary and Alternative Medicine (NCCAM).

Section N–D, Organization and Functions, under the heading National Center for Complementary and Alternative Medicine (NCCAM), is renamed to the National Center for Complementary and Integrative Health (NCCIH).

*Delegations of Authority Statement:* All delegations and redelegations of authority to officers and employees of NIH that were in effect immediately prior to the effective date of this reorganization and are consistent with this reorganization shall continue in effect, pending further redelegation.

Dated: March 20, 2015.

**Francis S. Collins,**

*Director, NIH.*

[FR Doc. 2015–07064 Filed 3–26–15; 8:45 am]

BILLING CODE 4140–01–P

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

**[Docket No. FDA–2012–N–0114]**

### Agency Information Collection Activities; Proposed Collection; Comment Request; Request for Samples and Protocols

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Notice.

**SUMMARY:** The Food and Drug Administration (FDA) is announcing an opportunity for public comment on the proposed collection of certain information by the Agency. Under the Paperwork Reduction Act of 1995 (the PRA), Federal Agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, and to allow 60 days for public comment in response to the notice. This notice solicits comments on the information collection requirements relating to the regulations which state that protocols for samples of biological products must be submitted to the Agency.

**DATES:** Submit either electronic or written comments on the collection of information by May 26, 2015.

**ADDRESSES:** Submit electronic comments on the collection of information to *http://www.regulations.gov.* Submit written comments on the collection of information to the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852. All comments should be identified with the docket number found in brackets in the heading of this document.

**FOR FURTHER INFORMATION CONTACT:** FDA PRA Staff, Office of Operations, Food and Drug Administration, 8455 Colesville Rd., COLE–14526, Silver Spring, MD 20993–0002, *PRAStaff@fda.hhs.gov.*

**SUPPLEMENTARY INFORMATION:** Under the PRA (44 U.S.C. 3501–3520), Federal Agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. ''Collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes Agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires Federal Agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, FDA is publishing notice of the proposed collection of information set forth in this document.

With respect to the following collection of information, FDA invites comments on these topics: (1) Whether the proposed collection of information is necessary for the proper performance of FDA's functions, including whether the information will have practical utility; (2) the accuracy of FDA's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

**Request for Samples and Protocols—(OMB Control Number 0910–0206)—Extension**

Under section 351 of the Public Health Service Act (42 U.S.C. 262), FDA has the responsibility to issue regulations that prescribe standards designed to ensure the safety, purity, and potency of biological products and to ensure that the biologics licenses for such products are only issued when a product meets the prescribed standards. Under 21 CFR 610.2, the Center for Biologics Evaluation and Research (CBER) or the Center for Drugs Evaluation and Research may at any time require manufacturers of licensed biological products to submit to FDA samples of any lot along with the protocols showing the results of applicable tests prior to distributing the lot of the product. In addition to § 610.2, there are other regulations that require the submission of samples and protocols for specific licensed biological products: 21 CFR 660.6 (Antibody to Hepatitis B Surface Antigen); 21 CFR 660.36 (Reagent Red Blood Cells); and 21 CFR 660.46 (Hepatitis B Surface Antigen).

Section 660.6(a) provides requirements for the frequency of submission of samples from each lot of Antibody to Hepatitis B Surface Antigen product, and § 660.6(b) provides the requirements for the submission of a protocol containing specific information along with each required sample. For § 660.6 products subject to official release by FDA, one sample from each filling of each lot is required to be submitted along with a protocol consisting of a summary of the history of manufacture of the product, including all results of each test for which test results are requested by CBER. After official release is no longer required, one sample along with a protocol is required to be submitted at 90-day intervals. In addition, samples, which must be accompanied by a protocol, may at any time be required to be submitted to CBER if continued evaluation is deemed necessary.

Section 660.36(a) requires, after each routine establishment inspection by FDA, the submission of samples from a lot of final Reagent Red Blood Cell product along with a protocol containing specific information. Section 660.36(a)(2) requires that a protocol contain information including, but not limited to, manufacturing records, certain test records, and identity test results. Section 660.36(b) requires a copy of the antigenic constitution matrix specifying the antigens present or absent to be submitted to the CBER Director at the time of initial distribution of each lot.

Section 660.46(a) contains requirements as to the frequency of submission of samples from each lot of Hepatitis B Surface Antigen product, and § 660.46(b) contains the requirements as to the submission of a protocol containing specific information along with each required sample. For § 660.46 products subject to official release by FDA, one sample from each filling of each lot is required to be submitted along with a protocol consisting of a summary of the history of manufacture of the product, including all results of each test for which test results are requested by CBER. After notification of official release is received, one sample along with a protocol is required to be submitted at 90-day intervals. In addition, samples, which must be accompanied by a protocol, may at any time be required to be submitted to CBER if continued evaluation is deemed necessary.

Samples and protocols are required by FDA to help ensure the safety, purity, or potency of a product because of the potential lot-to-lot variability of a product produced from living organisms. In cases of certain biological products (*e.g.,* Albumin, Plasma Protein Fraction, and therapeutic biological products) that are known to have lot-to-lot consistency, official lot release is not normally required. However, submissions of samples and protocols of these products may still be required for surveillance, licensing, and export purposes, or in the event that FDA obtains information that the manufacturing process may not result in consistent quality of the product.

The following burden estimate is for the protocols required to be submitted with each sample. The collection of samples is not a collection of information under 5 CFR 1320.3(h)(2). Respondents to the collection of information under § 610.2 are manufacturers of licensed biological products. Respondents to the collection of information under §§ 660.6(b), 660.36(a)(2) and (b), and 660.46(b) are manufacturers of the specific products referenced previously in this document. The estimated number of respondents for each regulation is based on the annual number of manufacturers that submitted samples and protocols for biological products including submissions for lot release, surveillance, licensing, or export. Based on information obtained from FDA's database system, approximately 80 manufacturers submitted samples and protocols in fiscal year (FY) 2014, under the regulations cited previously in this document. FDA estimates that approximately 76 manufacturers submitted protocols under § 610.2 and 2 manufacturers submitted protocols under the regulation (§ 660.6) for the other specific product. FDA received no submissions under § 660.36 or § 660.46, however FDA is using the estimate of one protocol submission under each regulation in the event that protocols are submitted in the future.

The estimated total annual responses are based on FDA's final actions completed in FY 2014 for the various submission requirements of samples and protocols for the licensed biological products. The average burden per response is based on information provided by industry. The burden estimates provided by industry ranged from 1 to 5.5 hours. Under § 610.2, the average burden per response is based on the average of these estimates and rounded to 3 hours. Under the remaining regulations, the average burden per response is based on the higher end of the estimate (rounded to 5 or 6 hours) since more information is generally required to be submitted in the other protocols than under § 610.2. FDA estimates the burden of this information collection as follows:

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN [1]

| 21 CFR section | Number of respondents | Number of responses per respondent | Total annual responses | Average burden per response | Total hours |
|---|---|---|---|---|---|
| 610.2 Lot Release Information Submission | 76 | 84.54 | 6,197 | 3 | 18,591 |
| 660.6(b) Lot Release Information Submission | 2 | 9 | 18 | 5 | 90 |
| 660.36(a)(2) and (b) Lot Release Information Submission | 1 | 1 | 1 | 6 | 6 |
| 660.46(b) Lot Release Information Submission | 1 | 1 | 1 | 5 | 5 |
| Total | 80 | | 6,217 | | 18,692 |

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

Dated: March 23, 2015.

**Leslie Kux,**

*Associate Commissioner for Policy.*

[FR Doc. 2015–07008 Filed 3–26–15; 8:45 am]

BILLING CODE 4164–01–P

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Centers for Medicare & Medicaid Services

**[CMS–3313–N]**

### Announcement of the Re-Approval of the College of American Pathologists (CAP) as an Accreditation Organization Under the Clinical Laboratory Improvement Amendments of 1988

**AGENCY:** Centers for Medicare & Medicaid Services (CMS), HHS.

**ACTION:** Notice.

**SUMMARY:** This notice announces the application of the College of American Pathologists (CAP) for approval as an accreditation organization for clinical laboratories under the Clinical Laboratory Improvement Amendments of 1988 (CLIA) program. We have determined that the CAP meets or exceeds the applicable CLIA requirements. In this notice, we announce the approval and grant CAP deeming authority for a period of 6 years.

**DATES:** This notice is effective from March 27, 2015, until March 27, 2021.

**FOR FURTHER INFORMATION CONTACT:** Melissa Singer, 410–786–0365.

**SUPPLEMENTARY INFORMATION:**

### I. Background and Legislative Authority

On October 31, 1988, the Congress enacted the Clinical Laboratory Improvement Amendments of 1988 (CLIA) (Pub. L. 100–578). CLIA amended section 353 of the Public Health Service Act. We issued a final rule implementing the accreditation provisions of CLIA on July 31, 1992 (57 FR 33992). Under these provisions, we may grant deeming authority to an accreditation organization if its requirements for laboratories accredited under its program are equal to or more stringent than the applicable CLIA program requirements in 42 CFR part 493 (Laboratory Requirements). Subpart E of part 493 (Accreditation by a Private, Nonprofit Accreditation Organization or Exemption under an Approved State Laboratory Program) specifies the requirements an accreditation organization must meet to be approved by CMS as an accreditation organization under CLIA.

### II. Notice of Approval of CAP as an Accreditation Organization

In this notice, we approve the College of American Pathologists (CAP) as an organization that may accredit laboratories for purposes of establishing their compliance with CLIA requirements in all specialties and subspecialties. We have examined the initial CAP application and all subsequent submissions to determine its accreditation program's equivalency with the requirements for approval of an accreditation organization under subpart E of part 493. We have determined that the CAP meets or exceeds the applicable CLIA requirements. We have also determined that the CAP will ensure that its accredited laboratories will meet or exceed the applicable requirements in subparts H, I, J, K, M, Q, and the applicable sections of R. Therefore, we grant the CAP approval as an accreditation organization under subpart E of part 493, for the period stated in the **DATES** section of this notice for all specialties and subspecialties areas under CLIA. As a result of this determination, any laboratory that is accredited by the CAP during the time period stated in the **DATES** section of this notice will be deemed to meet the CLIA requirements for the listed specialties and subspecialties, and therefore, will generally not be subject to routine inspections by a state survey agency to determine its compliance with CLIA requirements. The accredited laboratory, however, is subject to validation and complaint investigation surveys performed by CMS, or its agent(s).

### III. Evaluation of the CAP Request for Approval as an Accreditation Organization Under CLIA

The following describes the process used to determine that the CAP accreditation program meets the necessary requirements to be approved by CMS as an accreditation program with deeming authority under the CLIA program. The CAP formally applied to CMS for approval as an accreditation organization under CLIA for all specialties and subspecialties. In reviewing these materials, we reached the following determinations for each applicable part of the CLIA regulations:

*A. Subpart E—Accreditation by a Private, Nonprofit Accreditation Organization or Exemption Under an Approved State Laboratory Program*

The CAP submitted its mechanism for monitoring compliance with all requirements equivalent to condition-level requirements, a list of all its current laboratories and the expiration date of their accreditation, and a detailed comparison of the individual accreditation requirements with the comparable condition-level requirements. We have determined that the CAP's policies and procedures for oversight of laboratories performing all laboratory testing covered by CLIA are equivalent to those required by our CLIA regulations in the matters of inspection, monitoring proficiency testing (PT) performance, investigating complaints, and making PT information available. The CAP submitted documentation regarding its requirements for monitoring and inspecting laboratories, and describing its own standards regarding accreditation removal or withdrawal of accreditation, notification requirements, and accreditation organization resources. We have determined that the requirements of the accreditation program submitted for approval are

equal to or more stringent than the requirements of the CLIA regulations.

*B. Subpart H—Participation in Proficiency Testing for Laboratories Performing Nonwaived Testing and Listing of Analytes Requiring PT From Subpart I*

We have determined that the CAP's requirements are equal to or more stringent than the CLIA requirements at § 493.801 through § 493.865. Like CLIA, all of the CAP's accredited laboratories are required to participate in an HHS-approved PT program for tests listed in Subpart I. CLIA exempts waived testing from PT, whereas the CAP requires its accredited laboratories to participate in a CMS-approved PT program for test systems waived under CLIA.

*C. Subpart J—Facility Administration for Non-Waived Testing*

The CAP requirements are equal to or more stringent than the CLIA requirements at § 493.1100 through § 493.1105. CAP is more stringent than CLIA in its specific requirements for the Laboratory Information System that include requirements for computer facility, hardware and software, system security, patient data, auto verification, data retrieval and preservation, interfaces, and telepathology.

*D. Subpart K—Quality System for Nonwaived Testing*

We have determined that the QC requirements of CAP are more stringent than the CLIA requirements at § 493.1200 through § 493.1299. The CAP lists extensive requirements for the methodologies of clinical biochemical genetics, molecular pathology and flow cytometry, which are presented in separate checklists. The CAP's control procedure requirements for molecular testing and histocompatibility are more specific and detailed than the CLIA requirements for control procedures. CAP laboratories performing waived testing must follow the same requirements that apply to non-waived testing for procedure manuals, specimen handling, results reporting, instruments, and equipment. Under CLIA, the Subpart K Quality System requirements do not apply to waived testing.

*E. Subpart M—Personnel for Nonwaived Testing*

We have determined that the CAP requirements are equal to or more stringent than the CLIA requirements at § 493.1403 through § 493.1495 for laboratories that perform moderate and high complexity testing. For certain types of testing, such as molecular testing, the experience requirements for General Supervisor are more closely related to the specific testing technology than the CLIA requirements. The CAP also applies personnel requirements to waived testing. CLIA regulations do not contain personnel requirements for waived testing.

*F. Subpart Q—Inspection*

We have determined that the CAP inspection requirements are equal to or more stringent than the CLIA requirements at § 493.1771 through § 493.1780. CAP will continue to conduct biennial onsite inspections. During the onsite inspection, CAP requires that the inspector meet with the hospital administrator or medical staff to obtain their feedback on the laboratory service. The CAP also requires a mid-cycle self-inspection of all accredited laboratories. CLIA regulations do not contain these requirements.

*G. Subpart R—Enforcement Procedures*

We have determined that the CAP meets the requirements of subpart R to the extent that such requirements are utilized by accreditation organizations. CAP policy sets forth the actions the organization takes when laboratories it accredits do not comply with its requirements and standards for accreditation. When appropriate, the CAP will deny, suspend, or revoke accreditation in a laboratory accredited by the CAP and report that action to us within 30 days. The CAP also provides an appeals process for laboratories that have had accreditation denied, suspended, or revoked.

We have determined that the CAP's laboratory enforcement and appeal policies are equal to or more stringent than the requirements of part 492 subpart R as they apply to accreditation organizations.

## IV. Federal Validation Inspections and Continuing Oversight

The federal validation inspections of laboratories accredited by the CAP may be conducted on a representative sample basis or in response to substantial allegations of noncompliance (that is, complaint inspections). The outcome of those validation inspections, performed by CMS or our agents, or the state survey agencies, will be our principal means for verifying that the laboratories accredited by CAP remain in compliance with CLIA requirements. This federal monitoring is an ongoing process.

## V. Removal of Approval as an Accrediting Organization

Our regulations provide that we may rescind the approval of an accreditation organization, such as that of the CAP, for cause, before the end of the effective date of approval. If we determine that the CAP has failed to adopt, maintain and enforce requirements that are equal to, or more stringent than, the CLIA requirements, or that systemic problems exist in its monitoring, inspection or enforcement processes, we may impose a probationary period, not to exceed 1 year, in which the CAP would be allowed to address any identified issues. Should the CAP be unable to address the identified issues within that timeframe, CMS may, in accordance with the applicable regulations, revoke the CAP's deeming authority under CLIA.

Should circumstances result in our withdrawal of the CAP's approval, we will publish a notice in the **Federal Register** explaining the basis for removing its approval.

## VI. Collection of Information Requirements

This notice does not impose any information collection and record keeping requirements subject to the Paperwork Reduction Act (PRA). Consequently, it does not need to be reviewed by the Office of Management and Budget (OMB) under the authority of the PRA. The requirements associated with the accreditation process for clinical laboratories under the Clinical Laboratory Improvement Amendments of 1988 (CLIA) program, and the implementing regulations in 42 CFR part 493, subpart E, are currently approved under OMB control number 0938–0686.

Dated: March 9, 2015.

**Andrew M. Slavitt,**

*Acting Administrator, Centers for Medicare & Medicaid Services.*

[FR Doc. 2015–07111 Filed 3–26–15; 8:45 am]

BILLING CODE 4120–01–P

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Centers for Disease Control and Prevention

**[60Day–15–15UR; Docket No. CDC–2015–0010]**

### Proposed Data Collection Submitted for Public Comment and Recommendations

**AGENCY:** Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

**ACTION:** Notice with comment period.

**SUMMARY:** The Centers for Disease Control and Prevention (CDC), as part of its continuing efforts to reduce public burden and maximize the utility of government information, 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. This notice invites comment on newly proposed information collection activities for enhanced surveillance of Coccidioidomycosis in low- and non-endemic states.

**DATES:** Written comments must be received on or before May 26, 2015.

**ADDRESSES:** You may submit comments, identified by Docket No. CDC–2015–0010 by any of the following methods:

- *Federal eRulemaking Portal: Regulation.gov*. Follow the instructions for submitting comments.
- *Mail:* Leroy A. Richardson, Information Collection Review Office, Centers for Disease Control and Prevention, 1600 Clifton Road NE., MS–D74, Atlanta, Georgia 30329.

*Instructions:* All submissions received must include the agency name and Docket Number. All relevant comments received will be posted without change to *Regulations.gov*, including any personal information provided. For access to the docket to read background documents or comments received, go to *Regulations.gov*.

**Please note:** All public comment should be submitted through the Federal eRulemaking portal (*Regulations.gov*) or by U.S. mail to the address listed above.

**FOR FURTHER INFORMATION CONTACT:** To request more information on the proposed project or to obtain a copy of the information collection plan and instruments, contact the Information Collection Review Office, Centers for Disease Control and Prevention, 1600 Clifton Road NE., MS–D74, Atlanta, Georgia 30329; phone: 404–639–7570; Email: *omb@cdc.gov*.

**SUPPLEMENTARY INFORMATION:** Under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501–3520), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. In addition, the PRA also requires Federal agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each new proposed collection, each proposed extension of existing collection of information, and each reinstatement of previously approved information collection before submitting the collection to OMB for approval. To comply with this requirement, we are publishing this notice of a proposed data collection as described below.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; to develop, acquire, install and utilize technology and systems for the purpose of collecting, validating and verifying information, processing and maintaining information, and disclosing and providing information; to train personnel and to be able to respond to a collection of information, to search data sources, to complete and review the collection of information; and to transmit or otherwise disclose the information.

### Proposed Project

Enhanced Surveillance of Coccidioidomycosis in Low- and Non-Endemic States—New—National Center for Emerging and Zoonotic Infectious Diseases (NCEZID), Centers for Disease Control and Prevention (CDC).

*Background and Brief Description*

Coccidioidomycosis, also called ''Valley fever,'' is a nationally notifiable fungal infection caused by inhalation of soil-dwelling *Coccidioides* spp. In the United States, coccidioidomycosis is known to be endemic in the southwestern states, but new evidence suggests that the true endemic areas may be broader than previously recognized. Approximately 10,000 coccidioidomycosis cases are reported in the U.S. each year to the National Notifiable Disease Surveillance System (NNDSS), but this system captures limited clinical and epidemiological information about reported cases. Most cases occur in Arizona or California, so the epidemiology of this disease has been well-described for these states, but little is known about the features of cases in other states.

Enhanced surveillance in low- and non-endemic states will help determine which information is most important to collect during routine surveillance and will help assess the suitability of the Council of State and Territorial Epidemiologists (CSTE) case definition for coccidioidomycosis in these areas. Primary prevention strategies for coccidioidomycosis have not yet been proven to be effective, so public health efforts may be best aimed at promoting awareness of coccidioidomycosis among healthcare providers and the general public. Improved surveillance data are essential for identifying such opportunities to promote awareness about this disease and for determining its true public health burden.

For a period of one year, state health department personnel in participating low- and non-endemic states (Louisiana, Michigan, Minnesota, Missouri, Montana, Nevada, New Mexico, North Dakota, Ohio, Oregon, Pennsylvania, Utah, and Wyoming) will conduct telephone interviews with reported coccidioidomycosis cases that meet the CSTE case definition and will record responses on a standardized form. Information collected on the form will include demographics, underlying medical conditions, travel history, symptom type and duration, healthcare-seeking behaviors, diagnosis, treatment, and outcomes.

This interview activity is consistent with the state's existing authority to investigate reports of notifiable diseases for routine surveillance purposes; therefore, formal consent to participate in the surveillance is not required. However, cases may choose not to participate and may choose not to answer any question they do not wish to answer.

It will take state health department personnel 20 minutes to administer the questionnaire and 10 minutes to retrieve and record the diagnostic information from their state reportable disease database.

Participation is voluntary. There are no costs to the respondents other than their time. The total burden hours are 73 hours.

ESTIMATED ANNUALIZED BURDEN HOURS

| Type of respondents | Form name | Number of respondents | Number of responses per respondent | Average burden per response (in hrs.) | Total burden (in hrs.) |
|---|---|---|---|---|---|
| State Health Department Personnel | Case Report Form for Coccidioidomycosis (Valley Fever) Enhanced Surveillance. | 145 | 1 | 30/60 | 73 |
| Total | | | | | 73 |

**Leroy A. Richardson,**

*Chief, Information Collection Review Office, Office of Scientific Integrity, Office of the Associate Director for Science, Office of the Director, Centers for Disease Control and Prevention.*

[FR Doc. 2015–07036 Filed 3–26–15; 8:45 am]

**BILLING CODE 4163–18–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Centers for Disease Control and Prevention

**[30Day–15–15GD]**

### Agency Forms Undergoing Paperwork Reduction Act Review

The Centers for Disease Control and Prevention (CDC) has submitted the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The notice for the proposed information collection is published to obtain comments from the public and affected agencies.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address any of the following: (a) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (c) Enhance the quality, utility, and clarity of the information to be collected; (d) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses; and (e) Assess information collection costs.

To request additional information on the proposed project or to obtain a copy of the information collection plan and instruments, call (404) 639–7570 or send an email to *omb@cdc.gov.* Written comments and/or suggestions regarding the items contained in this notice should be directed to the Attention: CDC Desk Officer, Office of Management and Budget, Washington, DC 20503 or by fax to (202) 395–5806. Written comments should be received within 30 days of this notice.

**Proposed Project**

Emergency Self Escape for Coal Miners—New—National Institute for Occupational Safety and Health (NIOSH), Centers for Disease Control and Prevention (CDC).

*Background and Brief Description*

The Centers for Disease Control and Prevention's (CDC) mission is to promote health and quality of life by preventing and controlling disease, injury, and disability. The National Institute for Occupational Safety and Health (NIOSH) provides national and world leadership to prevent work-related illness, injury, disability, and death by gathering information, conducting scientific research, and translating knowledge gained into products and services. NIOSH's mission is critical to the health and safety of every American worker. The Office of Mine Safety and Health Research (OMSHR), one of the preeminent mining research laboratories in the world, is focused on occupational health and safety research for mine workers.

Recent research by the National Academy of Sciences (NAS) has called for a detailed, formal task analysis of mine self-escape (National Research Council, 2013). Such an analysis should identify the knowledge, skills, abilities, and other attributes (KSAOs) needed by mine personnel in the event of a mine disaster to successfully complete an emergency self-escape. This analysis will identify gaps between worker demands and capabilities, and propose recommendations to either minimize those gaps or enhance existing systems (*e.g.,* communications, training, technology).

The purpose of the project is to enhance the ability of miners to escape from underground coal mines in the event of a fire, explosion, collapse of the mine structure, or flooding of the area by toxic gas or water. To escape, miners need to perform a set of tasks that apply specific knowledge and skills in moving through the mine, avoiding dangers, and using protective equipment. The project will identify the tasks, knowledge and skills, procedures, equipment, communications, and physical requirements of self-escape. The results are expected to lead to recommendations for improvements to task requirements and procedures, equipment, training and communication processes.

NIOSH proposes this two-year study to better understand the requirements of emergency self-escape and to answer the following questions:

- What tasks (and critical tasks) do miners perform during self-escape?
- What knowledge beyond that needed to perform normal, routine mining tasks do miners require to facilitate successful self-escape?
- What are the cognitive requirements (such as reasoning, or weighing and deciding among alternatives, recognizing when a course of action is not producing the intended results) beyond that needed to perform normal, routine mining tasks?

• What other cognitive abilities or other cognitive competencies are needed?

• What gaps exist between what miners are required to do for self-escape and their capabilities?

• How can self-escape be improved by redesigning, eliminating, or modifying tasks or training, or by altering or introducing specific technologies/tools?

To answer these questions, we will use a task analysis study design that utilizes a multiple-method approach, to include (a) review of available research, (b) interviews and focus group meetings with participants, and (c) unobtrusive observation (*e.g.,* of drills). During interviews and focus groups, targeted questions are asked to elicit the level and type of desired information. This system of collecting information is ''active'' in that participants are presented stimuli (*e.g.,* disaster scenarios, worker roles) and asked directly to provide their perceptions (*e.g.,* of tasks or cognitive requirements needed to accomplish self-escape in that disaster). Observation checklists have been developed to capture relevant information during the unobtrusive naturalistic observations of self-escape drills. These data are then organized, collated, and re-presented to participants for confirmation of accuracy. Recommendations are generated based on study findings, related research and practices, and logical inference.

Participants will be mining personnel drawn from two operating coal mines, one large and one smaller mine, to represent the variety within the industry. The data collection schedule (*e.g.,* timing and duration of interviews and focus groups) will be modified as needed to minimize disruption to mine operations. Up to 30 miner volunteers will participate in the study. Minimal time (< 5 minutes each) will be spent in recruitment and obtaining informed consent.

Semi-structured interviews with mine personnel will require 1.5–2 hours of their time depending on the interview. Each of the two focus groups (the Initial Focus Group and the HTA) will require approximately 12 hours of a participant's time total. However, a given focus group will be executed in smaller blocks of time to reduce the burden on participants. Participants in the Initial Focus Group are not required to participate in the HTA Focus Group.

Observation of drills will occur as part of normal mine operations and will not result in any additional burden on the respondents.

The total estimated burden hours are 207.

ESTIMATED ANNUALIZED BURDEN HOURS

| Type of respondent | Form name | Number of respondents | Number of responses per respondent | Average burden per response (in hours) |
|---|---|---|---|---|
| Underground coal miners | Recruitment Script | 30 | 1 | 5/60 |
| Underground coal miners | Informed Consent | 30 | 1 | 5/60 |
| Underground coal miners | Initial Interviews | 6 | 1 | 1.5 |
| Underground coal miners | CTA Interviews | 12 | 2 | 2 |
| Underground coal miners | Initial focus group sessions | 12 | 6 | 1 |
| Underground coal miners | HTA focus group sessions | 12 | 6 | 1 |

**Leroy A. Richardson,**

*Chief, Information Collection Review Office, Office of Scientific Integrity, Office of the Associate Director for Science, Office of the Director, Centers for Disease Control and Prevention.*

[FR Doc. 2015–07035 Filed 3–26–15; 8:45 am]

BILLING CODE 4163–18–P

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Meeting of the President's Council on Fitness, Sports, and Nutrition

**AGENCY:** Office of the Secretary, Office of the Assistant Secretary for Health, President's Council on Fitness, Sports, and Nutrition, Department of Health and Human Services.

**ACTION:** Notice of meeting.

**SUMMARY:** As stipulated by the Federal Advisory Committee Act, the U.S. Department of Health and Human Services (HHS) is hereby giving notice that the President's Council on Fitness, Sports, and Nutrition (PCFSN) will hold its annual meeting. The meeting will be open to the public.

**DATES:** The meeting will be held on May 5, 2015, from 9:00 a.m. to 1:30 p.m.

**ADDRESSES:** Hubert H. Humphrey Building, 200 Independence Avenue SW., Great Hall, Washington, DC 20201.

**FOR FURTHER INFORMATION CONTACT:** Ms. Shellie Pfohl, Executive Director, Office of the President's Council on Fitness, Sports, and Nutrition, Tower Building, 1101 Wootton Parkway, Suite 560, Rockville, MD 20852, (240) 276–9567. Information about PCFSN, including details about the upcoming meeting, can be obtained at *www.fitness.gov.*

**SUPPLEMENTARY INFORMATION:** The primary functions of the PCFSN include (1) advising the President, through the Secretary, concerning progress made in carrying out the provisions of Executive Order 13545 and shall recommend to the President, through the Secretary, actions to accelerate progress; (2) advising the Secretary on ways to promote regular physical activity, fitness, sports participation, and good nutrition. Recommendations may address, but are not necessarily limited to, public awareness campaigns; federal, state, and local physical activity; fitness, sports participation, and nutrition initiatives; and partnership opportunities between public- and private-sector health promotion entities; (3) functioning as a liaison to relevant state, local, and private entities in order to advise the Secretary regarding opportunities to extend and improve physical activity, fitness, sports, and nutrition programs and services at the local, state, and national levels; and (4) monitoring the need to enhance programs and educational and promotional materials sponsored, overseen, or disseminated by the Council, and shall advise the Secretary, as necessary, concerning such need. In performing its functions, the Council shall take into account the Federal Dietary Guidelines for Americans and the Physical Activity Guidelines for Americans.

The PCFSN will hold, at a minimum, one meeting per fiscal year. The meeting will be held to (1) assess ongoing Council activities; and, (2) discuss and plan future projects and programs. The agenda for the planned meeting is being developed and will be posted at

*www.fitness.gov* when it has been finalized.

The meeting that is scheduled to be held on May 5, 2015, is open to the public. Every effort will be made to provide reasonable accommodations for persons with disabilities and/or special needs who wish to attend the meeting. Persons with disabilities and/or special needs should call (240) 276–9567 no later than close of business on April 21, 2015, to request accommodations. Members of the public who wish to attend the meeting are asked to pre-register by sending an email to *rsvp.fitness@hhs.gov* or by calling (240) 276–9567. Registration for public attendance must be completed before close of business on April 28, 2015.

Dated: March 20, 2015.

**Shellie Y. Pfohl,**

*Executive Director, Office of the President's Council on Fitness, Sports, and Nutrition, U.S. Department of Health and Human Services.*

[FR Doc. 2015–06999 Filed 3–26–15; 8:45 am]

**BILLING CODE 4150–35–P**

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## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Centers for Disease Control and Prevention

### Criteria for Requesting Federal Travel Restrictions for Public Health Purposes, Including for Viral Hemorrhagic Fevers

**AGENCY:** Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

**ACTION:** Notice.

**SUMMARY:** The Centers for Disease Control and Prevention (CDC) in the Department of Health and Human Services (HHS) is publishing this Notice to inform the public of the criteria CDC considers for requesting federal travel restrictions for public health purposes, including for use of the Do Not Board (DNB) list and Public Health Border Lookout records. Individuals with communicable diseases that pose a public health threat to travelers can be placed on this list to restrict them from boarding commercial aircraft arriving into, departing from, or traveling within the United States. This notice further describes the factors that HHS/CDC will consider in evaluating whether to request that an individual who may have been exposed to a hemorrhagic fever virus be placed on the DNB list, which is administered by the Department of Homeland Security (DHS). It also contains information for individuals who have been placed on this list to respond to this decision in writing, if they believe the decision was made in error. This notice is effective immediately.

**DATES:** This notice is effective on March 27, 2015.

**FOR FURTHER INFORMATION CONTACT:** For information regarding this Notice: Ashley A. Marrone, J.D., Division of Global Migration and Quarantine, Centers for Disease Control and Prevention, 1600 Clifton Road NE., MS–E03, Atlanta, GA 30329. For information regarding CDC operations related to this Notice: Travel Restrictions and Intervention Activity, ATTN.: Francisco Alvarado-Ramy, M.D., Division of Global Migration and Quarantine, Centers for Disease Control and Prevention, 1600 Clifton Road NE., MS–C–01, Atlanta, GA 30329. Either may also be reached by telephone 404–498–1600 or email *travelrestrictions@cdc.gov.*

**SUPPLEMENTARY INFORMATION:**

## I. Background

Individuals with communicable diseases who travel on commercial aircraft can pose a risk for infection to the traveling public. In June 2007, HHS/CDC and DHS developed a public health DNB list, enabling domestic and international public health officials to request that individuals with communicable diseases who meet specific criteria, including having a communicable disease that poses a public health threat to the traveling public, be restricted from boarding commercial aircraft arriving into, departing from, or traveling within the United States.[1] The public health DNB list, administered by DHS and based on HHS/CDC's requests, is intended to supplement state and/or local public health measures to prevent individuals who are infectious, or reasonably believed to have been exposed to a communicable disease and may become infectious, from boarding commercial aircraft. Use of the list is limited to those communicable diseases that would pose a public health threat to travelers should the infected individual be permitted to board a flight. Once an individual is placed on the DNB list, airlines are instructed not to issue a boarding pass to the individual for any commercial domestic flight or for any commercial international flight arriving in or departing from the United States. An individual is typically removed from the DNB upon receipt by HHS/CDC of the treating physician's or public health authority's statement (or other medical documentation) that the individual is no longer considered infectious, or lapse of the period that the individual is at risk of becoming infectious without development of symptoms.

Individuals included on the DNB list are assigned a Public Health Border Lookout (''Lookout'') record that assists in ensuring that an individual placed on the DNB is detected if he or she attempts to enter or depart the United States through a port of entry. When this happens, officials from U.S. Customs and Border Protection (CBP), a component agency of DHS, notify HHS/CDC so that a thorough public health inquiry and evaluation can be conducted and appropriate public health action taken, as needed.

Requests for an individual to be placed on the public health DNB list with an associated Lookout record happen through a number of means, including: State or local public health officials contact the CDC Quarantine Station of jurisdiction, health-care providers make requests by contacting their state or local public health departments, and foreign and U.S. government agencies contact the CDC's Emergency Operations Center (EOC) in Atlanta. HHS/CDC may also request that DHS place an individual on the public health DNB and Lookout lists if HHS/CDC becomes independently aware of an individual who meets the placement criteria.[2]

HHS/CDC has refined the criteria that it initially considered, as published in the Morbidity and Mortality Weekly Report (MMWR) in 2008, and this notice describes the criteria CDC currently considers when making requests to DHS to include an individual on the DNB list and associated Lookout record. If an individual satisfies the first criteria and any of the three other criteria, then he/she may qualify to be placed on the list. Currently, HHS/CDC considers whether:

(1) The individual is known or reasonably believed to be infectious or reasonably believed to have been exposed to a communicable disease and may become infectious with a communicable disease that would be a public health threat should the individual be permitted to board a commercial aircraft or travel in a manner that would expose the public; and

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[1] CDC. *Federal air travel restrictions for public health purposes—United States, June 2007–May 2008.* MMWR 2008; 57:1009–12. Available at *http://www.cdc.gov/mmwr/preview/mmwrhtml/mm5737a1.htm.*

[2] CDC. Federal air travel restrictions for public health purposes—United States, June 2007–May 2008. MMWR 2008; 57:1009–12. Available at *http://www.cdc.gov/mmwr/preview/mmwrhtml/mm5737a1.htm.*

(2) the individual is not aware of his or her diagnosis, has been advised regarding the diagnosis and is non-compliant with public health requests or has shown potential for non-compliance, or is unable to be located; or

(3) the individual is at risk of traveling on a commercial flight or of traveling internationally by any means; or

(4) the individual's placement on the DNB is necessary to effectively respond to outbreaks of communicable disease or other conditions of public health concern. For example, an individual's placement on the DNB may be considered when necessary to aid in the application of controlled movement [3] or in the execution of a federal, state, or local quarantine, isolation, or conditional release order.

## II. Authority

The DNB list and Lookout record are based on requests made by HHS/CDC regarding public health decisions and actions, and are administered by DHS. Under the Public Health Service Act, the Secretary of HHS is authorized to make and enforce regulations and take other actions necessary to prevent the introduction, transmission, or spread of communicable diseases from foreign countries into the United States or between states.[4] Under its delegated authority, the HHS/CDC Division of Global Migration and Quarantine fulfills this responsibility through a variety of activities that may include operating quarantine stations at ports of entry, conducting routine public health screening, and administering quarantine regulations that govern the international and interstate movement of persons, animals, and cargo.[5]

### *Authority of DHS*

Federal law authorizes CBP, U.S. Immigration and Customs Enforcement (ICE), and U.S. Coast Guard (USCG) officers to assist HHS by enforcing quarantine rules and regulations.[6] In addition, other DHS Components such as the Transportation Security Administration (TSA), relying on their existing authorities, may provide supportive roles to federal screening efforts designed to prevent the introduction and spread of communicable disease.

TSA has the authority to accept the services of, or otherwise cooperate with, other federal agencies including implementing the DNB list.[7] Further, TSA may ''develop policies, strategies, and plans for dealing with the threats . . . including coordinating countermeasures with appropriate departments, agencies, and instrumentalities of the United States.'' [8] Consistent with this authority, TSA may assist another Federal agency in carrying out its authority in order to address a threat to transportation. These threats may involve passenger safety.[9] In administering the DNB list, TSA relies on CDC to make public health findings as the basis for its request. As the medical authority for DHS,[10] the Office of Health Affairs reviews and approves the medical appropriateness of HHS/CDC's request prior to DHS implementing HHS/CDC's request by placing the person on the DNB list.

## III. Operations

Because of the urgency involved in restricting individuals with serious communicable diseases from boarding commercial aircraft, individuals might not be notified prior to their inclusion on the DNB list and associated Lookout record. When an individual is placed on the DNB list with an associated Lookout record, HHS/CDC advises in writing that the individual is temporarily restricted from traveling by commercial air carrier and provides the reasons why HHS/CDC has reached this decision. HHS/CDC interprets ''temporarily restricted'' to mean that the individual will remain on the lists until no longer considered to be infectious or at risk of becoming infectious. HHS/CDC's notification to the individual also explains that, while the individual is on these lists, travel by commercial aircraft is forbidden and any attempt to enter the United States through any port of entry will be stopped by CBP officials and that the individual will be referred for public health evaluation. If an individual cannot be located, HHS/CDC works with state and local public health officials to contact the individual through family or other contacts. HHS/CDC and DHS take great care to ensure personal medical information is safeguarded.

As part of its notification process HHS/CDC also asks the appropriate state or local health department to notify the individual directly, state the reasons for the placement on the DNB list and associated Lookout record, and provide the medical or public health requirements that must be satisfied to be removed from the lists. The primary consideration for requesting removal from the DNB list and associated Lookout record is CDC's determination that the individual is no longer considered to be infectious or at risk of becoming infectious; however, other factors may be taken into consideration including the individual's return to treatment, if applicable, and following public health recommendations. Once HHS/CDC receives documentation that these medical and other stated requirements have been met, it sends a request to DHS to lift the travel restrictions (both the DNB list and the Lookout record).[11] Once an individual is removed from the DNB list and the associated Lookout record is removed, a second notification letter is sent by HHS/CDC to the individual informing him or her that the public health travel restrictions have been removed and providing further recommendations on an as-needed basis (*e.g.,* advising that the individual continue treatment, if applicable).

HHS/CDC's letter informing individuals that they have been placed on the DNB list and associated Lookout records invites individuals who believe that HHS/CDC's public health decision was made in error to submit a written response to the Director of HHS/CDC's Division of Global Migration and Quarantine and provide any supporting facts or other evidence supporting their belief. These operations and procedures will not change as a result of this Notice.

## IV. Requesting Travel Restrictions for Viral Hemorrhagic Fevers

To date, the DNB list and associated Lookout records have been used primarily with respect to individuals with suspected or confirmed pulmonary tuberculosis (TB), including multidrug-resistant tuberculosis (MDR–TB), and a very small number with measles. However, travel restrictions are also applicable to other suspected or confirmed communicable diseases that could pose a public health threat during travel, including viral hemorrhagic fevers such as Ebola virus disease

[3] See *http://www.cdc.gov/vhf/ebola/exposure/monitoring-and-movement-of-persons-with-exposure.html.*

[4] 42 U.S.C. 264–265. The Secretary has promulgated implementing regulations at 42 CFR parts 70 and 71, administered by the CDC.

[5] See generally U.S. Department of Health and Human Services Centers for Disease Control and Prevention, Public Health Screening at U.S. Ports of Entry: A Guide for Federal Inspectors (July 2007) (describing port of entry health screening procedures); 42 CFR part 70 (interstate quarantine regulations); 42 CFR part 71 (foreign quarantine regulations).

[6] See 42 U.S.C. 97, 268(b).

[7] 49 U.S.C. 106(l), (m), 114(m).

[8] 49 U.S.C. 114(f)(3), (4).

[9] See, *e.g.,* 49 U.S.C. 114(h)(3).

[10] 6 U.S.C. 321e(c)(1).

[11] In addition to contacting CDC, individuals seeking removal from the Public Health DNB may also seek assistance through the redress process established by DHS in 49 CFR 1560.205.

(Ebola). Ebola is a type of viral hemorrhagic fever that is often fatal in humans and nonhuman primates. Ebola can spread through human-to-human transmission, with infection resulting from direct contact (through broken skin or mucous membranes) with the blood, secretions, droplets, or other body fluids of infected people, and indirectly from contact with surfaces or items (such as needles) contaminated with such fluids.

With respect to viral hemorrhagic fevers, placement on the DNB list and associated Lookout record is requested for people known or suspected to have a viral hemorrhagic fever. Placement may also be requested for people without symptoms who have been exposed to a viral hemorrhagic fever, particularly if these individuals intend to travel against public health recommendations. Even though people without symptoms are not infectious, these restrictions are requested because of the possibility that symptoms could develop during travel, particularly long international flights. Exposure is determined through a CDC risk factor assessment using information available from a variety of public health, medical and other official sources. Examples of types of potential exposure to viral hemorrhagic fevers contained within the CDC risk factor assessment include the following. It should be noted that not all of these exposures may result in travel restrictions.

- Having been in a country with widespread Ebola virus transmission within the past 21 days and, although having had no known exposures, is showing symptoms
- Percutaneous (*e.g.,* needle stick) or mucous membrane exposure to blood or body fluids of a person with Ebola while the person was showing symptoms
- Exposure to the blood or body fluids (including but not limited to feces, saliva, sweat, urine, vomit, and semen) of a person with Ebola while the person was showing symptoms without appropriate personal protective equipment (PPE) (see *http://www.cdc.gov/vhf/ebola/hcp/procedures-for-ppe.html*)
- Laboratory processing of blood or body fluids of a person with Ebola while the person was showing symptoms without appropriate PPE or standard biosafety protections
- Direct contact with a dead body without appropriate PPE in a country with widespread Ebola virus transmission (see *http://www.cdc.gov/vhf/ebola/outbreaks/2014-west-africa/distribution-map.html*)
- Having lived in the immediate household and provided direct care to a person with Ebola while the person was showing symptoms
- In countries with widespread Ebola virus transmission: Direct contact while using appropriate PPE with a person with Ebola while the person was showing symptoms, or with the person's body fluids, or any direct patient care in other healthcare settings
- Close contact in households, healthcare facilities, or community settings with a person with Ebola while the person was showing symptoms
  - Close contact is defined as not wearing appropriate PPE within approximately 3 feet (1 meter) of a person with Ebola while the person was showing symptoms
- Having brief direct contact (*e.g.,* shaking hands), while not wearing appropriate PPE, with a person with Ebola while the person was in the early stage of disease
- In countries without widespread Ebola virus transmission: Direct contact while using appropriate PPE with a person with Ebola while the person was showing symptoms
- Traveled on an aircraft with a person with Ebola while the person was showing symptoms

Exposure risk factors, such as those just described, will be considered by HHS/CDC in their totality when determining whether an individual meets the first criteria for placement on the DNB List, as described in Section I of this notice. HHS/CDC would also consider other facts and information it may have to make a decision with respect to the other criteria, as described in Section I of this notice. It should be noted that all facts are considered when applying the criteria. Again, with the exception of the first criteria, not all of the other criteria need to be present for HHS/CDC to make a request to DHS to have an individual placed on DNB and Lookout.

HHS/CDC would also consider these risk factors when assessing an individual who has been in a country where outbreaks of viral hemorrhagic fevers were occurring and refuses to comply with a public health assessment, and otherwise meets the travel restriction criteria. Refusing to comply with a public health risk assessment in this situation could include refusing to provide relevant information that would allow public health officials to assess the exposure risk.

### V. Provisions of This Notice

HHS/CDC will make requests of DHS based on the criteria in this notice effective immediately. Individuals who have had their travel temporarily restricted as a result of placement on the DNB list and associated Lookout records may submit a written response to the Director, Division of Global Migration and Quarantine, if they believe that HHS/CDC has erred in its public health request to DHS. The response should be addressed to: Director, Division of Global Migration and Quarantine, ATTN: Travel Restriction and Intervention Activity, Centers for Disease Control and Prevention, 1600 Clifton Road, MS E–03, Atlanta, GA 30329. Responses may also be faxed to CDC at (404) 718–2158 or emailed to *travelrestrictions@cdc.gov*.

As part of the response, individuals should include the reference number listed in the notification letter they received and any facts or other evidence indicating why they believe that HHS/CDC's public health request was made in error.

The policy and program operations described above will become effective on March 27, 2015.

Dated: March 24, 2015.

**Sylvia M. Burwell,**

*Secretary.*

[FR Doc. 2015–07118 Filed 3–26–15; 8:45 am]

BILLING CODE 4163–18–P

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## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

**[Docket No. FDA–2011–N–0908]**

### Agency Information Collection Activities; Proposed Collection; Comment Request; Guidance for Clinical Trial Sponsors: Establishment and Operation of Clinical Trial Data Monitoring Committees

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Notice.

**SUMMARY:** The Food and Drug Administration (FDA) is announcing an opportunity for public comment on the proposed collection of certain information by the Agency. Under the Paperwork Reduction Act of 1995 (the PRA), Federal Agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information and to allow 60 days for public comment in response to the notice. This notice solicits comments on the collection of information concerning the establishment and operation of clinical trial data monitoring committees.

**DATES:** Submit either electronic or written comments on the collection of information by May 26, 2015.

**ADDRESSES:** Submit electronic comments on the collection of information to *http://www.regulations.gov.* Submit written comments on the collection of information to the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852. All comments should be identified with the docket number found in brackets in the heading of this document.

**FOR FURTHER INFORMATION CONTACT:** FDA PRA Staff, Office of Operations, Food and Drug Administration, 8455 Colesville Rd., COLE–14526, Silver Spring, MD 20993–0002, *PRAStaff@fda.hhs.gov.*

**SUPPLEMENTARY INFORMATION:** Under the PRA (44 U.S.C. 3501–3520), Federal Agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. ''Collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes Agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires Federal Agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, FDA is publishing notice of the proposed collection of information set forth in this document.

With respect to the following collection of information, FDA invites comments on these topics: (1) Whether the proposed collection of information is necessary for the proper performance of FDA's functions, including whether the information will have practical utility; (2) the accuracy of FDA's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

**Guidance for Clinical Trial Sponsors: Establishment and Operation of Clinical Trial Data Monitoring Committees—(OMB Control Number 0910–0581)—Extension**

Sponsors are required to monitor studies evaluating new drugs, biologics, and devices (21 CFR 312.50 and 312.56 for drugs and biologics, and 21 CFR 812.40 and 812.46 for devices). Various individuals and groups play different roles in clinical trial monitoring. One such group is a data monitoring committee (DMC), appointed by a sponsor to evaluate the accumulating outcome data in some trials. A clinical trial DMC is a group of individuals with pertinent expertise that reviews on a regular basis accumulating data from one or more ongoing clinical trials. The DMC advises the sponsor regarding the continuing safety of current trial subjects and those yet to be recruited to the trial, as well as the continuing validity and scientific merit of the trial.

The guidance document referenced in this document is intended to assist sponsors of clinical trials in determining when a DMC is needed for monitoring a study, and how such committees should operate. The guidance addresses the roles, responsibilities, and operating procedures of DMCs, describes certain reporting and recordkeeping responsibilities, including the following: (1) Sponsor reporting to FDA on DMC recommendations related to safety; (2) standard operating procedures (SOPs) for DMCs; (3) DMC meeting records; (4) sponsor notification to the DMC regarding waivers; and (5) DMC reports based on meeting minutes to the sponsor.

*1. Sponsor Reporting to FDA on DMC Recommendations Related to Safety*

The requirement of the sponsor to report DMC recommendations related to serious adverse events in an expedited manner in clinical trials of new drugs (section 312.32(c)(21 CFR 312.32(c))) would not apply when the DMC recommendation is related to an excess of events not classifiable as serious. Nevertheless, the Agency recommends in the guidance that sponsors inform FDA about all recommendations related to the safety of the investigational product whether or not the adverse event in question meets the definition of ''serious.''

*2. SOPs for DMCs*

In the guidance, FDA recommends that sponsors establish procedures to do the following things:

- Assess potential conflicts of interest of proposed DMC members;
- Ensure that those with serious conflicts of interest are not included in the DMC;
- Provide disclosure to all DMC members of any potential conflicts that are not thought to impede objectivity and, thus, would not preclude service on the DMC;
- Identify and disclose any concurrent service of any DMC member on other DMCs of the same, related, or competing products;
- Ensure separation, and designate a different statistician to advise on the management of the trial, if the primary trial statistician takes on the responsibility for interim analysis and reporting to the DMC; and
- Minimize the risks of bias that are associated with an arrangement under which the primary trial statistician takes on the responsibility for interim analysis and reporting to the DMC, if it appears infeasible or highly impractical for any other statistician to take over responsibilities related to trial management.

*3. DMC Meeting Records*

The Agency recommends in the guidance that the DMC or the group preparing the interim reports to the DMC maintain all meeting records. This information should be submitted to FDA with the clinical study report (section 314.50(d)(5)(ii) (21 CFR 314.50(d)(5)(ii))).

*4. Sponsor Notification to the DMC Regarding Waivers*

The sponsor must report to FDA certain serious and unexpected adverse events in drugs and biologics trials (section 312.32) and unanticipated adverse device effects in the case of device trials (section 812.150(b)(1) (21 CFR 812.150(b)(1))). The Agency recommends in the guidance that sponsors notify DMCs about any waivers granted by FDA for expedited reporting of certain serious events.

*5. DMC Reports of Meeting Minutes to the Sponsor*

The Agency recommends in the guidance that DMCs should issue a written report to the sponsor based on the DMC meeting minutes. Reports to the sponsor should include only those data generally available to the sponsor. The sponsor may convey the relevant information in this report to other interested parties, such as study investigators. Meeting minutes or other information that include discussion of confidential data would not be provided to the sponsor.

*Description of Respondents:* The submission and data collection

recommendations described in this document affect sponsors of clinical trials and DMCs.

*Burden Estimate:* Table 1 of this document provides the burden estimate of the annual reporting burden for the information to be submitted in accordance with the guidance. Table 2 of this document provides the burden estimate of the annual recordkeeping burden for the information to be maintained in accordance with the guidance. Table 3 of this document provides the burden estimate of the annual third-party disclosure burden for the information to be submitted in accordance with the guidance.

*Reporting, Recordkeeping, and Third-Party Disclosure Burdens:* Based on information from FDA review divisions, FDA estimates there are approximately 740 clinical trials with DMCs regulated by the Center for Biologics Evaluation and Research, the Center for Drug Evaluation and Research, and the Center for Devices and Radiological Health. FDA estimates that the average length of a clinical trial is 2 years, resulting in an annual estimate of 370 clinical trials. Because FDA has no information on which to project a change in the use of DMCs, FDA estimates that the number of clinical trials with DMCs will not change significantly. For purposes of this information collection, FDA estimates that each sponsor is responsible for approximately 10 trials, resulting in an estimated 37 sponsors that are affected by the guidance annually.

Based on information provided to FDA by sponsors that have typically used DMCs for the kinds of studies for which this guidance recommends them, FDA estimates that the majority of sponsors have already prepared SOPs for DMCs, and only a minimum amount of time is necessary to revise or update them for use for other clinical studies. FDA receives very few requests for waivers regarding expedited reporting of certain serious events; therefore, FDA has estimated one respondent per year to account for the rare instance a request may be made. Based on FDA's experience with clinical trials using DMCs, FDA estimates that the sponsor on average would issue two interim reports per clinical trial to the DMC. FDA estimates that the DMCs would hold two meetings per year per clinical trial resulting in the issuance of two DMC reports of meeting minutes to the sponsor. One set of both of the meeting records should be maintained per clinical trial.

The ''Average Burden per Response'' and ''Average Burden per Recordkeeping'' are based on FDA's experience with comparable recordkeeping and reporting provisions applicable to FDA regulated industry. The ''Average Burden per Response'' includes the time the respondent would spend reviewing, gathering, and preparing the information to be submitted to the DMC, FDA, or the sponsor. The ''Average Burden per Recordkeeping'' includes the time to record, gather, and maintain the information.

The information collection provisions in the guidance for 21 CFR 312.30, 312.32, 312.38, 312.55, and 312.56 have been approved under OMB Control No. 0910–0014; 21 CFR 314.50 has been approved under OMB Control No. 0910–0001; and 21 CFR 812.35 and 812.150 have been approved under OMB Control No. 0910–0078.

FDA estimates the burden of this collection of information as follows:

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN [1]

| Section of guidance/reporting activity | Number of respondents | Number of responses per respondent | Total annual responses | Average burden per response | Total hours |
|---|---|---|---|---|---|
| 5. Sponsor reporting to FDA on DMC recommendations related to safety | 37 | 1 | 37 | 0.50 (30 min.) | 18.5 |

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

TABLE 2—ESTIMATED ANNUAL RECORDKEEPING BURDEN [1]

| Section of guidance/recordkeeping activity | Number of recordkeepers | Number of records per recordkeeper | Total annual records | Average burden per recordkeeping | Total hours |
|---|---|---|---|---|---|
| 4.1. and 6.4 SOPs for DMCs | 37 | 1 | 37 | 8 | 296 |
| 4.4.3.2. DMC meeting records | 370 | 1 | 370 | 2 | 740 |
| Total | | | | | 1,036 |

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

TABLE 3—ESTIMATED ANNUAL THIRD-PARTY DISCLOSURE BURDEN [1]

| Section of guidance/disclosure activity | Number of respondents | Number of disclosures per respondent | Total annual disclosures | Average burden per disclosure | Total hours |
|---|---|---|---|---|---|
| 4.4.1.2. Sponsor notification to the DMC regarding waivers | 1 | 1 | 1 | 0.25 (15 minutes) | 0.25 |
| 4.4.3.2. DMC reports of meeting minutes to the sponsor | 370 | 2 | 740 | 1 | 740 |
| Total | | | | | 740.25 |

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

Dated: March 23, 2015.

**Leslie Kux,**

*Associate Commissioner for Policy.*

[FR Doc. 2015–07009 Filed 3–26–15; 8:45 am]

**BILLING CODE 4164–01–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Centers for Disease Control and Prevention

**[60Day–15–15UX: Docket No. CDC–2015–0011]**

### Proposed Data Collection Submitted for Public Comment and Recommendations

**AGENCY:** Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

**ACTION:** Notice with comment period.

**SUMMARY:** The Centers for Disease Control and Prevention (CDC), as part of its continuing efforts to reduce public burden and maximize the utility of government information, 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. This notice invites comment on ''Continuing and New International and U.S. Data Collections from the 2014 CDC Ebola Virus Disease Emergency Response''. Under the current 60-day **Federal Register** Notice, the CDC is announcing its intention to seek three-year OMB approval to continue several Ebola-related information collections beyond their current emergency expiration dates and to conduct newly proposed information collections within international borders of Ebola-affected West African countries and within the domestic borders of State, Territorial and Local (STL) public health authorities in the U.S. These existing ''source'' information collections and new information collection requests (ICRs) will be submitted under four ''destination'' ICRs for Office of Management and Budget (OMB) approval.

**DATES:** Written comments must be received on or before May 26, 2015.

**ADDRESSES:** You may submit comments, identified by Docket No. CDC–2015–0011, by any of the following methods:

- *Federal eRulemaking Portal:* Regulation.gov. Follow the instructions for submitting comments.
- *Mail:* Leroy A. Richardson, Information Collection Review Office, Centers for Disease Control and Prevention, 1600 Clifton Road NE., MS–D74, Atlanta, Georgia 30329.

*Instructions:* All submissions received must include the agency name and Docket Number. All relevant comments received will be posted without change to Regulations.gov, including any personal information provided. For access to the docket to read background documents or comments received, go to Regulations.gov.

*Please note:* All public comment should be submitted through the Federal eRulemaking portal (Regulations.gov) or by U.S. mail to the address listed above.

**FOR FURTHER INFORMATION CONTACT:** To request more information on the proposed project or to obtain a copy of the information collection plan and instruments, contact the Information Collection Review Office, Centers for Disease Control and Prevention, 1600 Clifton Road NE., MS–D74, Atlanta, Georgia 30329; phone: 404–639–7570; Email: *omb@cdc.gov.*

**SUPPLEMENTARY INFORMATION:** Under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501–3520), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. In addition, the PRA also requires Federal agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each new proposed collection, each proposed extension of existing collection of information, and each reinstatement of previously approved information collection before submitting the collection to OMB for approval. To comply with this requirement, we are publishing this notice of a proposed data collection as described below.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; to develop, acquire, install and utilize technology and systems for the purpose of collecting, validating and verifying information, processing and maintaining information, and disclosing and providing information; to train personnel and to be able to respond to a collection of information, to search data sources, to complete and review the collection of information; and to transmit or otherwise disclose the information.

**Proposed Project**

Continuing and New International and U.S. Data Collections from the 2014 CDC Ebola Virus Disease Emergency Response—New—National Center for Emerging and Zoonotic Infectious Diseases (NCEZID), Centers for Disease Control and Prevention (CDC).

*Background and Brief Description*

The international outbreak of Ebola virus disease (EVD) in West Africa began March 10, 2014. The initial cases were from southern Guinea, near its rural border with Liberia and Sierra Leone. Highly mobile populations contributed to increasing waves of person-to-person transmission of EVD that occurred in multiple countries in West Africa. The Centers for Disease Control and Prevention (CDC) Emergency Operations Center (EOC) was activated on July 9, 2014, to help coordinate technical assistance and control activities with international partners and to deploy teams of public health experts to the affected countries.

The operations turned to the United States (U.S.) when the first imported case of EVD was diagnosed in Texas on September 30, 2014. In response, on October 11, 2014, the CDC Quarantine Stations and the Department of Homeland Security (DHS) Customs and Border Patrol (CBP) mobilized to screen, detect, and refer arriving travelers who were potential persons at risk for EVD to appropriate state, territorial, and local (STL) authorities. The CDC also increased its commitment to support STL public health authorities to combat and control the spread of EVD within their jurisdictions.

Thus in 2014, the CDC used OMB emergency clearance procedures to initiate and expedite multiple urgently needed information collections in West Africa, at U.S. ports of entry, and within STL jurisdictions. These procedures allowed the agency to accomplish its primary mission on many fronts to quickly prevent public harm, illness,

and death from the uncontrolled spread of EVD.

With this notice, the CDC is announcing its intention to seek three-year OMB clearances to continue several Ebola-related information collections beyond their current emergency expiration dates and to conduct newly proposed information collections within international borders of Ebola-affected West African countries and within the domestic borders of STL public health authorities in the U.S. These existing ''source'' information collections and new ICRs will be submitted under four ''destination'' ICRs for OMB approval.

On the international front, CDC seeks to continue to address key public health surveillance and medical treatment objectives in collaboration with West African ministries of health (MoHs), the World Health Organization (WHO), and other key partners. Examples of ''source'' information collections include: (1) ''2014 Emergency Response to Ebola in West Africa'' (OMB Control No. 0920–1033, expiration date 4/30/2015) which helped to establish country EVD surveillance systems for case investigations and contact tracing; and (2) the emergency clearance for ''Household Transmission Survey—a Public Health Response Evaluation in Western Area, Sierra Leone'' (OMB Control No. 0920–1043, expiration date 07/31/2015). This was a one-time investigation that will be the first of a new ''destination'' generic clearance ICR that will identify ways to improve established surveillance systems in other West African countries and settings.

On the domestic front, CDC's information collections will focus on continued support of STL public health authorities and healthcare providers in EVD infection control and notifiable disease reporting to the CDC. CDC wishes to extend OMB clearance for the ''source'' emergency information collection, ''Ebola Virus Disease in the United States: CDC Support for Case and Contact Investigation'' (OMB Control Number 0920–1045, expiration date: 07/31/2015). For this, the CDC proposes a new ''destination'' ICR titled ''National Disease Surveillance Program III—CDC Support for Case Investigations, Contact Tracing, and Case Reports.'' This new mechanism will be designed to allow CDC to conduct active disease surveillance in support of and at the request of STL authorities among respondents that may include the general public, workers, and STL authorities.

The CDC will seek OMB approval for another new domestic ICR titled ''CDC Emergency Operations Center Clinical Inquiries'' an Ebola-related information collection currently in use without an OMB control number. Early in the response, a call center was quickly set up to support urgent inquiries about active monitoring, diagnosis, and clinical treatment of EVD. The clinical inquirers were STL authorities and health facilities that were notified by U.S. Quarantine Stations that persons requiring investigation and possible treatment for EVD were arriving in their respective jurisdictions and facilities.

Although initiated by EOC Task Forces, the lead CDC center for the emergency response (based on subject matter, mission, and program areas) will sponsor these information collections. These information collections will align with their legislative authority, which is Section 301 of the Public Health Service Act (42 U.S.C. 241).

There are no costs to the respondents other than their time. The total annualized burden requested is 378,695 hours.

**Estimated Annualized Burden Hours**

A—CDC International Emergency Response Case and Contact Surveillance Systems

| Type of respondents | Form name | Number of respondents | Number of responses per respondent | Average burden per response (in hours) | Total burden (in hours) |
|---|---|---|---|---|---|
| General Public | A1—Viral Hemorrhagic Fever Case Investigation Form (English). | 13,650 | 1 | 20/60 | 4,550 |
| General Public | A2—Viral Hemorrhagic Fever Case Investigation Form (French). | 7,350 | 1 | 20/60 | 2,450 |
| General Public | A3—Viral Hemorrhagic Fever Case Investigation Short Form (English). | 5,850 | 1 | 10/60 | 975 |
| General Public | A4—Viral Hemorrhagic Fever Case Investigation Short Form (French). | 3,150 | 1 | 10/60 | 525 |
| General Public | A5—Viral Hemorrhagic Fever Contact Listing Form (English). | 19,500 | 1 | 15/60 | 4,875 |
| General Public | A6—Viral Hemorrhagic Fever Contact Listing Form (French). | 10,500 | 1 | 15/60 | 2,625 |
| General Public | A7—Viral Hemorrhagic Fever Contact Tracing Follow-Up Form (English). | 195,000 | 1 | 63/60 | 204,750 |
| General Public | A8—Viral Hemorrhagic Fever Contact Tracing Follow-Up Form (French). | 105,000 | 1 | 63/60 | 110,250 |
| General Public | A9—Ebola Virus Disease Case Contact Questionnaire (English). | 195,000 | 1 | 5/60 | 16,250 |
| General Public | A10—Ebola Virus Disease Case Contact Questionnaire (French). | 105,000 | 1 | 5/60 | 8,750 |
| General Public | A11—Ebola Outbreak Response Sexual Transmission Adult Case Investigation Form (English). | 500 | 1 | 30/60 | 250 |
| General Public | A12—Ebola Outbreak Response Sexual Transmission Adult Case Investigation Form (French). | 300 | 1 | 30/60 | 150 |
| Healthcare Workers or Proxy. | A13—Healthcare Worker Ebola Virus Disease Exposure Report—West Africa (CDC–WHO) (English). | 1,950 | 1 | 30/60 | 975 |
| Healthcare Workers or Proxy. | A14—Healthcare Worker Ebola Virus Disease Exposure Report—West Africa (CDC–WHO) (French). | 1,050 | 1 | 30/60 | 525 |

A—CDC INTERNATIONAL EMERGENCY RESPONSE CASE AND CONTACT SURVEILLANCE SYSTEMS—Continued

| Type of respondents | Form name | Number of respondents | Number of responses per respondent | Average burden per response (in hours) | Total burden (in hours) |
|---|---|---|---|---|---|
| Healthcare Workers or Proxy. | A15—Healthcare Worker Ebola Virus Investigation Questionnaire (Liberia). | 400 | 1 | 30/60 | 200 |
| Healthcare Workers or Proxy. | A16—Healthcare Worker Ebola Virus Disease Exposure Report (Sierra Leone). | 400 | 1 | 30/60 | 200 |
| Healthcare Workers or Proxy. | A17—Health Facility Assessment and Case Finding Survey (English). | 3,900 | 1 | 30/60 | 1,950 |
| Healthcare Workers or Proxy. | A18—Health Facility Assessment and Case Finding Survey (French). | 2,100 | 1 | 30/60 | 1,050 |
| Total | | | | | 361,300 |

B—GENERIC CLEARANCE FOR "HOUSEHOLD TRANSMISSION SURVEYS IN WEST AFRICA: PUBLIC HEALTH RESPONSE EVALUATIONS"

| Type of respondents | Form name | Number of respondents | Number of responses per respondent | Average burden per response (in hours) | Total burden (in hours) |
|---|---|---|---|---|---|
| Case-patients or caregiver (as proxy). | B1—Initial Questionnaire for Case-Patients—SAMPLE FORM. | 357 | 1 | 20/60 | 119 |
| Heads of household | B2—Questionnaire for Ebola-affected Households—SAMPLE FORM. | 357 | 1 | 20/60 | 119 |
| Household contacts of case-patient. | B3—Questionnaire for Investigation of Household Contacts of Ebola-infected Case-patients—SAMPLE FORM. | 3,570 | 1 | 30/60 | 1,785 |
| Household contacts of case-patient. | B4—Contact Exit Questionnaire—SAMPLE FORM. | 3,570 | 1 | 5/60 | 298 |
| Laboratory analyst and project staff. | B5—Patient Laboratory Record—SAMPLE FORM. | 573 | 1 | 5/60 | 48 |
| Total | | | | | 2,369 |

C—"NATIONAL DISEASE SURVEILLANCE PROGRAM III—CDC SUPPORT FOR CASE INVESTIGATION, CONTACT TRACING, AND CASE REPORTS"

| Type of respondents | Form name | Number of respondents | Number of responses per respondent | Average burden per response (in hours) | Total burden (in hours) |
|---|---|---|---|---|---|
| General Public—Case | C1—Ebola Virus Disease Case Investigation Form—United States. | 15 | 1 | 30/60 | 8 |
| General Public—Case | C2—Symptom Monitoring Form | 15 | 57 | 5/60 | 72 |
| General Public—Person Under Investigation (PUI). | C3—Ebola Virus Disease Person Under Investigation (PUI) Form. | 300 | 1 | 10/60 | 50 |
| General Public—Person Under Investigation (PUI). | C2—Symptom Monitoring Form | 300 | 42 | 5/60 | 1,050 |
| General Public—Contact | C4—Ebola Virus Disease Contact Tracing Form—United States. | 105 | 1 | 10/60 | 18 |
| General Public—Contact | C2—Symptom Monitoring Form | 105 | 42 | 5/60 | 368 |
| Healthcare Workers | C5—Ebola Virus Disease Tracking Form for Healthcare Workers with Direct Patient Contact. | 600 | 15 | 10/60 | 1,500 |
| Healthcare Workers | C2—Symptom Monitoring Form | 600 | 57 | 5/60 | 2,850 |
| Laboratory Personnel | C6—Ebola Tracking Form for Laboratory Personnel. | 600 | 15 | 10/60 | 1,500 |
| Laboratory Personnel | C2—Symptom Monitoring Form | 600 | 57 | 5/60 | 2,850 |
| Environmental Services Personnel. | C7—Ebola Tracking Form for Environmental Services Personnel. | 600 | 15 | 10/60 | 1,500 |
| Environmental Services Personnel. | C2—Symptom Monitoring Form | 600 | 57 | 5/60 | 2,850 |

C—"NATIONAL DISEASE SURVEILLANCE PROGRAM III—CDC SUPPORT FOR CASE INVESTIGATION, CONTACT TRACING, AND CASE REPORTS"—Continued

| Type of respondents | Form name | Number of respondents | Number of responses per respondent | Average burden per response (in hours) | Total burden (in hours) |
|---|---|---|---|---|---|
| State, Territorial, and Local Public Health Authorities and Their Delegates. | C8—Daily and Weekly Report | 15 | 42 | 10/60 | 105 |
| Total | | | | | 14,721 |

D—"CDC EMERGENCY OPERATIONS CENTER CLINICAL INQUIRIES"

| Type of respondents | Form name | Number of respondents | Number of responses per respondent | Average burden per response (in hours) | Total burden (in hours) |
|---|---|---|---|---|---|
| State and Local Health Departments. | D1—Clinical Inquiries Database | 420 | 1 | 15/60 | 105 |
| Clinicians and Other Providers. | D1—Clinical Inquiries Database | 800 | 1 | 15/60 | 200 |
| Total | | | | | 305 |

**Leroy A. Richardson**

*Chief, Information Collection Review Office, Office of Scientific Integrity, Office of the Associate Director for Science, Office of the Director, Centers for Disease Control and Prevention.*

[FR Doc. 2015–07037 Filed 3–26–15; 8:45 am]

**BILLING CODE 4163–18–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Centers for Medicare & Medicaid Services

**[CMS–3314–N]**

### Medicare, Medicaid, and CLIA Programs; Announcement of the Re-Approval of the American Osteopathic Association/Healthcare Facilities Accreditation Program (Formerly Known as the American Osteopathic Association) as an Accreditation Organization Under the Clinical Laboratory Improvement Amendments of 1988

**AGENCY:** Centers for Medicare & Medicaid Services (CMS), HHS.

**ACTION:** Notice.

**SUMMARY:** This notice announces the application of the American Osteopathic Association/Healthcare Facilities Accreditation Program (AOA/HFAP) for approval as an accreditation organization for clinical laboratories under the Clinical Laboratory Improvement Amendments of 1988 (CLIA) program. We have determined that AOA/HFAP meets or exceeds the applicable CLIA requirements. In this notice, we announce the approval and grant AOA/HFAP deeming authority for a period of 6 years.

**DATES:** *Effective Date:* This notice is effective from March 27, 2015 to March 29, 2021.

**FOR FURTHER INFORMATION CONTACT:** Kathleen Todd, 410–786–3385.

**SUPPLEMENTARY INFORMATION:**

### I. Background and Legislative Authority

On October 31, 1988, the Congress enacted the Clinical Laboratory Improvement Amendments of 1988 (CLIA) (Pub. L. 100–578). CLIA amended section 353 of the Public Health Service Act. We issued a final rule implementing the accreditation provisions of CLIA on July 31, 1992 (57 FR 33992). Under those provisions, we may grant deeming authority to an accreditation organization if its requirements for laboratories accredited under its program are equal to or more stringent than the applicable CLIA program requirements in 42 CFR part 493 (Laboratory Requirements), subpart E of part 493 (Accreditation by a Private, Nonprofit Accreditation Organization or Exemption under an Approved State Laboratory Program), which specifies the requirements an accreditation organization must meet to be approved by CMS as an accreditation organization under CLIA.

### II. Notice of Approval of the American Osteopathic Association/Healthcare Facilities Accreditation Program (AOA/HFAP) as an Accreditation Organization

In this notice, we approve the American Osteopathic Association/Healthcare Facilities Accreditation Program (AOA/HFAP) as an organization that may accredit laboratories for purposes of establishing their compliance with CLIA requirements for all specialty and subspecialty areas under CLIA. We have examined the initial AOA/HFAP application and all subsequent submissions to determine its accreditation program's equivalency with the requirements for approval of an accreditation organization under subpart E of part 493. We have determined that AOA/HFAP meets or exceeds the applicable CLIA requirements. We have also determined that AOA/HFAP will ensure that its accredited laboratories will meet or exceed the applicable requirements in subparts H, I, J, K, M, Q, and the applicable sections of subpart R. Therefore, we grant AOA/HFAP approval as an accreditation organization under subpart E of part 493, for the period stated in the **DATES** section of this notice for all specialty and subspecialty areas under CLIA. As a result of this determination, any laboratory that is accredited by AOA/HFAP during the time period stated in the **DATES** section of this notice will be deemed to meet the CLIA requirements

for all subspecialties and specialties, and therefore, will generally not be subject to routine inspections by a state survey agency to determine its compliance with CLIA requirements. However, the accredited laboratory is subject to validation and complaint investigation surveys performed by CMS, or its agent(s).

## III. Evaluation of the AOA/HFAP Request for Approval as an Accreditation Organization Under CLIA

The following describes the process used to determine that the AOA/HFAP accreditation program meets the necessary requirements to be approved by CMS as an accreditation program with deeming authority under the CLIA program. AOA/HFAP formally applied to CMS for approval as an accreditation organization under CLIA for all specialty and subspecialty areas under CLIA. In reviewing these materials, we reached the following determinations for each applicable part of the CLIA regulations:

*A. Subpart E—Accreditation by a Private, Nonprofit Accreditation Organization or Exemption Under an Approved State Laboratory Program*

AOA/HFAP submitted its mechanism for monitoring compliance with all requirements equivalent to condition-level requirements, a list of all its current laboratories and the expiration date of their accreditation, and a detailed comparison of the individual accreditation requirements with the comparable condition-level requirements. We have determined that AOA/HFAP policies and procedures for oversight of laboratories performing laboratory testing for all CLIA specialties and subspecialties are equivalent to those required by our CLIA regulations in the matters of inspection, monitoring proficiency testing (PT) performance, investigating complaints, and making PT information available. AOA/HFAP submitted documentation regarding its requirements for monitoring and inspecting laboratories, and describing its own standards regarding accreditation organization data management, inspection processes, procedures for removal or withdrawal of accreditation, notification requirements, and accreditation organization resources. We have determined that the requirements of the accreditation program submitted for approval are equal to or more stringent than the requirements of the CLIA regulations.

*B. Subpart H—Participation in Proficiency Testing for Laboratories Performing Nonwaived Testing*

We have determined that the AOA/HFAP's requirements are equal to the CLIA requirements at § 493.801 through § 493.865. Like CLIA, all of AOA/HFAP's accredited laboratories are required to participate in an HHS-approved PT program for tests listed in subpart I.

*C. Subpart J—Facility Administration for Nonwaived Testing*

We have determined that the AOA/HFAP's requirements are equal to the CLIA requirements at § 493.1100 through § 493.1105.

*D. Subpart K—Quality System for Nonwaived Testing*

We have determined that the AOA/HFAP requirements are equal to or more stringent than the CLIA requirements at § 493.1200 through § 493.1299.

*E. Subpart M—Personnel for Nonwaived Testing*

We have determined that the AOA/HFAP requirements are equal to the CLIA requirements at § 493.1403 through § 493.1495 for laboratories that perform moderate and high complexity testing.

*F. Subpart Q—Inspections*

We have determined that the AOA/HFAP requirements are equal to the CLIA requirements at § 493.1771 through § 493.1780. AOA/HFAP will continue to conduct biennial onsite inspections.

*G. Subpart R—Enforcement Procedures*

We have determined that the AOA/HFAP meets the requirements of subpart R to the extent that such requirements are utilized by accreditation organizations. AOA/HFAP policy sets forth the actions the organization takes when laboratories it accredits do not comply with its requirements and standards for accreditation. When appropriate, AOA/HFAP will deny, suspend, or revoke accreditation in a laboratory accredited by AOA/HFAP and report that action to us within 30 days. AOA/HFAP also provides an appeals process for laboratories that have had accreditation denied, suspended, or revoked.

We have determined that AOA/HFAP's laboratory enforcement and appeal policies are equal to or more stringent than the requirements of part 493, subpart R as they apply to accreditation organizations.

## IV. Federal Validation Inspections and Continuing Oversight

The federal validation inspections of laboratories accredited by AOA/HFAP may be conducted on a representative sample basis or in response to substantial allegations of noncompliance (that is, complaint inspections). The outcome of those validation inspections, performed by CMS or our agents, or the state survey agencies, will be our principal means for verifying that the laboratories accredited by AOA/HFAP remain in compliance with CLIA requirements. This federal monitoring is an ongoing process.

## V. Removal of Approval as an Accrediting Organization

Our regulations provide that we may rescind the approval of an accreditation organization, such as that of AOA/HFAP, for cause, before the end of the effective date of approval. If we determine that AOA/HFAP has failed to adopt, maintain and enforce requirements that are equal to, or more stringent than, the CLIA requirements, or that systemic problems exist in its monitoring, inspection or enforcement processes, we may impose a probationary period, not to exceed one year, in which AOA/HFAP would be allowed to address any identified issues. Should AOA/HFAP be unable to address the identified issues within that timeframe, CMS may, in accordance with the applicable regulations, revoke AOA/HFAP's deeming authority under CLIA.

Should circumstances result in our withdrawal of AOA/HFAP's approval, we will publish a notice in the **Federal Register** explaining the basis for removing its approval.

## VI. Collection of Information Requirements

This notice does not impose any information collection and record keeping requirements subject to the Paperwork Reduction Act (PRA). Consequently, it does not need to be reviewed by the Office of Management and Budget (OMB) under the authority of the PRA. The requirements associated with the accreditation process for clinical laboratories under the CLIA program, codified in 42 CFR part 493 subpart E, are currently approved by OMB under OMB approval number 0938–0686.

## VII. Executive Order 12866 Statement

In accordance with the provisions of Executive Order 12866, this notice was not reviewed by the Office of Management and Budget.

Dated: March 6, 2015.

**Andrew M. Slavitt,**

*Acting Administrator, Centers for Medicare & Medicaid Services.*

[FR Doc. 2015–07115 Filed 3–26–15; 8:45 am]

**BILLING CODE 4120–01–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Centers for Medicare & Medicaid Services

**[CMS–3308–N]**

### Medicare, Medicaid, and CLIA Programs; Clinical Laboratory Improvement Amendments of 1988 Exemption of Permit-Holding Laboratories in the State of New York

**AGENCY:** Centers for Medicare & Medicaid Services (CMS), HHS.

**ACTION:** Notice.

**SUMMARY:** This notice announces that laboratories located in and licensed by the State of New York that possess a valid permit under New York State Public Health Law Article 5, Title V, are exempt from the requirements of the Clinical Laboratory Improvement Amendments of 1988 (CLIA) for a period of 6 years.

**DATES:** The exemption granted by this notice is effective from March 27, 2015 to March 27, 2021.

**FOR FURTHER INFORMATION CONTACT:** Melissa Singer, (410) 786–3531.

**SUPPLEMENTARY INFORMATION:**

### I. Background and Legislative Authority

Section 353 of the Public Health Service Act (PHSA), as amended by the Clinical Laboratory Improvement Amendments of 1988 (CLIA) (Pub. L. 100–578, enacted on October 31, 1988), generally provides that no laboratory may perform tests on human specimens for the diagnosis, prevention or treatment of any disease or impairment of, or assessment of the health of, human beings unless it has a certificate to perform that category of tests issued by the Secretary of the Department of Health and Human Services (HHS). Under section 1861(s)(17)(A) of the Social Security Act (the Act), the Medicare program will only pay for laboratory services if the laboratory has a CLIA certificate. Under section 1902(a)(9)(C) of the Act, state Medicaid plans generally pay only for laboratory services furnished by CLIA-certified laboratories. Thus, although subject to specified exemptions and exceptions, laboratories generally must have a current and valid CLIA certificate to test human specimens for the purposes noted above to be eligible for payment for those tests from the Medicare or Medicaid programs. Regulations implementing section 353 of the PHSA are contained in 42 CFR part 493.

Section 353(p) of the PHSA provides for the exemption of laboratories from CLIA requirements in states that enact legal requirements that are equal to or more stringent than CLIA's statutory and regulatory requirements. Section 353(p) of the PHSA is implemented in subpart E of our regulations at 42 CFR part 493. Sections 493.551(b) and 493.553 provide that we may exempt from CLIA requirements, for a period not to exceed 6 years, all state-licensed or state-approved laboratories in a state if the state licensure program meets the specified conditions. Section 493.559 provides that we will publish a notice in the **Federal Register** when we grant an exemption to an approved state licensure program. It also provides that the notice will include the following:

- The basis for granting the exemption.
- A description of how the state's laboratory requirements are equal to or more stringent than those of CLIA.
- The term of approval, not to exceed 6 years.

#### *A. State of New York's Application for CLIA Exemption of Its Laboratories*

The State of New York has applied for exemption of its Clinical Laboratory Evaluation Program (CLEP) permit-holding laboratories from CLIA program requirements. New York State law is applicable to all clinical laboratories operating within the State of New York except those operated by the federal government and those operated by a licensed physician, osteopath, dentist, midwife, nurse practitioner or podiatrist who performs laboratory tests or procedures, personally or through his or her employees, solely as an adjunct to the treatment of his or her own patients. The State of New York submitted all of the applicable information and attestations required by § 493.551(a), § 493.553, and § 493.557(b) for state licensure programs seeking exemption of their licensed laboratories from CLIA program requirements. (Please note that although the CLEP issues ''permits'' rather than ''licenses'' or ''certificates,'' for the purposes of this notice, we will hereinafter refer to the CLEP as a ''state licensure program.'') Examples of documents and information submitted include a comparison of its laboratory licensure requirements with comparable CLIA condition-level requirements (that is, a crosswalk); and a description of the following: Its inspection process; its proficiency testing (PT) monitoring process; its data management and analysis system; its investigative and response procedures for complaints received against laboratories; and its policy regarding announced and unannounced inspections.

#### *B. CMS Analysis of New York's Application and Supporting Documentation*

To determine whether we should grant a CLIA exemption to laboratories licensed by a state, we review the application and additional documentation that the state submits to us and conduct a detailed and in-depth comparison of the state licensure program and CLIA's statutory and regulatory requirements to determine whether the state program meets the requirements at subpart E of part 493.

In summary, the state generally must demonstrate that:

- It has state laws in effect that provide for a state licensure program that has requirements that are equal to or more stringent than CLIA condition-level requirements for laboratories.
- It has implemented a state licensure program with requirements that are equal to or more stringent than the CLIA condition-level requirements such that a laboratory licensed by the state program would meet the CLIA condition-level requirements if it were inspected against those requirements.
- The requirements under that state licensure program meet or exceed the requirements of § 493.553, § 493.555, and § 493.557(b) and is suitable for approval by us under § 493.551(a). For example, among other things, the program would need to:

++ Demonstrate that it has enforcement authority and administrative structures and resources adequate to enforce its laboratory requirements.

++ Permit us or our agents to inspect laboratories within the state.

++ Require laboratories within the state to submit to inspections by us or our agents as a condition of state licensure.

++ Agree to pay any costs associated with our activities to validate its state licensure program, as well as the state's pro rata share of the general overhead to develop and implement CLIA as specified in § 493.645(a), § 493.646(b), and § 493.557(b).

++ Take appropriate enforcement action against laboratories found by us or our agents to be out of compliance with requirements comparable to CLIA condition-level requirements, as specified in § 493.557(b).

As specified in our regulations at § 493.555 and § 493.557(b), our review of a state licensure program includes (but is not necessarily limited to) an evaluation of the following:

• Whether the state's requirements for laboratories are equal to or more stringent than the CLIA condition-level requirements.

• The state's inspection process requirements to determine the following:

++ The comparability of the full inspection and complaint inspection procedures to those of CMS.

++ The state's enforcement procedures for laboratories found to be out of compliance with its requirements.

• The ability of the state to provide us with electronic data and reports with the adverse or corrective actions resulting from PT results that constitute unsuccessful participation in CMS-approved PT programs and with other data we determine to be necessary for validation review and assessment of the state's inspection process requirements.

• The state's agreement with us to ensure that the agreement obligates the state to do the following:

++ Notify us within 30 days of the action taken against any CLIA-exempt laboratory that has had its licensure or approval withdrawn or revoked or been in any way sanctioned.

++ Notify us within 10 days of any deficiency identified in a CLIA-exempt laboratory in cases when the deficiency poses an immediate jeopardy to the laboratory's patients or a hazard to the general public.

++ Notify each laboratory licensed by the state under its approved state licensure program within 10 days of a withdrawal of our approval of the state's licensure program, and the resulting loss of the laboratory's exemption from CLIA based on its licensure under that program.

++ Provide us with written notification of any changes in the state's licensure (or approval) and inspection requirements.

++ Disclose to us or our agent any laboratory's PT results in accordance with the state's confidentiality requirements.

++ Take appropriate enforcement action against laboratories that we or our agents find to be out of compliance with CLIA condition-level requirements in a validation survey, and report these enforcement actions to us.

++ Notify us of all newly licensed laboratories, and any changes in the specialties and subspecialties for which any laboratory performs testing, within 30 days.

++ Provide us, as requested, inspection schedules for validation purposes.

In keeping with the process described above, we evaluated the application and supporting materials that were submitted by the State of New York State to verify that the CLEP permit-holding laboratories will meet or exceed the requirements of the following subparts of part 493: Subpart H, Participation in Proficiency Testing for Laboratories Performing Nonwaived Testing; subpart J, Facility Administration for Nonwaived Testing; subpart K, Quality Systems for Nonwaived Testing, subpart M, Personnel for Nonwaived Testing; subpart Q, Inspection; and subpart R, Enforcement Procedures.

We found that the State of New York's CLEP requirements mapped to all the CLIA condition-level requirements. The state licensure program's inspection process and proficiency testing monitoring process were adequate. Other materials that were submitted demonstrated compliance with the other above-referenced requirements of subpart E of part 493. As a result, we concluded that the submitted documents supported exempting laboratories holding permits under the CLEP from the CLIA program requirements. Furthermore, a review of our validation inspections conducted by our regional office in New York, NY, supported this conclusion.

The federal validation inspections of CLIA-exempt laboratories, as specified in § 493.563, were conducted on a representative sample basis, as well as in response to any substantial allegations of noncompliance (that is, complaint inspections). The outcome of those validation inspections has been, and will continue to be, our principal tool for verifying that the laboratories located within the state that hold valid permits are in compliance with CLIA requirements.

Our regional office in New York, NY, has conducted validation inspections of a representative sample (approximately 5 percent) of the laboratories inspected by the New York State Office of Laboratory Quality Assurance (LQA). The validation inspections were primarily of the concurrent type; that is, our surveyors accompanied New York State's inspectors, each inspecting against his or her agency's respective regulations. Analysis of the validation data revealed no significant differences between the state and federal findings. The validation surveys verified that the State of New York CLEP inspection process covers all CLIA conditions applicable to each laboratory being inspected and also verified that the CLEP permit requirements meet or exceed CLIA condition-level requirements. Our validation surveys found the state inspectors highly skilled and qualified. The CLEP inspected laboratories in a timely fashion; that is, all laboratories were inspected within the required 24-month cycle. All parameters monitored by our regional office in New York, NY, to date, indicate that the State of New York is meeting all requirements for approval of CLIA exemption. This federal monitoring will continue as an ongoing process.

*C. Conclusion*

Based on review of the documents submitted by the New York state licensure program, CLEP, under the requirements of subpart E of part 493, as well as the outcome of the validation inspections conducted by our regional office in New York, NY, we find that the State of New York's licensure program meets the requirements of § 493.551(a), and that, as a result, we may exempt from CLIA program requirements all laboratories located within the State of New York that hold valid CLEP permits.

Approval of the CLIA exemption for laboratories located within and permitted by the State of New York is subject to removal if we determine that the outcome of a comparability review or a validation review inspection is not acceptable, as described under § 493.573 and § 493.575, or if the State of New York fails to pay the required fee every 2 years as required under § 493.646(b).

*D. Laboratory Data*

In accordance with our regulations at § 493.557(b)(8), the approval of this exemption for laboratories located within and permitted by the State of New York is conditioned on the State of New York's continued compliance with the assertions made in its application, especially the provision of information to us about changes to a laboratory's specialties or subspecialties based on the state's survey, and changes to a laboratory's certification status.

*E. Required Administrative Actions*

CLIA is a user-fee funded program. The registration fee paid by laboratories is intended to cover the cost of the development and administration of the program. However, when a state's application for exemption is approved, we do not charge a fee to laboratories in the state. The state's share of the costs associated with CLIA must be collected from the state, as specified in § 493.645(a).

The State of New York must pay for the following:

• Costs of federal inspections of laboratories in the state to verify that New York State's laboratory licensure program requirements are equivalent to or more stringent than those in the CLIA program, and that they are enforced in an appropriate manner. The average federal hourly rate is multiplied by the total hours required to perform federal validation surveys within the state.

• Costs incurred for federal surveys, including investigations of complaints that are substantiated. We will bill the State of New York on a semiannual basis.

• The State of New York's proportionate share of the costs associated with establishing, maintaining, and improving the CLIA computer system, based on the portion of those services from which the State of New York received direct benefit or which contributed to the CLIA program in the state. Thus, the State of New York is being charged for a portion of our direct and indirect costs of administering the CLIA program. Such costs will be incurred by CMS, the Centers for Disease Control and Prevention (CDC), the Food and Drug Administration (FDA) and contractors working on behalf of these respective agencies.

To estimate the State of New York's proportionate share of the general overhead costs to develop and implement CLIA, we determined the ratio of laboratories in the state to the total number of laboratories nationally. Approximately 1.5 percent of the registered laboratories are in the State of New York. We determined that a corresponding percentage of the applicable CMS, CDC, FDA, and their respective contractor costs should be borne by the State of New York.

The State of New York has agreed to pay the state's pro rata share of the anticipated overhead costs and costs of actual validation (including complaint investigation surveys). A final reconciliation for all laboratories and all expenses will be made. We will reimburse the state for any overpayment or bill it for any balance.

## II. Approval

In light of the foregoing, we grant approval of the State of New York's laboratory licensure program, CLEP, under subpart E. All laboratories located within the State of New York that hold valid CLEP permits are CLIA-exempt for all specialties and subspecialties until March 27, 2021.

Dated: March 10, 2015.

**Andrew M. Slavitt,**

*Acting Administrator, Centers for Medicare & Medicaid Services.*

[FR Doc. 2015–07113 Filed 3–26–15; 8:45 am]

**BILLING CODE 4120–01–P**

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## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Centers for Medicare & Medicaid Services

**[CMS–3318–N]**

### Medicare Program; Renewal of the Medicare Evidence Development & Coverage Advisory Committee (MEDCAC)

**AGENCY:** Centers for Medicare & Medicaid Services (CMS), HHS.

**ACTION:** Notice.

**SUMMARY:** This notice announces the renewal of the Medicare Evidence Development & Coverage Advisory Committee (MEDCAC).

**FOR FURTHER INFORMATION CONTACT:** Maria Ellis, (410) 786–0309. Additional information on the MEDCAC, including a copy of the Charter, is available at *http://www.cms.gov/Regulations-and-Guidance/Guidance/FACA/MEDCAC.html.* A copy of the charter may also be obtained by submitting a request to Maria Ellis via phone or via email at *Maria.Ellis@cms.hhs.gov.*

**SUPPLEMENTARY INFORMATION:**

## I. Background

On December 14, 1998, we published a notice in the **Federal Register** (63 FR 68780) announcing the establishment of the Medicare Coverage Advisory Committee (MCAC). The Secretary signed the initial charter for the MCAC on November 24, 1998. The MCAC was originally established to provide independent guidance and expert advice to CMS on specific clinical topics. In 2007, the Charter was renewed and the name MCAC was modified to Medicare Evidence Development and Coverage Advisory Committee (MEDCAC) to more accurately reflect the Committee's role. The MEDCAC is advisory, with the final decision on all issues resting with CMS. Under the current charter, the MEDCAC advises the Secretary of the Department of Health and Human Services (DHHS) (the Secretary) and the Administrator of the Centers for Medicare & Medicaid Services (CMS) on the quality of evidence on clinical topics under review by CMS.

The MEDCAC consists of a pool of 100 appointed members who serve overlapping 2-year terms. Members shall be invited to serve for two terms (up to 4 years total). Members are selected from among authorities in clinical and administrative medicine, biologic and physical sciences, public health administration, health care data and information management and analysis, the economics of health care, medical ethics, and other related professions, as well as advocates for patients. Of the pool of 100 members, a maximum of 94 members shall be at-large standing members (this includes 6 members who shall be patient advocates) and 6 shall be members representing industry interests. The Secretary or designee appoints a Chair and Vice-Chair from among the pool of at-large members.

## II. Provisions of This Notice

This notice announces the renewal of the MEDCAC charter by the Secretary, effective November 24, 2014. The MEDCAC charter is effective for 2 years. Among other things, the new charter states that the committee will hold four to eight meetings over the life of the committee. Formerly, the charter allowed up to 16 meetings over the life of the committee.

The MEDCAC functions on a committee basis. The MEDCAC hears public testimony; reviews medical literature, technology assessments and other relevant evidence; and advises CMS on the strength and weaknesses of that evidence. The MEDCAC also advises CMS of any evidence gaps that may exist and recommends the types of evidence that should be developed to fill those evidentiary gaps. The Committee may be asked to develop recommendations about specific issues related to Medicare coverage, and/or to review and comment upon proposed or existing Medicare coverage policies. The Committee may also be asked to comment on pertinent aspects of coverage proposals being considered and other policies. The Committee works from an agenda provided by a designated Federal official, which lists specific issues to be reviewed.

**Authority:** 5 U.S.C. App. 2, section 10(a)(1) and (a)(2).

Dated: March 20, 2015.

**Patrick Conway,**

*Deputy Administrator for Innovation and Quality and CMS Chief Medical Officer, Centers for Medicare & Medicaid Services.*

[FR Doc. 2015–07105 Filed 3–26–15; 8:45 am]

**BILLING CODE 4120–01–P**

**DEPARTMENT OF HEALTH AND HUMAN SERVICES**

**Centers for Medicare & Medicaid Services**

**[CMS–6062–N]**

# Medicare Program; Updates to the List of Durable Medical Equipment (DME) Specified Covered Items That Require a Face-to-Face Encounter and a Written Order Prior to Delivery

**AGENCY:** Centers for Medicare & Medicaid Services (CMS), HHS.

**ACTION:** Notice.

**SUMMARY:** This notice updates the Healthcare Common Procedure Coding System (HCPCS) codes on the Durable Medical Equipment (DME) List of Specified Covered Items that require a face-to-face encounter and a written order prior to delivery.

**DATES:** March 27, 2015.

**FOR FURTHER INFORMATION CONTACT:** Charlene Harven (410) 786–8228.

**SUPPLEMENTARY INFORMATION:**

## I. Background

Sections 1832, 1834, and 1861 of the Act establish that the provision of durable medical equipment, prosthetic, orthotics, and supplies (DMEPOS) is a covered benefit under Part B of the Medicare program.

Section 1834(a)(11)(B)(i) of the Act, as redesignated by the Affordable Care Act, authorizes us to require, for Specified Covered Items, that payment may only be made under section 1834(a) of the Act if a physician has communicated to the supplier a written order for the item before delivery of the item. Section 1834(b)(3) of the Act states that section 1834(a)(11) of the Act applies to prosthetic devices, orthotics, and prosthetics in the same manner as it applies to items of DME. Section 1834(a)(11)(B)(ii) of the Act requires a physician to document that a physician, physician assistant (PA), nurse practitioner (NP) or clinical nurse specialist (CNS) has had a face-to-face encounter examination with a beneficiary in the 6 months prior to the written order for certain items of durable medical equipment (DME) or during a different reasonable timeframe determined by the Secretary.

In the Calendar Year (CY) 2013 Physician Fee Schedule (PFS) final rule with comment period, which appeared in the November 16, 2012 **Federal Register** (77 FR 69147), we implemented section 1834(a)(11)(B) of the Act by making revisions to 42 CFR 410.38(g). Among other things, we established a list of Specified Covered Items that require a written order prior to delivery and a face-to-face encounter during the 6 months prior to the written order. (See 42 CFR 410.38(g)(2).) The list of Specified Covered Items contains items that meet at least one of the following three criteria:

- Any item described by a Healthcare Common Procedure Coding System (HCPCS) code for the following types of durable medical equipment:
  - ++ Transcutaneous electrical nerve stimulation (TENS) unit.
  - ++ Rollabout chair.
  - ++ Oxygen and respiratory equipment.
  - ++ Hospital beds and accessories.
  - ++ Traction-cervical.
- Any item of durable medical equipment that appears on the DMEPOS Fee Schedule with a price ceiling at or greater than $1,000.
- Any other item of durable medical equipment that CMS adds to the list of Specified Covered Items through the notice and comment rulemaking process in order to reduce the risk of fraud, waste, and abuse.

## II. Provisions of the Notice

In the CY 2013 Physician Fee Schedule final rule with comment period (77 FR 69154), we stated that we would publish annually an updated List of Specified Covered Items. (See also 42 CFR 410.38(g)(2).) We specified that we would—(1) Add to the list any item of DME (described by an HCPCS code) that in the future appears on the DMEPOS Fee Schedule with a price ceiling at or greater than $1,000; and (2) remove from the list any item of DME with a HCPCS code that is no longer covered by Medicare or that has been discontinued.

The purpose of this notice is to provide the annual update to the DME List of Specified Covered Items as stated in the CY 2013 Physician Fee Schedule final rule (77 FR 69154) and as specified in our regulations at § 410.38(g).

This year's update does not reflect any additions because there are no new items that appear on the DMEPOS Fee Schedule with a price ceiling at or greater than $1,000. There are also no new HCPCS codes for any of the five types of durable medical equipment listed previously. However, the following two HCPCS codes were removed from the list because they are for items that are no longer payable by Medicare:

| HCPCS code | Short descriptor |
|---|---|
| E0457 | Chest shell. |
| E0459 | Chest wrap. |

The full updated list is available in the download section of the following CMS Web site: *http://www.cms.gov/Research-Statistics-Data-and-Systems/Monitoring-Programs/Medicare-FFS-Compliance-Programs/Medical-Review/FacetoFaceEncounterRequirementforCertainDurableMedicalEquipment.html*.

## III. Collection of Information Requirements

This document does not impose information collection and recordkeeping requirements. Consequently, it need not be reviewed by the Office of Management and Budget under the authority of the Paperwork Reduction Act of 1995 (44 U.S.C. 35).

## IV. Impact Statement

We have examined the impact of this notice as required by Executive Order 12866 on Regulatory Planning and Review (September 30, 1993), Executive Order 13563 on Improving Regulation and Regulatory Review (January 18, 2011), the Regulatory Flexibility Act (RFA) (September 19, 1980, Pub. L. 96–354), section 1102(b) of the Social Security Act, section 202 of the Unfunded Mandates Reform Act of 1995 (March 22, 1995; Pub. L. 104–4), Executive Order 13132 on Federalism (August 4, 1999) and the Congressional Review Act (5 U.S.C. 804(2)).

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). A regulatory impact analysis (RIA) must be prepared for major rules with economically significant effects ($100 million or more in any 1 year). The CY 2013 expenditures for the two HCPCS codes being removed via this notice was approximately $9,000. Therefore, this notice does not reach the economic threshold and thus is not considered a major rule.

The RFA requires agencies to analyze options for regulatory relief of small entities. For purposes of the RFA, small entities include small businesses, nonprofit organizations, and small governmental jurisdictions. Most hospitals and most other providers and suppliers are small entities, either by nonprofit status or by having revenues of less than $7.5 million to $38.5 million in any 1 year. Individuals and States are not included in the definition of a small entity. We are not preparing an analysis for the RFA because we have

determined, and the Secretary certifies, that this notice will not have a significant economic impact on a substantial number of small entities.

In addition, section 1102(b) of the Act requires us to prepare a regulatory impact analysis if a rule may have a significant impact on the operations of a substantial number of small rural hospitals. This analysis must conform to the provisions of section 604 of the RFA. For purposes of section 1102(b) of the Act, we define a small rural hospital as a hospital that is located outside of a Metropolitan Statistical Area for Medicare payment regulations and has fewer than 100 beds. We are not preparing an analysis for section 1102(b) of the Act because we have determined, and the Secretary certifies, that this notice will not have a significant impact on the operations of a substantial number of small rural hospitals.

Section 202 of the Unfunded Mandates Reform Act of 1995 also requires that agencies assess anticipated costs and benefits before issuing any rule whose mandates require spending in any 1 year of $100 million in 1995 dollars, updated annually for inflation. In 2014, that threshold is approximately $141 million. This notice will have no consequential effect on State, local, or tribal governments or on the private sector.

Executive Order 13132 establishes certain requirements that an agency must meet when it promulgates a proposed rule (and subsequent final rule) that imposes substantial direct requirement costs on State and local governments, preempts State law, or otherwise has Federalism implications. Since this notice does not impose any costs on State or local governments, the requirements of Executive Order 13132 are not applicable.

In accordance with the provisions of Executive Order 12866, this notice was reviewed by the Office of Management and Budget.

Dated: March 10, 2015.

**Andrew M. Slavitt,**

*Acting Administrator, Centers for Medicare & Medicaid Services.*

[FR Doc. 2015–07108 Filed 3–26–15; 8:45 am]

**BILLING CODE 4120–01–P**

## DEPARTMENT OF HOMELAND SECURITY

### U.S. Customs and Border Protection

### Modification of National Customs Automation Program (NCAP) Test Concerning Automated Commercial Environment (ACE) Cargo Release for Type 03 Entries and for Truck Carriers

**AGENCY:** U.S. Customs and Border Protection, Department of Homeland Security.

**ACTION:** General notice.

**SUMMARY:** This document announces U.S. Customs and Border Protection's (CBP's) plan to modify the National Customs Automation Program (NCAP) test concerning Automated Commercial Environment (ACE) cargo release to allow importers and customs brokers to file type 03 entries for all modes of transportation and to file, for cargo transported in the truck mode, entries for split shipments or partial shipments and entry on cargo which has been moved in-bond from the first U.S. port of unlading.

**DATES:** The ACE Cargo Release Test modifications became effective on March 1, 2015. The ACE Cargo Release Test will continue until CBP publishes in the **Federal Register** an announcement of its conclusion.

**ADDRESSES:** Comments or questions concerning this notice and indication of interest in participation in ACE Cargo Release Test should be submitted, via email, to Steven Zaccaro at *steven.j.zaccaro@cbp.dhs.gov.* In the subject line of your email, please use, ''Comment on ACE Cargo Release 03 Entries and Truck Mode.'' The body of the email should identify the ports where filings are likely to occur.

**FOR FURTHER INFORMATION CONTACT:** For policy questions related to ACE, contact Josephine Baiamonte, Acting Director, Business Transformation, ACE Business Office, Office of International Trade, at *josephine.baiamonte@dhs.gov.* For policy questions related to ISF, contact Craig Clark, Program Manager, Cargo and Conveyance Security, Office of Field Operations, at *craig.clark@cbp.dhs.gov.* For technical questions, contact Steven Zaccaro, Client Representative Branch, ACE Business Office, Office of International Trade, at *steven.j.zaccaro@cbp.dhs.gov.*

**SUPPLEMENTARY INFORMATION:**

## Background

### I. The National Customs Automation Program

This test notice, and the Customs related electronic functions it describes, are part of the National Customs Automation Program (NCAP). NCAP was established in Subtitle B of Title VI—Customs Modernization, in the North American Free Trade Agreement Implementation Act (Pub. L. 103–182, 107 Stat. 2057, 2170, December 8, 1993) (Customs Modernization Act). *See* 19 U.S.C. 1411. Through NCAP, the initial focus of customs modernization was on trade compliance and the development of the Automated Commercial Environment (ACE), the planned successor to the legacy Customs Automated Commercial System (ACS). ACE is an automated and electronic system for commercial trade processing. ACE will streamline business processes, facilitate growth in trade, ensure cargo security, and foster participation in global commerce, while ensuring compliance with U.S. laws and regulations and reducing costs for CBP and all its communities of interest. The ability to meet these objectives depends upon successfully modernizing CBP's business functions and the information technology that supports those functions. CBP's modernization efforts are accomplished through phased releases of ACE component functionality, designed to introduce a new capability or to replace a specific legacy ACS function. Each release will begin with a test, and will end with mandatory compliance with the new ACE feature, thus retiring the legacy ACS function. Each release builds on previous releases, and sets the foundation for subsequent releases.

The ACE Cargo Release test was previously known as the Simplified Entry Test, because the test simplified the entry process by reducing the number of data elements required to obtain release for cargo transported by air. The original test notice required participants to be a member of the Customs-Trade Partnership Against Terrorism (C–TPAT) program. Through phased releases of ACE component functionality, this test has been expanded to allow all eligible participants to join the test for an indefinite period regardless of the C–TPAT status of an importer self-filer or a customs broker. CBP also expanded the ACE Cargo release test to allow ACE-participating brokers and importers to file for release of cargo transported by air, ocean, or rail. *See* 79 FR 6210 (February 3, 2014). For these three modes of transportation, CBP limited the ACE Cargo Release test to formal consumption entries, which ACS termed Type 01 entries; and to informal entries, which ACS termed Type 11 entries. *See* 79 FR 6210.

On May 2, 2014, CBP published a **Federal Register** notice to announce its expansion of the ACE Cargo Release test to allow ACE-participating brokers and importers to file for release of cargo transported by truck, but only for Type 01 and Type 11 entries. 79 FR 25142 (May 2, 2014). In that phase of the ACE Cargo Release test, however, for cargo transported by truck, CBP excluded split shipments, partial shipments, entry on cargo that has been moved in-bond from the first U.S. port of unlading, and entries requiring PGA information.

For the convenience of the public, all **Federal Register** publications detailing ACE test developments in Entry, Summary, Accounts, and Revenue (ESAR) are listed chronologically at the end of this notice, in Section VI. ''*Development of ACE Prototypes.*'' CBP's ACE eligibility criteria, technical specifications, recordkeeping requirements, and rules, as specified in prior NCAP test notices for ACE, remain in effect unless CBP publishes a notice, such as this one, that explicitly announces a change.

## II. Authorization for the Test

The Customs Modernization provisions in the North American Free Trade Agreement Implementation Act provide the Commissioner of CBP with authority to conduct limited test programs or procedures designed to evaluate planned components of the NCAP. This test is authorized pursuant to § 101.9(b) of the CBP Regulations (19 CFR 101.9(b)) which provides for the testing of NCAP programs or procedures. *See* Treasury Decision (T.D.) 95–21.

## III. Modification of ACE Cargo Release Test To Include Type 03 Entries, and To Expand Cargo Release Filing Capabilities for Cargo Conveyed by Truck

This notice announces that, as an addition to Type 01 and Type 11 entries, CBP is now allowing brokers and importers, who are also ACE participants, to file, for air, ocean, rail, and truck modes of transportation, a simplified entry for release of cargo subject to an antidumping or countervailing duty proceeding, which ACS termed Type 03 entries.

This notice also announces that CBP is now allowing ACE-participating brokers and importers to file for release of cargo transported by truck that are split shipments, partial shipments, entry on cargo that has been moved in-bond from the first U.S. port of unlading.

*Eligibility Requirements*

To be eligible to apply for this test, the applicant must: (1) Be a self-filing importer who has the ability to file ACE Entry Summaries certified for cargo release or a broker who has the ability to file ACE Entry Summaries certified for cargo release; or (2) have evinced the intent to file entry summaries in ACE.

Parties seeking to participate in this test must use a software package that has completed Automated Broker Interface (ABI) certification testing for ACE and offers the ACE Cargo Release (SE) message set prior to transmitting data under the test. *See* the General Notice of August 26, 2008 (73 FR 50337) for a complete discussion on procedures for obtaining an ACE Portal Account. Importers not self-filing must be sure their broker has the capability to file entry summaries in ACE.

*Document Image System (DIS)*

Parties who file entry summaries in ACE are allowed to submit specified CBP and PGA documents via a CBP-approved Electronic Data Interchange (EDI). In a notice published in the **Federal Register** (79 FR 36083) on June 25, 2014, CBP set forth the rules for filing submissions via DIS and a list of CBP and PGA forms that may be submitted via DIS. For technical information about how ACE participants may build an interface to connect with CBP DIS, see *http://www.cbp.gov/sites/default/files/documents/dis_implementation_guide_3.pdf*.

*Test Participation Selection Criteria*

The ACE Cargo Release test is open to all importers and customs brokers filing ACE Entry Summaries for cargo transported in the ocean, rail, and truck modes. CBP will endeavor to accept all new eligible applicants on a first come, first served basis; however, if the volume of eligible applicants exceeds CBP's administrative capabilities, CBP will reserve the right to select importer and exporter participants based upon entry filing volume, diversity of clients or of industries represented, while giving consideration to the order in which CBP received the requests to participate.

Any party seeking to participate in this test must provide CBP, in their request to participate, their filer code and the port(s) at which they are interested in filing ACE Cargo Release transaction data. At this time, ACE Cargo Release data may be submitted only for entries filed at certain ports. A current listing of those ports may be found on the following Web site: *http://www.cbp.gov/document/guidance/ace-cargo-release-pilot-ports*. CBP may expand to additional ports in the future.

*Filing Capabilities*

The filing capabilities for the ACE Cargo Release test set forth in a **Federal Register** notice (79 FR 25142) continue to apply and are now expanded to include ACE-participating importers and customs brokers filing for cargo transported in the truck mode, to allow for automated corrections and cancellations, split shipments, partial shipments, entry on cargo which has been moved by in-bond from the first U.S. port of unlading, and entry for a full manifested bill quantity. These new capabilities include functionality specific to the filing and processing of Type 01, Type 03, and Type 11 for cargo conveyed by air, ocean, rail, or truck mode of transportation. The ACE Cargo Release filing capabilities serve to assist the importer in completion of entry as required by the provisions of 19 U.S.C. 1484(a)(1)(B).

*Data Elements To Be Filed*

In lieu of filing CBP Form 3461 data, the importer or broker acting on behalf of the importer must file the following 12 data elements (known as the ACE Cargo Release Data set) with CBP:

(1) Importer of Record Number.
(2) Buyer name and address.
(3) Buyer Employer Identification Number (consignee number).
(4) Seller name and address.
(5) Manufacturer/supplier name and address.
(6) HTS 10-digit number.
(7) Country of origin.
(8) Bill of lading/house air waybill number.
(9) Bill of lading issuer code.
(10) Entry number.
(11) Entry type.
(12) Estimated shipment value.

For cargo transported by ocean or by rail, the filer has the option, but is not required, to provide the following three (3) data elements:

(13) Ship to party name and address (optional).
(14) Consolidator name and address (optional).
(15) Container stuffing location (optional).

To enable enhanced functionality in ACE Cargo Release, the ACE-participating importer or broker may provide an additional three (3) data elements if applicable, for cargo transported by air, ocean, rail, or truck:

(16) Port of Entry (if an in-bond number is provided in the entry submission, the planned port of entry must also be provided).

(17) In-Bond number (if an in-bond shipment).

(18) Bill Quantity (if bill of lading quantity is specified in the entry, it becomes the entered and released quantity for that bill. If the bill quantity is not specified, full bill quantity will be entered and released for that bill).

Data element (1) and data elements (6) through (12) are defined in the same manner as when they are used for entry filing on the CBP Form 3461. Data elements (2) through (5) and (13) through (15) are defined in accordance with the provisions of 19 CFR 149.3.

The ACE Cargo Release Data set may be filed at any time prior to arrival of the cargo in the United States port of arrival with the intent to unlade. This data fulfills merchandise entry requirements and allows for earlier release decisions and more certainty for the importer in determining the logistics of cargo delivery.

*Functionality*

Upon receipt of the ACE Cargo Release data, CBP will process the submission and will subsequently transmit its cargo release decision to the filer. If a subsequent submission is submitted to CBP, CBP's decision regarding the original submission is no longer controlling.

The merchandise will then be considered to be entered upon its arrival in the port with the intent to unlade, as provided by current 19 CFR 141.68(e).

## V. Misconduct Under the Test

An ACE test participant may be subject to civil and criminal penalties, administrative sanctions, liquidated damages, and/or suspension from this test for any of the following:

Failure to follow the terms and conditions of this test.

Failure to exercise reasonable care in the execution of participant obligations.

Failure to abide by applicable laws and regulations.

Suspensions for misconduct will be administered by the Executive Director, Trade Policy and Programs, Office of International Trade, CBP Headquarters. A written notice proposing suspension will be issued to the participant that apprises the participant of the facts or conduct warranting suspension and informs the participant of the date the suspension will begin. Any decision proposing suspension of a participant may be appealed in writing to the Assistant Commissioner, Office of International Trade within 15 calendar days of the notification date. An appeal of a decision of proposed suspension must address the facts or conduct charges contained in the notice and state how compliance will be achieved. In cases of non-payment, late payment, willful misconduct or where public health interests or safety is concerned, a suspension may be effective immediately.

## VI. Development of ACE Prototypes

A chronological listing of **Federal Register** publications, which describe ACE test developments, is provided, below.

ACE Portal Accounts and Subsequent Revision Notices: 67 FR 21800 (May 1, 2002); 69 FR 5360 and 69 FR 5362 (February 4, 2004); 69 FR 54302 (September 8, 2004); 70 FR 5199 (February 1, 2005). ACE System of Records Notice: 71 FR 3109 (January 19, 2006).

Terms/Conditions for Access to the ACE Portal and Subsequent Revisions: 72 FR 27632 (May 16, 2007); 73 FR 38464 (July 7, 2008).

ACE Non-Portal Accounts and Related Notice: 70 FR 61466 (October 24, 2005); 71 FR 15756 (March 29, 2006).

ACE Entry Summary, Accounts and Revenue (ESAR I) Capabilities: 72 FR 59105 (October 18, 2007).

ACE Entry Summary, Accounts and Revenue (ESAR II) Capabilities: 73 FR 50337 (August 26, 2008); 74 FR 9826 (March 6, 2009).

ACE Entry Summary, Accounts and Revenue (ESAR III) Capabilities: 74 FR 69129 (December 30, 2009).

ACE Entry Summary, Accounts and Revenue (ESAR IV) Capabilities: 76 FR 37136 (June 24, 2011).

Post-Entry Amendment (PEA) Processing Test: 76 FR 37136 (June 24, 2011).

ACE Announcement of a New Start Date for the National Customs Automation Program Test of Automated Manifest Capabilities for Ocean and Rail Carriers: 76 FR 42721 (July 19, 2011).

ACE Simplified Entry: 76 FR 69755 (November 9, 2011).

National Customs Automation Program (NCAP) Tests Concerning Automated Commercial Environment (ACE) Document Image System (DIS): 77 FR 20835 (April 6, 2012).

National Customs Automation Program (NCAP) Tests Concerning Automated Commercial Environment (ACE) Simplified Entry: Modification of Participant Selection Criteria and Application Process: 77 FR 48527 (August 14, 2012).

Modification of NCAP Test Regarding Reconciliation for Filing Certain Post-Importation Preferential Tariff Treatment Claims under Certain FTAs: 78 FR 27984 (May 13, 2013).

Modification of Two National Customs Automation Program (NCAP) Tests Concerning Automated Commercial Environment (ACE) Document Image System (DIS) and Simplified Entry (SE): 78 FR 44142 (July 23, 2013).

Modification of Two National Customs Automation Program (NCAP) Tests Concerning Automated Commercial Environment (ACE) Document Image System (DIS) and Simplified Entry (SE); Correction: 78 FR 53466 (August 29, 2013).

Modification of NCAP Test Concerning Automated Commercial Environment (ACE) Cargo Release (formerly known as Simplified Entry): 78 FR 66039 (November 4, 2013).

Post-Summary Corrections to Entry Summaries Filed in ACE Pursuant to the ESAR IV Test: Modifications and Clarifications: 78 FR 69434 (November 19, 2013).

National Customs Automation Program (NCAP) Test Concerning the Submission of Certain Data Required by the Environmental Protection Agency and the Food Safety and Inspection Service Using the Partner Government Agency Message Set Through the Automated Commercial Environment (ACE): 78 FR 75931 (December 13, 2013).

Modification of National Customs Automation Program (NCAP) Test Concerning Automated Commercial Environment (ACE) Cargo Release for Ocean and Rail Carriers: 79 FR 6210 (February 3, 2014).

Modification of National Customs Automation Program (NCAP) Test Concerning Automated Commercial Environment (ACE) Cargo Release To Allow Importers and Brokers To Certify From ACE Entry Summary: 79 FR 24744 (May 1, 2014).

Modification of National Customs Automation Program (NCAP) Test Concerning Automated Commercial Environment (ACE) Cargo Release for Truck Carriers: 79 FR 25142 (May 2, 2014).

Modification of National Customs Automation Program (NCAP) Test Concerning Automated Commercial Environment Document Image System: 79 FR 36083 (June 25, 2014).

eBond Test: 79 FR 70881 (November 28, 2014); 80 FR 899 (January 7, 2015).

Dated: March 24, 2015.

**Brenda B. Smith,**

*Assistant Commissioner, Office of International Trade.*

[FR Doc. 2015–07122 Filed 3–26–15; 8:45 am]

BILLING CODE P

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## DEPARTMENT OF HOMELAND SECURITY

### U.S. Customs and Border Protection

**[1651–0009]**

### Agency Information Collection Activities: Customs Declaration

**AGENCY:** U.S. Customs and Border Protection, Department of Homeland Security.

**ACTION:** 60-Day Notice and request for comments; Extension of an existing collection of information.

**SUMMARY:** U.S. Customs and Border Protection (CBP) of the Department of Homeland Security will be submitting the following information collection request to the Office of Management and

Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act: Customs Declaration (CBP Form 6059B). CBP is proposing that this information collection be extended with no change to the burden hours or to the information collected. This document is published to obtain comments from the public and affected agencies.

**DATES:** Written comments should be received on or before May 26, 2015 to be assured of consideration.

**ADDRESSES:** Direct all written comments to U.S. Customs and Border Protection, Attn: Tracey Denning, Regulations and Rulings, Office of International Trade, 90 K Street NE., 10th Floor, Washington, DC 20229–1177.

**FOR FURTHER INFORMATION CONTACT:** Requests for additional information should be directed to Tracey Denning, U.S. Customs and Border Protection, Regulations and Rulings, Office of International Trade, 90 K Street NE., 10th Floor, Washington, DC 20229–1177, at 202–325–0265.

**SUPPLEMENTARY INFORMATION:** CBP invites the general public and other Federal agencies to comment on proposed and/or continuing information collections pursuant to the Paperwork Reduction Act of 1995 (Pub. L. 104–13; 44 U.S.C. 3507). The comments should address: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimates of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden including the use of automated collection techniques or the use of other forms of information technology; and (e) the annual cost burden to respondents or record keepers from the collection of information (total capital/startup costs and operations and maintenance costs). The comments that are submitted will be summarized and included in the CBP request for OMB approval. All comments will become a matter of public record. In this document, CBP is soliciting comments concerning the following information collection:

*Title:* Customs Declaration.

*OMB Number:* 1651–0009.

*Form Number:* CBP Form 6059B.

*Abstract:* CBP Form 6059B, Customs Declaration, is used as a standard report of the identity and residence of each person arriving in the United States. This form is also used to declare imported articles to U.S. Customs and Border Protection (CBP) in accordance with 19 CFR 122.27, 148.12, 148.13, 148.110, 148.111, 1498; 31 CFR 5316 and section 498 of the Tariff Act of 1930, as amended (19 U.S.C. 1498).

Section 148.13 of the CBP regulations prescribes the use of the CBP Form 6059B when a written declaration is required of a traveler entering the United States. Generally, written declarations are required from travelers arriving by air or sea. Section 148.12 requires verbal declarations from travelers entering the United States. Generally, verbal declarations are required from travelers arriving by land.

A sample of CBP Form 6059B can be found at: *http://www.cbp.gov/travel/us-citizens/sample-declaration-form.*

*Current Actions:* This submission is being made to extend the expiration date of this information collection with no change to the burden hours or to CBP Form 6059B.

*Type of Review:* Extension (without change).

*Affected Public:* Individuals.

*CBP Form 6059B:*

*Estimated Number of Respondents:* 104,506,000.

*Estimated Number of Total Annual Responses:* 104,506,000.

*Estimated Time per Response:* 4 minutes.

*Estimated Total Annual Burden Hours:* 7,001,902.

*Verbal Declarations:*

*Estimated Number of Respondents:* 233,000,000.

*Estimated Number of Total Annual Responses:* 233,000,000.

*Estimated Time per Response:* 10 seconds.

*Estimated Total Annual Burden Hours:* 669,000.

Dated: March 23, 2015.

**Tracey Denning,**

*Agency Clearance Officer, U.S. Customs and Border Protection.*

[FR Doc. 2015–07007 Filed 3–26–15; 8:45 am]

BILLING CODE 9111–14–P

## DEPARTMENT OF HOMELAND SECURITY

### Office of the Secretary

**[Docket No. DHS–2015–0011]**

### Homeland Security Advisory Council

**AGENCY:** Office of Policy, DHS.

**ACTION:** Notice of charter renewal for Homeland Security Advisory Council.

**SUMMARY:** The Secretary of Homeland Security has determined that the renewal of the charter of the Homeland Security Advisory Council is necessary and in the public interest in connection with the Department of Homeland Security's performance of its duties. This determination follows consultation with the Committee Management Secretariat, General Services Administration.

**DATES:** The committee's charter is effective March 6, 2015 and expires March 6, 2017.

**FOR FURTHER INFORMATION CONTACT:** Mike Miron, Director, Homeland Security Advisory Council, U.S. Department of Homeland Security by phone at (202) 447–3135, or by email to *hsac@dhs.gov.*

**SUPPLEMENTARY INFORMATION:** The Homeland Security Advisory Council provides organizationally independent, strategic, timely, specific, and actionable advice and recommendations for the consideration of the Secretary of the Department of Homeland Security on matters related to homeland security. The Homeland Security Advisory Council is comprised of leaders of local law enforcement, first responders, state and local government, the private sector, and academia.

Dated: March 23, 2015.

**Sarah Morgenthau,**

*Executive Director, Homeland Security Advisory Council, U.S. Department of Homeland Security.*

[FR Doc. 2015–07094 Filed 3–26–15; 8:45 am]

BILLING CODE 9110–9M–P

## DEPARTMENT OF HOMELAND SECURITY

### U.S. Customs and Border Protection

**[1651–0029]**

### Agency Information Collection Activities: Application for Foreign-Trade Zone Admission and/or Status Designation, and Application for Foreign-Trade Zone Activity Permit

**AGENCY:** U.S. Customs and Border Protection, Department of Homeland Security.

**ACTION:** 60-Day notice and request for comments; extension of an existing collection of information.

**SUMMARY:** U.S. Customs and Border Protection (CBP) of the Department of Homeland Security will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act: Application for Foreign-Trade Zone Admission and/or Status Designation (CBP Forms 214, 214A, 214B, and 214C) and Application for

Foreign-Trade Zone Activity Permit (CBP Form 216). CBP is proposing that this information collection be extended with no change to the burden hours or to the information collected. This document is published to obtain comments from the public and affected agencies.

**DATES:** Written comments should be received on or before May 26, 2015 to be assured of consideration.

**ADDRESSES:** Direct all written comments to U.S. Customs and Border Protection, Attn: Tracey Denning, Regulations and Rulings, Office of International Trade, 90 K Street NE., 10th Floor, Washington, DC 20229–1177.

**FOR FURTHER INFORMATION CONTACT:** Requests for additional information should be directed to Tracey Denning, U.S. Customs and Border Protection, Regulations and Rulings, Office of International Trade, 90 K Street NE., 10th Floor, Washington, DC 20229–1177, at 202–325–0265.

**SUPPLEMENTARY INFORMATION:** CBP invites the general public and other Federal agencies to comment on proposed and/or continuing information collections pursuant to the Paperwork Reduction Act of 1995 (Pub. L. 104–13; 44 U.S.C. 3507). The comments should address: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimates of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden, including the use of automated collection techniques or the use of other forms of information technology; and (e) the annual cost burden to respondents or record keepers from the collection of information (total capital/startup costs and operations and maintenance costs). The comments that are submitted will be summarized and included in the CBP request for OMB approval. All comments will become a matter of public record. In this document, CBP is soliciting comments concerning the following information collection:

*Title:* Application for Foreign-Trade Zone Admission and/or Status Designation, and Application for Foreign-Trade Zone Activity Permit.

*OMB Number:* 1651–0029.

*Form Numbers:* 214, 214A, 214B, 214C, and 216.

*Abstract:* Foreign trade zones (FTZs) are geographical enclaves located within the geographical limits of the United States but for tariff purposes are considered to be outside the United States. Imported merchandise may be brought into FTZs for storage, manipulation, manufacture or other processing and subsequent removal for exportation, consumption in the United States, or destruction. A company bringing goods into an FTZ has a choice of zone status (privileged/non-privileged foreign, domestic, or zone-restricted), which affects the way such goods are treated by Customs and Border Protection (CBP) and treated for tariff purposes upon entry into the customs territory of the U.S.

CBP Forms 214, 214A, 214B, and 214C, which make up the *Application for Foreign-Trade Zone Admission and/or Status Designation,* are used by companies that bring merchandise into an FTZ to register the admission of such merchandise into FTZs and to apply for the appropriate zone status. CBP Form 216, *Foreign-Trade Zone Activity Permit,* is used by companies to request approval to manipulate, manufacture, exhibit, or destroy merchandise in an FTZ.

These FTZ forms are authorized by 19 U.S.C. 81 and provided for by 19 CFR 146.22, 146.32, 146.41, 146.44, 146.52, 146.53, and 146.66. These forms are accessible at: *http://www.cbp.gov/newsroom/publications/forms.*

*Action:* CBP proposes to extend the expiration date of this information collection with no change to the burden hours or to CBP Forms 214, 214A, 214B, 214C, and 216.

*Type of Review:* Extension (without change).

*Affected Public:* Businesses.

**Form 214, Application for Foreign-Trade Zone Admission and/or Status Designation**

*Estimated Number of Respondents:* 6,749.

*Estimated Number of Annual Responses per Respondent:* 25.

*Estimated Total Annual Responses:* 168,725.

*Estimated Time per Response:* 15 minutes.

*Estimated Total Annual Burden Hours:* 42,181.

**Form 216, Application for Foreign-Trade Zone Activity Permit**

*Estimated Number of Respondents:* 2,500.

*Estimated Number of Annual Responses per Respondent:* 10.

*Estimated Total Annual Responses:* 25,000.

*Estimated Time per Response:* 10 minutes.

*Estimated Total Annual Burden Hours:* 4,167.

Dated: March 23, 2015,

**Tracey Denning,**

*Agency Clearance Officer, U.S. Customs and Border Protection.*

[FR Doc. 2015–07006 Filed 3–26–15; 8:45 am]

**BILLING CODE 9111–14–P**

## DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

**[Docket No. FR–5828–N–13]**

## Federal Property Suitable as Facilities To Assist the Homeless

**AGENCY:** Office of the Assistant Secretary for Community Planning and Development, HUD.

**ACTION:** Notice.

**SUMMARY:** This Notice identifies unutilized, underutilized, excess, and surplus Federal property reviewed by HUD for suitability for use to assist the homeless.

**FOR FURTHER INFORMATION CONTACT:** Juanita Perry, Department of Housing and Urban Development, 451 Seventh Street SW., Room 7266, Washington, DC 20410; telephone (202) 402–3970; TTY number for the hearing- and speech-impaired (202) 708–2565 (these telephone numbers are not toll-free), or call the toll-free Title V information line at 800–927–7588.

**SUPPLEMENTARY INFORMATION:** In accordance with 24 CFR part 581 and section 501 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11411), as amended, HUD is publishing this Notice to identify Federal buildings and other real property that HUD has reviewed for suitability for use to assist the homeless. The properties were reviewed using information provided to HUD by Federal landholding agencies regarding unutilized and underutilized buildings and real property controlled by such agencies or by GSA regarding its inventory of excess or surplus Federal property. This Notice is also published in order to comply with the December 12, 1988 Court Order in *National Coalition for the Homeless* v. *Veterans Administration,* No. 88–2503–OG (D.D.C.).

Properties reviewed are listed in this Notice according to the following categories: Suitable/available, suitable/unavailable, and suitable/to be excess, and unsuitable. The properties listed in the three suitable categories have been reviewed by the landholding agencies, and each agency has transmitted to HUD: (1) Its intention to make the property available for use to assist the homeless, (2) its intention to declare the property excess to the agency's needs, or

(3) a statement of the reasons that the property cannot be declared excess or made available for use as facilities to assist the homeless.

Properties listed as suitable/available will be available exclusively for homeless use for a period of 60 days from the date of this Notice. Where property is described as for ''off-site use only'' recipients of the property will be required to relocate the building to their own site at their own expense. Homeless assistance providers interested in any such property should send a written expression of interest to HHS, addressed to: Ms. Theresa M. Ritta, Chief Real Property Branch, the Department of Health and Human Services, Room 5B–17, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857, (301)–443–2265 (This is not a toll-free number.) HHS will mail to the interested provider an application packet, which will include instructions for completing the application. In order to maximize the opportunity to utilize a suitable property, providers should submit their written expressions of interest as soon as possible. For complete details concerning the processing of applications, the reader is encouraged to refer to the interim rule governing this program, 24 CFR part 581.

For properties listed as suitable/to be excess, that property may, if subsequently accepted as excess by GSA, be made available for use by the homeless in accordance with applicable law, subject to screening for other Federal use. At the appropriate time, HUD will publish the property in a Notice showing it as either suitable/available or suitable/unavailable.

For properties listed as suitable/unavailable, the landholding agency has decided that the property cannot be declared excess or made available for use to assist the homeless, and the property will not be available.

Properties listed as unsuitable will not be made available for any other purpose for 20 days from the date of this Notice. Homeless assistance providers interested in a review by HUD of the determination of unsuitability should call the toll free information line at 1–800–927–7588 for detailed instructions or write a letter to Ann Marie Oliva at the address listed at the beginning of this Notice. Included in the request for review should be the property address (including zip code), the date of publication in the **Federal Register**, the landholding agency, and the property number.

For more information regarding particular properties identified in this Notice (*i.e.,* acreage, floor plan, existing sanitary facilities, exact street address), providers should contact the appropriate landholding agencies at the following addresses: *Agriculture:* Ms. Debra Kerr, Department of Agriculture, Reporters Building, 300 7th Street SW., Room 300, Washington, DC 20024, (202)–720–8873; (This is not a toll free number).

Dated: March 19, 2015.

**Brian P. Fitzmaurice,**

*Director, Division of Community Assistance, Office of Special Needs Assistance Programs.*

## TITLE V, FEDERAL SURPLUS PROPERTY PROGRAM FEDERAL REGISTER REPORT FOR 03/27/2015

### Unsuitable Properties

*Building*

Montana

Cummings Bunkerhouse & Cummings Shed #2
Helena National Forest
Lincoln Ranger Distr. MT
Landholding Agency: Agriculture
Property Number: 15201510015
Status: Excess
Directions: T14N R07W Section 9; INFRA ID #1508
Comments: documented deficiencies: foundation unsound due to decay/rotting; clear threat to physical safety.
Reasons: Extensive deterioration

[FR Doc. 2015–06775 Filed 3–26–15; 8:45 am]

BILLING CODE 4210–67–P

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## DEPARTMENT OF THE INTERIOR

### United States Geological Survey

**[GX15EN05ESB0500]**

## Opening of Nomination Period for Members of the Advisory Committee on Climate Change and Natural Resource Science

**AGENCY:** U.S. Geological Survey, Interior.

**ACTION:** Notice of Opening of Nomination Period.

**SUMMARY:** The Department of the Interior is inviting nominations for membership on the Advisory Committee on Climate Change and Natural Resource Science. This **Federal Register** Notice opens the nomination period for 60 days.

**DATES:** Written nominations must be received by June 1, 2015.

**ADDRESSES:** Send nominations to: Lisa LaCivita, National Climate Change and Wildlife Science Center, U.S. Geological Survey, 12201 Sunrise Valley Drive, Mail Stop 516, Reston, VA 20192, *nccwsc@usgs.gov.*

**FOR FURTHER INFORMATION CONTACT:** Mr. Robin O'Malley, Designated Federal Officer for ACCCNRS, Policy and Partnership Coordinator, National Climate Change and Wildlife Science Center, U.S. Geological Survey, 12201 Sunrise Valley Drive, Mail Stop 516, Reston, VA 20192, *romalley@usgs.gov,* (703) 648–4086.

**SUPPLEMENTARY INFORMATION:** In May 2013, the Advisory Committee on Climate Change and Natural Resource Science (ACCCNRS) was originally chartered and 25 members were appointed to the committee to provide advice on matters and actions relating to the operations of the U.S. Geological Survey National Climate Change and Wildlife Science Center and the Department of the Interior (DOI) Climate Science Centers. The ACCCNRS Charter can be found at: *https://nccwsc.usgs.gov/acccnrs.*

In May 2015, membership terms for several committee members will expire, creating approximately 12 membership openings. The Department of the Interior is inviting nominations for individuals to be considered for these membership openings. Only nominations in response to this notice will be considered. Existing ACCCNRS members, whose terms are expiring, must be re-nominated during this open nomination period to be considered. Self-nominations will be accepted. Nominations should include a resume that describes the nominee's qualifications in enough detail to enable us to make an informed decision regarding meeting the membership requirements of the Committee and to contact a potential member. Additional information will be requested from those selected for final review before appointment. Members selected for appointment will be asked to identify an alternate who can participate in their stead; names of proposed alternates need not be submitted at this time.

The Department of the Interior is soliciting members for ACCCNRS to represent the following interests: (1) State and local governments, including state membership entities; (2) Nongovernmental organizations, including those whose primary mission is professional and scientific and those whose primary mission is conservation and related scientific and advocacy activities; (3) American Indian tribes and other Native American entities; (4) Academia; (5) Individual landowners; (6) Business interests

In 2015 and later, the Committee will meet approximately 2 times annually, and at such times as designated by the DFO. The Secretary of the Interior will

appoint members to the Committee. Members appointed as special Government employees are required to file on an annual basis a confidential financial disclosure report. No individual who is currently registered as a Federal lobbyist is eligible to serve as a member of the Committee.

**Robin O'Malley,**

*Designated Federal Officer.*

[FR Doc. 2015–07082 Filed 3–26–15; 8:45 am]

**BILLING CODE 4311–AM–P**

## DEPARTMENT OF THE INTERIOR

### Bureau of Land Management

**[LLORL00000. L10200000.DF0000.LXSS020H0000. 15XL0019AF; HAG 15–0101]**

### Notice of Public Meeting for the Southeast Oregon Resource Advisory Council

**AGENCY:** Bureau of Land Management, Interior.

**ACTION:** Notice of public meeting.

**SUMMARY:** In accordance with the Federal Land Policy and Management Act and the Federal Advisory Committee Act of 1972, and the U.S. Department of the Interior, Bureau of Land Management (BLM), the Southeast Oregon Resource Advisory Council (RAC) will meet as indicated below:

**DATES:** The Southeast Oregon RAC will hold a public meeting Monday and Tuesday, April 20 starting at 10 a.m. and ending at 4 p.m. and April 21, 2015 starting at 8 a.m. and ending at 12 p.m. A public comment period will be available at 11 a.m. on April 21 during the joint meeting. Unless otherwise approved by the Southeast Oregon RAC Chair, the public comment period will last no longer than 30 minutes, and each speaker may address the Southeast Oregon RAC for a maximum of 5 minutes. Meeting times and the duration scheduled for public comment periods may be extended or altered when the authorized representative considers it necessary to accommodate necessary business and all who seek to be heard regarding matters before the Southeast Oregon RAC.

**ADDRESSES:** The meeting will be held at the Clarion Inn 1249 Tapadera Ave. Ontario, OR 97914.

**FOR FURTHER INFORMATION CONTACT:** Scott Stoffel, BLM Lakeview District Office, 1301 S. G Street, Lakeview, Oregon 97630, (541) 947–2177, or email *pstoffel@blm.gov*. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1 (800) 877–8339 to contact the above individual during normal business hours. The FIRS is available 24 hours a day, 7 days a week, to leave a message or question with the above individual. You will receive a reply during normal business hours.

**SUPPLEMENTARY INFORMATION:** The Southeast Oregon RAC consists of 15 members chartered and appointed by the Secretary of the Interior. Their diverse perspectives are represented in commodity, conservation, and general interests. They provide advice to BLM and Forest Service resource managers regarding management plans and proposed resource actions on public land in southeast Oregon. Tentative agenda items for the April 20 and 21, 2015, meeting include: An update from line managers; special sub-group reports; Sage Grouse; Resource Management Plans; herbicide planning efforts; and the Tri-state Fuel project. Any other matters that may reasonably come before the Southeast Oregon RAC may also be addressed. This meeting is open to the public in its entirety. Information to be distributed to the Southeast Oregon RAC is requested prior to the start of each meeting.

Before including your address, phone number, email address, or other personal identifying information in your comments, please 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.

**E. Lynn Burkett,**

*Lakeview District Manager.*

[FR Doc. 2015–07095 Filed 3–26–15; 8:45 am]

**BILLING CODE 4310–33–P**

## DEPARTMENT OF THE INTERIOR

### Bureau of Land Management

**[XXX LLIDI00000.L71220000.EX0000.LVTFD 0977240; IDI–33145, IDI–35728–FD, IDI–35728–PT 241A 4500073633]**

### Notice of Availability of the Final Environmental Impact Statement and Proposed Amendment to the Challis Resource Management Plan for the Thompson Creek Mine Expansion and Public Land Disposal, Custer and Bannock Counties, Idaho

**AGENCY:** Bureau of Land Management, Interior.

**ACTION:** Notice of availability.

**SUMMARY:** In compliance with the National Environmental Policy Act of 1969, as amended (NEPA), and the Federal Land Policy and Management Act of 1976, as amended (FLPMA), the Bureau of Land Management (BLM) Challis Field Office, Idaho, has prepared a final environmental impact statement (Final EIS) and proposed resource management plan (RMP) amendment for: (1) A proposed modified mining plan of operations (MMPO) for the Thompson Creek molybdenum mine, and (2) a land exchange proposal with the mine operator. By this notice, the BLM announces the availability of the Final EIS/proposed RMP amendment and the U.S. Forest Service draft decision for the proposed MMPO.

**DATES:** The BLM announces the start of a 30-day availability period for the Final EIS and a 30-day protest period for the proposed RMP amendment. The BLM will not issue a decision on the proposed MMPO, land exchange proposal, or proposed RMP amendment, for a minimum of 30 days following the date the Environmental Protection Agency publishes a notice of availability in the **Federal Register**.

**ADDRESSES:** Copies of the Final EIS/proposed RMP amendment have been made available to affected Federal, State and local government agencies and to other stakeholders as appropriate. Copies of the Final EIS/proposed RMP amendment are also available for review at the BLM Challis Field Office, 1151 Blue Mountain Road, Challis, Idaho 83226 from 7:45 a.m. to 4:30 p.m. Mountain Time, Monday through Friday, except Federal holidays. Copies of the Final EIS/proposed RMP amendment are also available online at *http://www.blm.gov/id/st/en/prog/nepa_register/TCM-exlx_EIS.html.* All protests of the BLM proposed RMP amendment must be in writing and mailed to one of the following addresses:

*Regular Mail:* BLM Director (210), Attention: Protest Coordinator, P.O. Box 71383, Washington, DC 20024–1383.

*Overnight Delivery:* BLM Director (210), Attention: Protest Coordinator, 20 M Street SE., Room 2134LM, Washington, DC 20003.

**FOR FURTHER INFORMATION CONTACT:** Ken Gardner, project manager, at the BLM Challis Field Office, telephone: 208–879–6210; address: 1151 Blue Mountain Road, Challis, Idaho 83226; email: *ksgardner@blm.gov*. Persons who use telecommunication devices for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 800–877–8339 to contact the above individual. The FIRS

is available 24 hours a day, 7 days a week, to leave a message for the above individual. You will receive a reply during normal business hours.

**SUPPLEMENTARY INFORMATION:** Thompson Creek Mining Company (TCMC) has submitted an MMPO for the Thompson Creek molybdenum mine, as well as a separate, but related land exchange proposal. These proposals would affect BLM-administered land, National Forest System land, and waters of the United States. Pursuant to NEPA, the Final EIS analyzes the potential environmental effects of the proposed MMPO, a proposed RMP amendment, and a proposed land exchange. In response to these proposals: (1) The BLM will decide whether to approve the portion of an MMPO involving BLM-administered land under BLM regulations at 43 CFR 3809; (2) the Forest Service will decide whether to approve the portion of an MMPO involving National Forest System land under Forest Service regulations at 36 CFR 228, Subpart A; (3) the US Army Corps of Engineers (USACE) will decide whether to issue a permit under Section 404 of the Clean Water Act and USACE regulations at 33 CFR 320; (4) the BLM will decide whether to amend the Challis Field Office 1999 resource management plan (RMP), pursuant to Section 202 of FLPMA and BLM regulations at 43 CFR 1610, so as to identify the BLM-administered land in the land exchange proposal as available for disposal; and (5) the BLM will decide whether to approve a land exchange action. The cooperating agencies for the Final EIS/proposed RMP amendment are the Forest Service, Salmon-Challis National Forest; USACE, Walla Walla District; US Environmental Protection Agency, Region 10; Idaho Department of Environmental Quality, Idaho Falls Regional Office; and Idaho Department of Lands, Eastern Idaho Supervisory Area Office.

TCMC owns and operates the mine, which is 7 miles northwest of Clayton and 21 miles southwest of Challis in Custer County, Idaho. The mine has operated since 1981 and is currently authorized for about 3,300 acres of surface disturbance, of which 2,300 acres are on private land, 750 acres are on BLM-administered land, and 250 acres are on National Forest System land. The current surface disturbance at the mine is approximately 2,800 acres.

The MMPO would allow an approximate 10-year extension of the mine life and expansion of the waste rock and tailings storage facilities which would require additional authorized surface disturbance on about 200 acres of BLM-administered land, 190 acres of National Forest System land, and 110 acres of private land.

The land exchange proposal is an offer to exchange 901 acres of private lands owned by TCMC in Custer and Bannock counties for 5,100 acres of BLM-administered land where the mine is located in Custer County, including nearly all of the BLM-administered land identified in the MMPO. The offered lands are the Broken Wing Ranch (813 acres) in Custer County and the Garden Creek property (82 acres) in Bannock County. Broken Wing Ranch borders several miles of the Salmon River, and the Garden Creek property contains a portion of the headwaters of Garden Creek. Public ownership of these lands would prevent their subdivision and development, enhance habitat for four threatened and endangered fish species and several species of wildlife, and substantially increase public access to the Lyon Creek drainage in Custer County.

Approval of the MMPO is not contingent on the approval of the land exchange. They are separate decisions, and the Final EIS analyzes them separately. The Final EIS also analyzes a set of MMPO alternatives and a completely independent set of land disposal alternatives. In connection with the land exchange proposal, the Final EIS also evaluates amending the RMP to identify the selected lands as suitable for disposal pursuant to Section 202 of FLPMA.

The BLM, Forest Service, and Idaho Department of Lands each administer its respective portions of a single plan of operations for the mine. If the BLM approves the land exchange, TCMC would obtain title to nearly all of the BLM-administered land involved with the mine. A small amount of BLM-administered land with a few mine support features (*i.e.*, pipelines, power lines, access roads and a pump station) is not included in the proposed land exchange, and thus, it would continue to be administered by the BLM. TCMC could continue to use these features through a subsequent MMPO or by obtaining grants for rights-of-ways and special use permits under FLPMA.

The Final EIS analyzes a set of MMPO alternatives and a set of independent land disposal alternatives. As explained above, MMPO alternatives do not depend on the outcome of the land disposal alternatives. TCMC would not operate the mine any differently if the BLM-administered land in the land exchange proposal were owned by TCMC or continued to be administered by the BLM. However, the nature of BLM's involvement and its relationship to the MMPO would change if any of the land disposal alternatives were selected.

The MMPO alternatives include:

- Alternative M1—No Action. TCMC would complete mining and reclamation under the current mining plan of operations (Phase 7), with molybdenum mining ending in the short term. Approximately 2,800 acres would be disturbed.
- Alternative M2—MMPO as submitted by TCMC. TCMC would complete mining and reclamation under the proposed MMPO (Phase 8), with molybdenum mining ending in approximately 2025. The two existing waste rock storage facilities would be enlarged. Approximately 3,300 acres would be disturbed by time of closure.
- Alternative M3—No Name Waste Rock Facility. A variation of Alternative M2 in which TCMC would develop a new waste rock storage facility in the No Name drainage, with less waste rock placed into the two existing waste rock storage facilities. Approximately 3,500 acres would be disturbed by time of closure.

The land exchange alternatives include:

- Alternative L1—No Action. The BLM would not amend the RMP and the land exchange would not occur. Mining would occur according to the selected MMPO alternative, as MMPO alternatives do not depend on the outcome of the land disposal alternatives.
- Alternative L2—Land Exchange Proposal submitted by TCMC. The BLM would amend the RMP, TCMC would acquire up to approximately 5,100 acres of BLM-administered land, and the US would acquire up to approximately 900 acres of private land that would be administered by the BLM. Livestock grazing and agricultural operations would continue on the Broken Wing Ranch.
- Alternative L2–B—The same as Alternative L2 except the ranch would be converted to native vegetation and livestock grazing would not occur at the ranch.
- Alternative L3—Land Sale. The BLM would amend the RMP allowing conveyance of up to about 5,100 acres of BLM-administered land to TCMC via a sale at the appraised fair market value pursuant to Section 203 of the FLPMA.
- Alternative L4—Reduced Area Land Exchange, Fee Simple. The BLM would amend the RMP, TCMC would acquire approximately 3,600 acres of BLM-administered land, and the US would acquire approximately 30 percent less private land by fair market value compared to Alternative L2.

▪ Alternative L5—Reduced Area Land Exchange, Easement. The BLM would amend the RMP and TCMC would acquire approximately 5,100 acres of BLM-administered land, with a conservation easement placed on approximately 1,500 acres. The US would accordingly acquire approximately 10 percent less private land by fair market value compared to Alternative L2.

These alternatives are the same alternatives as those analyzed in the Draft EIS/draft RMP. BLM held public meetings during the public comment period for the Draft EIS/draft RMP amendment in Challis, Idaho on May 13, 2014 and in Boise, Idaho on May 14, 2014. A total of 684 public responses containing 2,693 comments were received during the 90-day public comment period. Approximately 75 percent of the responses contained similar form statements. The majority of the comments focused on the economic effects of the project. In addition, there were approximately 500 mostly general comments regarding the long-term water quality at the mine site, methods of reclaiming the mine, financial guarantees for reclaiming the mine, stability of the tailings storage facility, range of alternatives, cumulative effects analysis, effects to an outfitter using the selected land under a BLM special recreation permit, and how the Broken Wing Ranch would be administered by the BLM. The comments were considered and addressed in Chapter 7 (Public Involvement) of the Final EIS. The BLM revised its analysis in response to the comments to include additional supporting text and to make minor corrections. There were no substantive changes to the analysis in response to the comments.

The BLM and Forest Service have selected Alternative M2 as the preferred MMPO alternative. The BLM's preferred land disposal alternative is Alternative L2. Pursuant to the Notice of Intent (75 FR 45652), the Notice of Exchange proposal in local newspapers, the Notices of Availability for the Draft EIS/draft RMP amendment published in the **Federal Register** on March 21, 2014 (79 FR 15741, 79 FR 15771, and March 28, 2014, 79 FR 17538, and this Notice, the BLM is complying with the requirements in 43 CFR 1610.2 to notify the public of potential amendments to land use plans, based on the analysis in an EIS.

The responsible officials for the proposed actions are the Field Manager, Challis Field Office, BLM (MMPO); District Manager, Idaho Falls District, BLM (land disposal); State Director, Idaho State Office, BLM (RMP amendment).

Instructions for filing a protest with the Director of the BLM regarding the proposed RMP amendment are at 43 CFR 1610.5–2 and also in the ''Dear Reader'' letter for the Final EIS/proposed RMP amendment. All protests must be in writing and mailed to the appropriate address, as set forth in the ''**ADDRESSES**'' section above. Protests sent by email will not be accepted as valid protests unless the protesting party also provides the original letter by either regular mail or overnight delivery postmarked by the close of the protest period. Under these conditions, the BLM will consider the email as an advance copy and it will receive full consideration. If you wish to provide the BLM with such advance notification, please direct emails to *protest@blm.gov.*

Before including your phone number, email address, or other personal identifying information in your protest, you should be aware that your entire protest—including your personal identifying information—may be made publicly available at any time. While you can ask us in your protest to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

**Authority:** 42 U.S.C. 4321 *et seq.;* 40 CFR 1506; 43 CFR 46; 43 CFR 1610.2.

**Todd Kuck,**

*Challis Field Manager.*

[FR Doc. 2015–07005 Filed 3–26–15; 8:45 am]

**BILLING CODE 4310–GG–P**

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## DEPARTMENT OF THE INTERIOR

### Bureau of Land Management

**[13X LLIDI02000.L71220000.EO0000. LVTFD1300100 241A 4500074169]**

## DEPARTMENT OF AGRICULTURE

### Forest Service

### Notice of Availability of the Final Environmental Impact Statement for the Proposed Smoky Canyon Mine, Panels F and G Lease and Mine Plan Modification Project, Caribou County, ID

**AGENCIES:** Bureau of Land Management, Interior; United States Forest Service, Agriculture.

**ACTION:** Notice of availability.

**SUMMARY:** In accordance with the National Environmental Policy Act of 1969 (NEPA), the Bureau of Land Management (BLM) and the U.S. Department of Agriculture, Forest Service (USFS), Caribou-Targhee National Forest (CTNF), have prepared a Final Environmental Impact Statement (EIS) for the proposed Smoky Canyon Mine, Panels F and G Lease and Mine Plan Modification Project, and by this Notice announce the availability of the document. A Draft USFS Record of Decision (ROD) is also being made available along with the Final EIS.

**DATES:** The BLM will issue its ROD no sooner than 30 days after the Environmental Protection Agency publishes its Notice of Availability (NOA) of the Final EIS in the **Federal Register**. A legal notice published in the newspaper of record of the Final USFS ROD will be released no sooner than five business days following the end of the 45-day objection period after the Draft USFS ROD has been announced and made available.

**ADDRESSES:** CD–ROM and print copies of the Smoky Canyon Mine, Panels F & G Lease and Mine Plan Modification Project Final EIS and the Draft USFS ROD are available in the BLM Pocatello Field Office at the following address: 4350 Cliffs Drive, Pocatello, ID 83204. In addition, electronic copies of the Final EIS and the Draft USFS ROD are available at either of the Web addresses listed below:

- *http://www.blm.gov/id/st/en/prog/nepa_register/smoky-canyon_panel-g.html*
- *http://www.fs.usda.gov/projects/ctnf/landmanagement/projects*

**FOR FURTHER INFORMATION CONTACT:** Diane Wheeler, BLM Pocatello Field Office, 4350 Cliffs Drive, Pocatello, ID 83204, phone 208–557–5839, fax 208–478–6376. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 to contact the above individual during normal business hours. The FIRS is available 24 hours a day, 7 days a week, to leave a message or question with the above individual. You will receive a reply during normal business hours.

**SUPPLEMENTARY INFORMATION:** The J.R. Simplot Company (Simplot) submitted lease and mine plan modifications for agency review for the existing Panel F (lease IDI–27512) and Panel G (lease IDI–01441) leases at the Smoky Canyon Phosphate Mine within the CTNF in Caribou County, Idaho. The Smoky Canyon Mine, operated by Simplot, is located approximately 10 miles west of Afton, Wyoming, and approximately 8 miles west of the Idaho/Wyoming border. The existing Smoky Canyon mining and milling operations were

authorized in 1982 by a mine plan approval issued by the BLM and special use authorizations issued by the USFS for off-lease activities, supported by the Smoky Canyon Mine Final EIS and ROD. Mining operations began in Panel A in 1984 and have continued since then with the mining of Panels A through E. In 2007, the BLM and USFS published a Final EIS. RODs approving a mining and reclamation plan for Panels F and G and associated off-lease disturbance were issued in 2008 (Final EIS and RODs available at: *http://www.fs.usda.gov/detail/ctnf/landmanagement/resourcemanagement/?cid=FSM8_047870*).

The Final EIS for the Panels F and G Lease and Mine Plan Modification Project tiers to the 2007 Final EIS. Applicable information from the 2007 Final EIS is incorporated by reference throughout the Final EIS. Panel F is contiguous with the south end of the existing mine Panel E, and Panel G is located approximately one mile southwest of Panel F. Mining activities associated with Panel F were initiated in 2008 and are ongoing. Mining activities associated with Panel G have been initiated through the early stages of haul road construction.

The proposed lease and mine plan modifications at Panels F and G of the Smoky Canyon Mine area would occur on Federal phosphate leases administered by the BLM, situated on National Forest System (NFS) lands, and on un-leased parcels of NFS lands. The NFS lands involved lie within the Montpelier and Soda Springs Ranger Districts of the CTNF. The existing leases grant the lessee, Simplot, exclusive rights to mine and otherwise dispose of the federally-owned phosphate deposit at the site.

As directed by the Mineral Leasing Act of 1920, the BLM will evaluate the information in the Final EIS and respond to the lease and mine plan modifications and issue decisions related to the development of the phosphate leases. The BLM will review the impacts of alternatives to the Proposed Action, including the No Action Alternative, and decide whether to approve the proposed lease and mine plan modifications. The USFS will make recommendations to the BLM concerning surface management and mitigation on leased lands within the CTNF, and decisions on special use authorizations for off-lease activities. The BLM, as the Federal lease administrator, is the lead agency for the Final EIS. The USFS is the co-lead agency and the Idaho Department of Environmental Quality is a cooperating agency. The Final EIS was prepared to provide decision-makers and the public with an evaluation of the environmental impacts, including those that may have significant impacts resulting from the Proposed Action and from all reasonable action alternatives analyzed, as well as the No Action alternative.

The Proposed Action, submitted in February 2013, consists of the agencies' approval of a proposal for lease and mine plan modifications for Panels F and G at the Smoky Canyon Mine. The proposed modifications to Panel F are related to the construction and use of an ore conveyance system between Panel F and the existing mill. The proposed conveyance system would generally follow the existing haul road and would deviate only where engineering constraints dictate (*i.e.,* too tight a corner on the road to construct the conveyor due to vertical and/or horizontal design limitations), such as at the north end of Panel F where Simplot is requesting a special use authorization to construct a portion of the ore conveyor off lease. Construction of the conveyor would eliminate the need to haul ore to the mill via haul trucks from Panels F and G, although the haul road would remain open so that equipment could be transported to the shop for maintenance. The proposed 4.5-mile conveyor system would include a crusher and stockpile location on lease in Panel F.

There are three components to the proposed modification of Panel G: (1) Modification (enlargement) of lease IDI–01441 by 280 acres to accommodate the expansion of the previously approved east overburden disposal area (ODA); (2) increase the on-lease disturbance area of the previously approved south ODA by 20 acres for the temporary storage of chert to be used for reclamation; and (3) utilization of a geosynthetic clay laminate liner (GCLL) instead of the currently approved geologic store and release cover over the in-pit backfill and the east external ODA. The current lease area for Panel G is not large enough to allow for maximum ore recovery and the necessary overburden disposal. Backfilling into the pit is limited due to existing topographic constraints, rehandling issues, and safety concerns when backfilling and mining concurrently within Panel G's pit configuration. The lease modification is necessary to accommodate all of the overburden generated from mining Panel G, as analyzed in the 2007 Final EIS. At the time the RODs for the 2007 Final EIS were issued, neither the BLM nor the USFS had the regulatory authority to approve Simplot's original plan for overburden storage. In 2009, the rules were modified giving the BLM authority to approve a lease modification for the purpose of overburden storage.

Regional mitigation strategies for cumulative effects from phosphate mining to wildlife habitat are currently being developed in the Pocatello Field Office. However, regional mitigation will not be applied in this case because the proposed action would not result in impacts drastically different than those from the existing mine plan already approved in 2008 (evaluated as the No Action Alternative in the Final EIS).

In an effort to further reduce or eliminate water quality impacts due to increasing the size of the currently approved mine, Simplot is proposing to cover all overburden that has potential to mobilize selenium and other contaminants in Panel G with a GCLL. Simplot believes that using a GCLL will result in increased long-term environmental protection and may lend itself to a more expeditious review of the proposed modifications. Stormwater control features are included in the proposal to address surface water run-off from the GCLL. It is estimated that up to 11 acres of new disturbance would be necessary for these stormwater features. Portions of these features would be situated on lease, within the proposed lease modification area, or off lease. Off-lease disturbance would require USFS special use authorization.

Compared to the 1,340 acres analyzed in the 2007 Final EIS, the Proposed Action would add approximately 170 acres of new disturbance. This includes 8 acres for the ore conveyor system (mostly at the north end of Panel F); 20 acres for the Panel G south ODA expansion of temporary chert storage; 11 acres for stormwater control features to address run-off from the GCLL at Panel G; and 131 acres for the Panel G east seleniferous ODA expansion.

Two additional Action Alternatives were developed to address concerns raised during public scoping for the Draft EIS about the long term durability and use of a synthetic liner such as a GCLL at Panel G and/or reducing the amount of new disturbance within the Inventoried Roadless Area (IRA). Alternatives 1 and 2 would include all components of the Proposed Action, but would limit use of the GCLL by utilizing the previously approved geologic store and release cover on portions of the disturbed areas. In addition, Alternative 2 would reduce the east ODA expansion within the Sage Creek IRA by approximately 45 acres and reduce the proposed lease modification area by approximately 40 acres. Alternative 2 is the Agency Preferred Alternative.

Under the No Action Alternative in the Final EIS, the proposed lease and mine plan modifications and special use authorizations would not be approved, and mining would continue under the current mine plan as approved by the 2008 RODs. Under the No Action Alternative, Simplot estimates that approximately 50 percent of the phosphate ore in Panel G, previously considered economically recoverable, would not be mined but the overall disturbance would remain unchanged from the 2008 mine plan approval. In addition, the proposed conveyor system would not be approved, thus no new disturbance associated with the conveyor would occur. The previously approved geologic store and release cover would be used to limit or prevent the release of contaminants to the environment.

A Notice of Intent (NOI) to prepare this EIS was published in the **Federal Register** on June 24, 2013. Publication of the NOI in the **Federal Register** initiated a 30-day public scoping period for the Proposed Action that provided for acceptance of written comments. The scoping process identified concerns that primarily involved impacts to water resources and watersheds, and selenium contamination, but also included potential effects and/or cumulative effects of the proposed project on IRAs, wetlands, climate change, socioeconomics, visual resources, and mitigation and monitoring for mine operations.

The NOA for the Draft EIS was published in the **Federal Register** on May 30, 2014. A 45-day comment period on the Draft EIS commenced with publication of the Environmental Protection Agency's NOA of the Draft EIS, and ended on July 15, 2014. Agencies, organizations, and interested parties provided comments on the Draft EIS via mail, email, and public meetings. A total of seven comment letters were received. In developing responses to these comments, the agencies have added mitigation features to the Proposed Action and Alternatives 1 and 2 in the Final EIS, for example:

- An Adaptive Management Plan was added as an appendix, which addresses potential surface water and groundwater quality issues through an adaptive approach.
- A fourth wildlife crossing was incorporated into the design of the ore conveyor system at the Sage Creek drainage.
- Access to a series of proposed stormwater ponds at Panel G was revised to be south from the mine rather than north from the Wells Canyon Road, eliminating a segment of access road that would have impacted a small wetland area.
- Because the segment of access road to the proposed series of stormwater ponds was eliminated, disturbance and associated impacts to waters of the U.S., including wetlands, were eliminated. Therefore, a revised U.S. Army Corps of Engineers permit would not be required.
- Additional water quality data were added to the Final EIS.
- Specific information regarding the timing and construction of the GCLL was added to the Final EIS.

The portion of the proposed project related to USFS special use authorizations for off-lease activities is subject to the objection process pursuant to 36 CFR 218 Subparts A and B. Instructions for filing objections will be provided in the legal notice published in the newspaper of record for the Draft USFS ROD. Objections will be accepted only from those who have previously submitted specific written comments regarding the proposed project either during scoping or other designated opportunities for public comment in accordance with 36 CFR 218.5(a). Issues raised in objections must be based on previously submitted, timely, and specific written comments regarding the proposed project unless based on new information arising after designated opportunities. The portion of any subsequent decision issued by BLM regarding the proposed mine plan and lease modifications would be appealable under procedures found in 43 CFR 4.

Please note that public comments and information submitted including names, street addresses, and email addresses of respondents will be available for public review and disclosure at the BLM Pocatello Field Office during regular business hours (8 a.m. to 4 p.m.), Monday through Friday, except holidays.

**Authorities:** 42 U.S.C. 4321 *et seq.;* 40 CFR parts 1500–1508; 43 CFR part 46; 43 U.S.C. 1701; 43 CFR part 3590; 16 U.S.C. 551; 36 CFR part 218; and 36 CFR part 251.50.

**Joe Kraayenbrink,**

*District Manager, Idaho Falls District, Bureau of Land Management.*

**Garth Smelser,**

*Forest Supervisor, Caribou-Targhee National Forest.*

[FR Doc. 2015–07012 Filed 3–26–15; 8:45 am]

**BILLING CODE 4310–GG–P**

## DEPARTMENT OF THE INTERIOR

## Bureau of Land Management

**[LLCON05000 L16100000.DT0000]**

## Notice of Availability of the Proposed Resource Management Plan Amendment and Final Environmental Impact Statement for Oil and Gas Development in the White River Field Office, Colorado

**AGENCY:** Bureau of Land Management, Interior.

**ACTION:** Notice of availability.

**SUMMARY:** In accordance with the National Environmental Policy Act of 1969, as amended (NEPA), and the Federal Land Policy and Management Act of 1976, as amended (FLPMA), the Bureau of Land Management (BLM) has prepared a Proposed Resource Management Plan (RMP) Amendment and a Final Environmental Impact Statement (EIS) for the White River Field Office (WRFO) and by this notice is announcing its availability.

**DATES:** The BLM planning regulations state that any person who meets the conditions as described in the regulations may protest the BLM's Proposed RMP Amendment/Final EIS. A person who meets the conditions and files a protest must file the protest within 30 days of the date that the Environmental Protection Agency publishes its Notice of Availability for this project in the **Federal Register**.

**ADDRESSES:** Copies of the WRFO Oil and Gas Development Proposed RMP Amendment/Final EIS have been sent to affected Federal, State and local government agencies, and interested parties. The Proposed RMP Amendment/Final EIS is also available on the Internet at: *http://www.blm.gov/co/st/en/fo/wrfo.html,* and at locations listed under the **SUPPLEMENTARY INFORMATION** section.

All protests must be in writing and mailed to one of the following addresses:

| Regular mail: | Overnight mail: |
|---|---|
| BLM Director (210), Attention: Protest Coordinator, WO–210, P.O. Box 71383, Washington, DC 20024–1383. | BLM Director (210), Attention: Protest Coordinator, WO–210, 20 M Street SE., Room 2134LM, Washington, DC 20003. |

**FOR FURTHER INFORMATION CONTACT:** Heather Sauls, Planning and Environmental Coordinator; telephone 970–878–3855; White River Field Office, 220 East Market Street, Meeker, CO 81641; email *hsauls@blm.gov.* Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 to contact the above individual during normal business hours. The FIRS is available 24 hours a day, 7 days a week, to leave a message or question with the above individual. You will receive a reply during normal business hours.

**SUPPLEMENTARY INFORMATION:** The BLM prepared the WRFO Oil and Gas Development Proposed RMP Amendment/Final EIS to evaluate and amend the current management decisions for oil and gas resources within the WRFO planning area. The current management decisions for oil and gas resources are described in the White River Record of Decision and Approved Resource Management Plan (RMP), approved July 1, 1997, as amended (1997 WRFO RMP).

The Proposed RMP Amendment/Final EIS addresses public lands and resources managed by the WRFO. The WRFO planning area includes approximately 2.7 million acres of BLM, National Park Service, U.S. Forest Service, State, and private lands located in northwestern Colorado, primarily in Rio Blanco County, with additional tracts located in Moffat and Garfield counties. Within the WRFO planning area, the BLM administers approximately 1.5 million surface acres and 2.2 million acres of Federal subsurface mineral estate. Surface management decisions made as a result of this planning effort will apply only to the BLM-administered lands in the WRFO planning area. The BLM decided to update the 1997 WRFO RMP because the 2007 Reasonable Foreseeable Development Scenario identified substantial changes in the way oil and gas development is expected to proceed in the planning area compared to what was considered in the 1997 WRFO RMP. Changes include an increase in the number of wells to be drilled, a transition from single well pads to multi-well pads, and a shift in the location of development to the Mesaverde Play Area.

The purpose of the WRFO Proposed RMP Amendment/Final EIS is to provide effective management direction for public lands administered by the WRFO based on an analysis of oil and gas exploration and development activities in excess of levels evaluated in the 1997 WRFO RMP. During the development of the RMP Amendment, the BLM reviewed the decisions contained in the 1997 WRFO RMP. None of the alternatives analyzed for this amendment considered the creation of new special designations or changes to areas currently open or closed to oil and gas leasing in the 1997 WRFO approved RMP because this amendment is entirely focused on addressing oil and gas development.

The Draft RMP Amendment/EIS evaluated four alternatives in detail including, the No Action Alternative (Alternative A) and three action alternatives (Alternatives B, C and D). Based on the impacts analysis and public comment on the Draft RMP Amendment, the BLM selected various parts of Alternatives A, B, C and D to develop the Proposed RMP Amendment (Alternative E) in the Final EIS.

The Proposed RMP Amendment, Alternative E, considers impacts and management actions associated with potential development of 15,040 wells on 1,100 well pads with an associated surface disturbance of 13,200 acres. Alternative E incorporates the managed development approach from Alternatives B and C. The Proposed RMP Amendment includes the Dinosaur Trail Master Leasing Plan in the northwest corner of the field office and a plan for phased leasing within that area.

The Proposed RMP Amendment also provides management direction for more than 300,000 acres of inventoried lands with wilderness characteristics; these areas would be managed at one of three levels depending upon whether or not wilderness characteristics were the primary management focus in an area.

Because this planning effort is an amendment and not a full RMP revision, changes in management were limited to only those decisions related to oil and gas development. However, because oil and gas development has the potential to impact other resources, the BLM developed management actions designed to reduce impacts to a variety of resources, including air and water quality, soils, vegetation, wildlife habitat, special status plant habitat, wild horses, cultural resources, paleontological resources, visual resources, forestry and woodlands, livestock grazing, minerals, recreation, travel management, realty, and special designations.

Copies of the WRFO Oil and Gas Development Proposed RMP Amendment/Final EIS are available for public inspection at the Web site listed under the **ADDRESSES** section, and at the following locations:

- White River Field Office, 220 East Market Street, Meeker, CO 81641
- Little Snake Field Office, 455 Emerson Street, Craig, CO 81625
- Northwest District Office, 2815 H Road, Grand Junction, CO 81506
- Colorado River Valley Field Office, 2300 River Frontage Road, Silt, CO 81652
- BLM Colorado State Office, 2850 Youngfield Street, Lakewood, CO 80215
- Kremmling Field Office, 2103 East Park Avenue, Kremmling, CO 80459
- Libraries in the following Colorado locations: Rifle, Meeker, Rangely, and Craig.

Instructions for filing a protest with the Director of the BLM regarding the Proposed RMP Amendment/Final EIS may be found in the ''Dear Reader'' Letter of the Proposed RMP Amendment/Final EIS and at 43 CFR 1610.5–2. Emailed protests will not be accepted as valid protests unless the protesting party also provides the original letter by either regular or overnight mail postmarked by the close of the protest period. Under these conditions, the BLM will consider the emailed protest as an advance copy and it will receive full consideration. If you wish to provide the BLM with such advance notification, please direct emails to *protest@blm.gov.* All protests, including the follow-up letter to emails, must be in writing and mailed to the appropriate address as set forth in the **ADDRESSES** section above.

Before including your phone number, email address, or other personal identifying information in your protest, you should be aware that your entire protest—including your personal identifying information—may be made publicly available at any time. While you can ask us in your protest to withhold your personal identifying information from public review, we

cannot guarantee that we will be able to do so.

**Authority:** 40 CFR 1506.6, 40 CFR 1506.10, 43 CFR 1610.2, 43 CFR 1610.5.

**Ruth Welch,**

*BLM Colorado State Director.*

[FR Doc. 2015–07013 Filed 3–26–15; 8:45 am]

BILLING CODE 4130–JB–P

## INTERNATIONAL TRADE COMMISSION

**[Investigation Nos. 704–TA–1 and 734–TA–1 (Review)]**

### Sugar from Mexico; Determinations

On the basis of the record [1] developed in the subject reviews, the United States International Trade Commission (''Commission'') determines, pursuant to sections 704(h) and 734(h) of the Tariff Act of 1930 (19 U.S.C. 1671c(h) and 1673c(h)) (''the Act''), that agreements the U.S. Department of Commerce (''Commerce'') has entered into with Mexican exporters of sugar and the government of Mexico suspending antidumping and countervailing duty investigations concerning sugar from Mexico eliminate completely the injurious effect of subject imports.[2]

### Background

The Commission instituted these investigations effective January 8, 2015, following receipt of a petition filed with the Commission by Imperial Sugar Company (''Imperial''), Sugar Land, Texas and AmCane Sugar LLC (''AmCane''), Taylor, Michigan. The Commission determined that Imperial and AmCane are interested parties who were parties to the underlying investigations at the time the petitions were filed, and consequently are appropriate petitioning parties. Notice of the scheduling of these reviews and of a public oral presentation to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the **Federal Register** on January 26, 2015 (80 FR 3977). The oral presentation was held in Washington, DC, on February 19, 2015, and all persons who requested the opportunity were permitted to appear in person or by counsel.

The Commission completed and filed its determination in these reviews on March 24, 2015. The views of the Commission are contained in USITC Publication 4523 (April 2015), entitled *Sugar From Mexico: Investigation Nos. 704–TA–1 and 734–TA–1 (Review).*

By order of the Commission.

Issued: March 24, 2015.

**Lisa R. Barton,**

*Secretary to the Commission.*

[FR Doc. 2015–07071 Filed 3–26–15; 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)).

[2] All six Commissioners voted in the affirmative.

## DEPARTMENT OF JUSTICE

### Drug Enforcement Administration

**[Docket No. DEA–392]**

### Importer of Controlled Substances Application: HOSPIRA

**ACTION:** Notice of application.

**DATES:** Registered bulk manufacturers of the affected basic class, and applicants therefore, may file written comments on or objections to the issuance of the proposed registration in accordance with 21 CFR 1301.34(a) on or before April 27, 2015. Such persons may also file a written request for a hearing on the application pursuant to 21 CFR 1301.43 on or before April 27, 2015.

**ADDRESSES:** Written comments should be sent to: Drug Enforcement Administration, Attention: DEA **Federal Register** Representative/ODW, 8701 Morrissette Drive, Springfield, Virginia 22152. Request for hearings should be sent to: Drug Enforcement Administration, Attention: Hearing Clerk/LJ, 8701 Morrissette Drive, Springfield, Virginia 22152

**SUPPLEMENTARY INFORMATION:** The Attorney General has delegated his authority under the Controlled Substances Act to the Administrator of the Drug Enforcement Administration (DEA), 28 CFR 0.100(b). Authority to exercise all necessary functions with respect to the promulgation and implementation of 21 CFR part 1301, incident to the registration of manufacturers, distributors, dispensers, importers, and exporters of controlled substances (other than final orders in connection with suspension, denial, or revocation of registration) has been redelegated to the Deputy Assistant Administrator of the DEA Office of Diversion Control (''Deputy Assistant Administrator'') pursuant to section 7 of 28 CFR pt. 0, subpt. R, App.

In accordance with 21 CFR 1301.34(a), this is notice that on October 31, 2014, Hospira, 1776 North Centennial Drive, McPherson, Kansas 67460–1247, applied to be registered as an importer of remifentanil (9739), a basic class of controlled substance listed in schedule II.

The company plans to import remifentanil for use in dosage form manufacturing.

Dated: March 20, 2015.

**Joseph T. Rannazzisi,**

*Deputy Assistant Administrator.*

[FR Doc. 2015–06969 Filed 3–26–15; 8:45 am]

BILLING CODE 4410–09–P

## DEPARTMENT OF JUSTICE

### Drug Enforcement Administration

**[Docket No. DEA–392]**

### Importer of Controlled Substances Application: Meda Pharmaceuticals, Inc.

**ACTION:** Notice of application.

**DATES:** Registered bulk manufacturers of the affected basic class, and applicants therefore, may file written comments on or objections to the issuance of the proposed registration in accordance with 21 CFR 1301.34(a) on or before April 27, 2015. Such persons may also file a written request for a hearing on the application pursuant to 21 CFR 1301.43 on or before April 27, 2015.

**ADDRESSES:** Written comments should be sent to: Drug Enforcement Administration, Attention: DEA **Federal Register** Representative/ODXL, 8701 Morrissette Drive, Springfield, Virginia 22152. Request for hearings should be sent to: Drug Enforcement Administration, Attention: Hearing Clerk/LJ, 8701 Morrissette Drive, Springfield, Virginia 22152.

**SUPPLEMENTARY INFORMATION:** The Attorney General has delegated his authority under the Controlled Substances Act to the Administrator of the Drug Enforcement Administration (DEA), 28 CFR 0.100(b). Authority to exercise all necessary functions with respect to the promulgation and implementation of 21 CFR part 1301, incident to the registration of manufacturers, distributors, dispensers, importers, and exporters of controlled substances (other than final orders in connection with suspension, denial, or revocation of registration) has been redelegated to the Deputy Assistant Administrator of the DEA Office of Diversion Control (''Deputy Assistant Administrator'') pursuant to section 7 of 28 CFR part 0, appendix of subpart R.

In accordance with 21 CFR 1301.34(a), this is notice that on December 5, 2014, Meda

Pharmaceuticals, Inc., 705 Eldorado Street, Decatur, Illinois 62523 applied to be registered as an importer Nabilone (7379), a basic class of controlled substance listed in schedule II.

The company plans to import the FDA approved drug product in finished dosage form for distribution to its customers.

Dated: March 20, 2015.

**Joseph T. Rannazzisi,**

*Deputy Assistant Administrator.*

[FR Doc. 2015–06971 Filed 3–26–15; 8:45 am]

**BILLING CODE 4410–09–P**

## DEPARTMENT OF JUSTICE

### Antitrust Division

### United States and State of New York v. Twin America, LLC, et al.; Proposed Final Judgment and Competitive Impact Statement

Notice is hereby given pursuant to the Antitrust Procedures and Penalties Act, 15 U.S.C. 16(b)–(h), that a proposed Final Judgment, Stipulation and Competitive Impact Statement have been filed with the United States District Court for the Southern District of New York in *United States and State of New York* v. *Twin America, LLC, et al.,* Civil Action No. 12–cv–8989 (ALC) (GWG). On December 11, 2012, the United States and the State of New York filed a Complaint. The United States alleged that the formation of Twin America, LLC by Coach USA, Inc. and CitySights LLC violated Section 7 of the Clayton Act (15 U.S.C. 18) and Section 1 of the Sherman Act (15 U.S.C. 1). The proposed Final Judgment, filed on March 16, 2015, requires Defendants to relinquish all of CitySights's Manhattan bus stop authorizations granted by the New York City Department of Transportation (NYC DOT) to NYC DOT, and to pay $7.5 million in disgorgement.

Copies of the Complaint, proposed Final Judgment and Competitive Impact Statement are available for inspection at the Department of Justice, Antitrust Division, Antitrust Documents Group, 450 Fifth Street NW., Suite 1010, Washington, DC 20530 (telephone: 202–514–2481), on the Department of Justice's Web site at *http://www.usdoj.gov/atr,* and at the Office of the Clerk of the United States District Court for the Southern District of New York. Copies of these materials may be obtained from the Antitrust Division upon request and payment of the copying fee set by Department of Justice regulations.

Public comment is invited within 60 days of the date of this notice. Such comments, including the name of the submitter, and responses thereto, will be posted on the Department of Justice, Antitrust Division's internet Web site, filed with the Court and, under certain circumstances, published in the **Federal Register**. Comments should be directed to William H. Stallings, Chief, Transportation, Energy & Agriculture Section, Antitrust Division, U.S. Department of Justice, 450 Fifth Street NW., Suite 8000, Washington, DC 20530 (telephone: 202–514–9323).

**Patricia A. Brink**

*Director of Civil Enforcement.*

### UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF NEW YORK

*United States of America, and State of New York, Plaintiffs,* v. *Twin America, LLC, et al., Defendants.*

Civil Action No. 12–cv–8989 (ALC) (GWG). ECF CASE.

### COMPETITIVE IMPACT STATEMENT

Pursuant to Section 2(b) of the Antitrust Procedures and Penalties Act (''APPA'' or ''Tunney Act''), 15 U.S.C. 16(b)–(h), Plaintiff United States of America (''United States'') files this Competitive Impact Statement relating to the proposed Final Judgment submitted for entry in this civil antitrust proceeding.

### I. NATURE AND PURPOSE OF THE PROCEEDING

On March 17, 2009, Defendants Coach USA, Inc. (through subsidiary International Bus Services, Inc. (''IBS'')) and CitySights LLC (through subsidiary City Sights Twin, LLC) formed Twin America, LLC (''Twin America''), a joint venture that combined the companies' hop-on, hop-off bus tour businesses in New York City. The United States and the State of New York (collectively, ''Plaintiffs'') filed a civil antitrust Complaint on December 11, 2012, alleging that the formation of Twin America substantially lessened competition in the market for hop-on, hop-off bus tours in New York City in violation of Section 7 of the Clayton Act (15 U.S.C. 18), and also violated Section 1 of the Sherman Act (15 U.S.C. 1), Section 340 of the Donnelly Act (N.Y. Gen. Bus. Law § 340), and Section 63(12) of the New York Executive Law (N.Y. Exec. Law § 63(12)).[1] The Complaint sought to remedy harm to competition and disgorge Defendants' ill-gotten gains.

The Parties completed discovery and dispositive motions practice and trial was scheduled to begin on February 23, 2015. On December 10, 2014, the Parties informed the Court that they had reached an agreement in principle to settle the litigation and the trial date was adjourned while the Parties finalized the settlement.

Concurrent with the filing of this Competitive Impact Statement, Plaintiffs have filed a proposed Stipulation and Order, a proposed Final Judgment, and an Explanation of Consent Decree Procedures. The proposed Final Judgment is designed to remedy the competitive concerns resulting from Defendants' formation of Twin America and deprive Defendants of ill-gotten gains. As explained more fully below, the proposed Final Judgment requires Defendants to relinquish the complete set of City Sights's Manhattan bus stop authorizations to the New York City Department of Transportation (NYCDOT) and to pay $7.5 million in disgorgement, among other remedial actions.[2]

Plaintiffs and Defendants have stipulated that Defendants are bound by the terms of the proposed Final Judgment and that the proposed Final Judgment may be entered after compliance with the APPA. Entry of the proposed Final Judgment would terminate this action, except that the Court would retain jurisdiction to construe, modify, or enforce the provisions of the proposed Final Judgment and to punish violations thereof.

### II. DESCRIPTION OF THE EVENTS GIVING RISE TO THE ALLEGED VIOLATION

#### *A. The Defendants and the Transaction*

Coach USA, Inc. (''Coach''), a Delaware corporation with its principal place of business in Paramus, New Jersey, operated hop-on, hop-off bus tours in New York City under the ''Gray Line New York'' brand. Coach acquired the Gray Line business in 1998, and, by the early 2000s, was the dominant

[1] The Tunney Act applies to ''proposal[s] for a consent judgment submitted by the United States for entry in any civil proceeding brought by or on behalf of the United States under the antitrust laws [of the United States].'' 15 U.S.C. 16(b). Therefore, the proposed Final Judgment's settlement of Plaintiff State of New York's claims under N.Y. Gen. Bus. Law § 340 and N.Y. Exec. Law § 63(12) are not subject to the Tunney Act.

[2] Defendant Coach USA and the United States have also reached a settlement relating to costs and expenses incurred by the United States associated with discovery into allegations that Coach did not meet its document preservation obligations. This settlement, which is being filed concurrently with the filing of the proposed Final Judgment, is not subject to Tunney Act review.

provider of hop-on, hop-off bus tours in New York City.

CitySights LLC (''City Sights''), a New York limited liability company with its principal place of business in New York, New York, began operating hop-on, hop-off bus tours under the ''CitySights NY'' brand in 2005. Between 2005 and 2009, City Sights steadily grew its business and established itself as Gray Line's only meaningful competitor. By the end of 2008, City Sights had almost equaled Gray Line in market share and was poised for further growth.

The impact of increasing competition from City Sights generated concern at the highest levels of Coach and its corporate parent, Stagecoach Group plc (''Stagecoach''), and led them to seek a business combination with City Sights. On March 17, 2009, following several months of negotiations, Coach (through subsidiary IBS) and City Sights (through subsidiary City Sights Twin, LLC) executed a joint venture agreement creating Twin America, a Delaware limited liability company with its principal place of business in New York City. Twin America combined Defendants' New York City hop-on, hop-off bus tour operations and ended all competition between Gray Line and City Sights. Twin America continued to operate both the Gray Line and City Sights brands under common ownership and control.

The formation of Twin America was not subject to the Hart-Scott-Rodino Antitrust Improvements Act of 1976, as amended, 15 U.S.C. 18a (the ''HSR Act''), which requires companies to notify and provide information to the Department of Justice and the Federal Trade Commission before consummating certain transactions. Neither the United States nor the State of New York was aware of the transaction until after it had been consummated. Upon learning of the transaction, the Antitrust Bureau of the New York State Attorney General's Office (''NYSAG'') opened an investigation, and on July 31 and August 3, 2009, served subpoenas on Defendants seeking information about Twin America's formation.

*B. The STB's Rejection of the Joint Venture*

Within weeks of receiving the NYSAG's subpoenas, on August 19, 2009, Defendants applied to the federal Surface Transportation Board (''STB'') for approval of Twin America. Pursuant to 49 U.S.C. 14303, the STB must approve certain transactions involving passenger motor carriers prior to consummation. Following their application, Defendants asserted that review of Twin America was within the STB's exclusive jurisdiction because STB approval would immunize the transaction from antitrust law.[3]

On February 8, 2011, following the collection of fact and expert evidence, the STB rejected the Twin America joint venture. The STB expressed ''concern[] that the Board's processes may have been manipulated to avoid the inquiry by NYSAG'' and concluded that ''[t]he transaction produce[d] an unacceptably high market concentration that can lead to, and has in fact led to, unchecked rate increases, and that holds the potential for other harmful effects of excessive market power.''[4] Defendants moved for reconsideration, but in January 2012, the STB affirmed its prior finding. The STB gave Defendants the option of unwinding Twin America or spinning off Twin America's nominal interstate services, which the STB identified as the basis for its jurisdiction. On February 8, 2012, Defendants chose to spin off the interstate services, which removed the matter from STB jurisdiction but did nothing to address the joint venture's anticompetitive effects in the New York City hop-on, hop-off bus tour market. Plaintiffs filed the above-captioned lawsuit on December 11, 2012.

*C. The Competitive Effects of the Transaction in the Market for Hop-On, Hop-Off Bus Tours in New York City*

1. Relevant Market

The evidence demonstrates that a significant number of customers would not substitute to other tours or attractions in response to a small but significant and non-transitory increase in the price (SSNIP) of hop-on, hop-off bus tours. These bus tours combine transportation and sightseeing into a unique product that is not reasonably interchangeable with other tours or attractions. In addition to providing an informative and entertaining tour of New York City's most popular attractions and neighborhoods, hop-on, hop-off bus tours provide customers with the ability to ''hop off'' the bus to visit attractions of interest and ''hop on'' a later bus to continue their tour using the same ticket. As a result of this feature, customers are provided an affordable and reliable means to travel around New York City and the ability to customize their sightseeing itineraries to the attractions and neighborhoods that interest them. Defendants' documents and business practices illustrate that they have long recognized hop-on, hop-off bus tours in New York City to be a distinct market and do not view other types of tours as a significant constraint, a view shared by numerous other New York City sightseeing tours and attractions.

The direct evidence of anticompetitive effects following the formation of Twin America provides further support for the conclusion that hop-on, hop-off bus tours in New York City constitute a relevant antitrust market. Defendants implemented a substantial price increase around the time of Twin America's early 2009 formation, raising the fares of City Sights's and Gray Line's downtown, uptown, and all loops tours, for example, by approximately 10 percent. These price increases, which Defendants have sustained for six years (and supplemented with further increases), are higher than the 5 percent SSNIP that is often used under the *Horizontal Merger Guidelines* to define a market. Defining a relevant antitrust market generally involves answering the question of whether a hypothetical monopolist would find it profitable to impose a SSNIP. The evidence that Coach and City Sights significantly increased price as a result of the market power conferred by the joint venture directly answers this question: it is clear that a *hypothetical* monopolist would find it profitable to impose a SSNIP because an *actual* near-monopolist (Twin America) did, in fact, find it profitable to raise price significantly for an extended period of time.

Hop-on, hop-off bus tours in New York City therefore constitute a relevant market and line of commence under Section 7 of the Clayton Act, Section 1 of the Sherman Act, and Section 340 of the Donnelly Act.

2. Competitive Effects

The formation of Twin America resulted in actual and immediate harm to consumers as it enabled Defendants to increase hop-on, hop-off bus tour prices by approximately 10 percent. The evidence demonstrates that at the time Coach and Stagecoach were negotiating a business combination with City Sights, Coach and Stagecoach consistently planned for and assumed that the merged firm would implement a 10 percent fare increase on Gray Line and City Sights tours and that Coach shared this assumption with City Sights. Coach ultimately increased Gray Line's hop-on, hop-off bus tour fares by

[3] A party to a transaction approved by the STB is ''exempt from the antitrust laws and from all other law . . . as necessary to let that person carry out the transaction.'' 49 U.S.C. 14303(f).

[4] Stagecoach Group PLC and Coach USA, Inc., et al., *Acquisition of Control—Twin America LLC,* STB Docket No. MC–F–21035 (Feb. 8, 2011) at 7.

approximately 10 percent shortly before executing the joint venture and Defendants increased City Sights's fares to match the Gray Line increase shortly after consummation. Defendants sustained the Gray Line and City Sights fare increases in the years following Twin America's formation and raised prices further in 2013.

In years prior to the joint venture, Coach and City Sights were each other's main rival and consumers benefited from the improved products and services that resulted from the fierce and direct competition between them. This head-to-head competition, which intensified over time, was eliminated when Defendants merged their hop-on, hop-off bus tour operations. In addition, the formation of Twin America substantially increased concentration in an already highly concentrated market. Concentration is typically measured by the Herfindahl-Hirschman Index (''HHI''). The more concentrated a market, and the more a transaction would increase concentration in a market, the more likely it is that a transaction would result in a meaningful reduction in competition. Markets in which the HHI is in excess of 2500 points are considered highly concentrated, and a transaction that increases concentration by more than 200 points in such a market is presumed likely to enhance market power. In the year prior to the joint venture's formation, Gray Line had an approximately 63 percent market share, City Sights had an approximately 37 percent share, and a third firm had a less than one percent share, resulting in an HHI of 5271. The formation of Twin America created an effective monopoly with an approximately 99 percent market share and increased the market's HHI by 4599 to 9870. Based on the pre- and post-transaction market concentration measures, Twin America's formation is presumed likely to enhance market power.

3. Entry

Entry and expansion into the relevant market has not been, and is not likely to be, timely or sufficient to counteract the joint venture's anticompetitive effects. For more than three years following Twin America's formation, there was no new entry or expansion in the New York City hop-on, hop-off bus tour market and Defendants sustained their early 2009 price increases. Entry that has occurred since 2012 has also failed to roll back Defendants' price increases and has been insufficient to constrain Twin America's exercise of market power.

The most significant barrier to entry in the hop-on, hop-off bus tour market is the requirement that an entrant obtain authorizations from the New York City Department of Transportation (''NYCDOT'') for each location where it wishes to stop to load and unload passengers on its tour. Both Gray Line and City Sights have long held large portfolios of bus stop authorizations that enable them to stop at or in close proximity to virtually all of New York City's top attractions and neighborhoods, providing Defendants with a distinct competitive advantage over other operators in the market. Gray Line and City Sights obtained these bus stop authorizations without difficulty years before their joint venture because NYCDOT awarded the bus stops on a ''first come, first served'' basis. Recent entrants, by contrast, have faced persistent difficulties securing bus stop authorizations at or sufficiently near key tourist attractions to be competitive with Twin America as NYCDOT has denied the overwhelming majority of bus stops applied for since Twin America's formation. Most of the stops sought by the entrants—particularly those at or in close proximity to top tourist attractions—are now at capacity or are otherwise unavailable, leaving Twin America with the dominant share of competitively-meaningful stops. The chronic denial of bus stop authorizations has blocked some firms from entering the market altogether and prevented those that have entered from replicating the scale and strength of either City Sights or Gray Line prior to the joint venture. Without needed bus stops, some entrants stop at key attractions on an unauthorized basis, creating the risk of an enforcement action that could curtail their operations at any time.

4. Efficiencies

The formation of Twin America has not resulted in, and is unlikely to result in, cognizable, merger-specific efficiencies that have been passed through to consumers on a sufficient scale to offset Twin America's anticompetitive effects.

## III. EXPLANATION OF THE PROPOSED FINAL JUDGMENT

### *A. Divestiture*

The proposed Final Judgment remedies the competitive harm alleged in the Complaint by requiring Twin America to relinquish to the NYCDOT the complete set of City Sights bus stop authorizations in Manhattan so that other firms are better positioned to obtain the bus stop authorizations needed to compete more effectively with Twin America.

Here, the most intractable barrier to entry is the inability of new firms to obtain bus stop authorizations from NYCDOT at or in sufficient proximity to New York City's top attractions and neighborhoods. The divestiture significantly eases this entry barrier by increasing NYCDOT's inventory of bus stops and freeing up capacity at locations throughout Manhattan, including the locations most sought by recent entrants. Notably, City Sights's set of approximately 50 bus stop authorizations includes highly-coveted stops surrounding key tourist attractions such as Times Square, the Empire State Building, and Battery Park that are critical to operating a competitive hop-on, hop-off bus tour. By relinquishing the City Sights bus stop authorizations to NYCDOT, the city agency charged with managing bus stop authorizations, the proposed Final Judgment increases availability of stops, especially at key attractions, that rival firms can use to compete against Twin America.

The proposed Final Judgment requires Defendants to complete the relinquishment of the City Sights bus stop authorizations by May 1, 2015, prior to the start of the busy summer tourist season. Twin America will continue to hold Gray Line's pre-existing bus stop authorizations for its own hop-on, hop-off service.

The proposed Final Judgment prohibits Defendants from applying for or obtaining bus stop authorizations for hop-on, hop-off bus tours at the locations of the divested City Sights bus stop authorizations for a period of five years. However, after May 1, 2016, if NYCDOT revokes a bus stop authorization currently granted to a Twin America affiliate other than City Sights, the proposed Final Judgment allows Defendants to apply for a bus stop authorization at the location of a divested City Sights bus stop authorization that is at or in close proximity to the bus stop authorization that NYCDOT has revoked.

### *B. Disgorgement*

The proposed Final Judgment also requires Defendants to disgorge $7.5 million in profits obtained as a result of their unlawful formation of Twin America. Disgorgement is an equitable remedy that seeks to ''depriv[e] violators of the fruits of their illegal conduct'' by ''forc[ing] a defendant to give up the amount by which he was unjustly enriched.'' *SEC* v. *Contorinis,* 743 F.3d 296, 301 (2d Cir. 2014) (internal quotation marks omitted). By preventing unjust enrichment, disgorgement has

the forward-looking ''effect of deterring subsequent fraud.'' *SEC* v. *Cavanagh,* 445 F.3d 105, 117 (2d Cir. 2006). Disgorgement is a ''distinctly public-regarding remedy,'' *FTC* v. *Bronson Partners,* LLC, 654 F.3d 359, 372 (2d Cir. 2011), whose ''emphasis [is] on public protection, as opposed to simple compensatory relief,'' *Cavanagh,* 445 F.3d at 117.

''Unless a statute in so many words, or by a necessary and inescapable inference, restricts the court's jurisdiction in equity,'' a district court's ability to exercise the full powers of equity jurisdiction, including disgorgement, ''is not to be denied or limited.'' *Porter* v. *Warner Holding Co.,* 328 U.S. 395, 398 (1946); *see also Mitchell* v. *Robert De Mario Jewelry, Inc.,* 361 U.S. 288, 289, 291–92 (1960) (''When Congress entrusts to an equity court the enforcement of prohibitions contained in a regulatory enactment, it must be taken to have acted cognizant of the historic power of equity to provide complete relief in light of the statutory purposes.''). The Second Circuit has long affirmed the ability of district courts to award disgorgement in government enforcement actions redressing statutory violations. *See SEC* v. *Commonwealth Chem. Sec., Inc.,* 574 F.2d 90, 102–03 (2d Cir. 1978) (Friendly, J.); *Bronson Partners,* 654 F.3d at 365–67, 372–74. This Court has also specifically recognized the government's ability to seek disgorgement in antitrust suits brought under the Sherman Act. *See United States* v. *Keyspan Corp.,* 763 F. Supp. 2d 633, 638–41 (S.D.N.Y. 2011) (Pauley, J.) (holding that an award of disgorgement ''comports with established principles of antitrust law''). Although *Keyspan* considered the availability of disgorgement under the Sherman Act, its analysis also applies to the Clayton Act, as both Acts similarly authorize the United States to bring suits ''in equity to prevent and restrain such violations.'' *Compare* Sherman Act, 15 U.S.C. 4 (2012) *with* Clayton Act, 15 U.S.C. 25 (2012). *See also People* v. *Ernst & Young LLP,* 980 N.Y.S.2d 456, 457 (N.Y. App. Div. 2014) (affirming authority of New York Attorney General to obtain disgorgement under New York law).

As in *Keyspan,* there are specific ''exigencies of [this] case'' that justify a disgorgement award. *Keyspan,* 765 F. Supp. 2d at 640. Unlike the majority of Section 7 challenges brought by the United States, which are brought prior to the closing of the challenged transaction, this case involves a consummated joint venture that resulted in actual and substantial consumer harm. As alleged in the Complaint, Defendants not only increased prices by approximately 10 percent in connection with the joint venture's formation, they reaped these illegal profits for years while forestalling antitrust enforcement. By awarding disgorgement of Defendants' ill-gotten gain, the proposed Final Judgment will prevent Defendants from being unjustly enriched by their conduct and deter Defendants and others from engaging in similar conduct in the future.

In determining the appropriate disgorgement amount, Plaintiffs accounted for the fact that Defendants have agreed to pay $19 million to settle related private class action lawsuits that were brought after Plaintiffs filed this action.[5] Because Plaintiffs' reasonable approximation of profits connected to Defendants' antitrust law violations exceeds $19 million, Plaintiffs determined that disgorgement of an additional amount was appropriate. The $7.5 million in disgorgement provided under the proposed Final Judgment will be divided equally between the United States and the State of New York.

*C. Antitrust Compliance and Inspection*

Sections IX and XI of the proposed Final Judgment establish procedures to ensure that Defendants comply with the terms of the Final Judgment and the antitrust laws. Section IX grants the United States or the State of New York access, upon reasonable notice, to Defendants' records and documents relating to matters contained in the Final Judgment. Defendants must also make their personnel available for interviews or depositions regarding such matters. In addition, upon request, Defendants must prepare written reports or responses to written interrogatories relating to matters contained in the Final Judgment.

To ensure future compliance with the antitrust laws, Section XI of the proposed Final Judgment requires Defendants Coach and Twin America to maintain an antitrust compliance program for each company's officers and directors with responsibility for any operations in the United States, as well as any other employee with pricing or decision-making responsibility for the provision of hop-on, hop-off tour bus tours in New York City. The antitrust compliance program will provide these personnel with annual training on the meaning and requirements of the antitrust laws and shall be delivered by an attorney with experience in the field of antitrust law. Section XI also requires Defendants Coach and Twin America to designate an Antitrust Compliance Officer to oversee the antitrust compliance program. The Antitrust Compliance Officer must communicate annually to all employees that they may disclose to the Antitrust Compliance Officer, without reprisal, information concerning any potential violation of the antitrust laws.

*D. Notification of Future Transactions*

Section X of the proposed Final Judgment requires Defendants to provide advance notification of any future acquisition of any assets or of any interest, including any financial, security, loan, equity or management interest, in a person providing hop-on, hop-off bus tours in New York City during the term of the Final Judgment regardless of whether the transaction meets the reporting thresholds set forth in the HSR Act. The proposed Final Judgment further provides for waiting periods and opportunities for the United States or the State of New York to obtain additional information analogous to the provisions of the HSR Act.

*E. Stipulation and Order Provisions*

Defendants have entered into a Stipulation and Order, which was filed simultaneously with the Court, to ensure that the City Sights bus stop authorizations are maintained until Defendants have relinquished them to NYCDOT.

## IV. REMEDIES AVAILABLE TO POTENTIAL PRIVATE LITIGANTS

Section 4 of the Clayton Act, 15 U.S.C. 15, provides that any person who has been injured as a result of conduct prohibited by the antitrust laws may bring suit in federal court to recover three times the damages the person has suffered, as well as costs and reasonable attorneys' fees. Entry of the proposed Final Judgment will neither impair nor assist the bringing of any private antitrust damage action. Under the provisions of Section 5(a) of the Clayton Act, 15 U.S.C. 16(a), the proposed Final Judgment has no *prima facie* effect in any subsequent private lawsuit that may be brought against the Defendants.[6]

[5] See Order and Final Judgment Approving *In Re NYC Bus Tour Antitrust Litigation* Class Action Settlement, *In re NYC Bus Tour Antitrust Litigation,* No. 13–CV–0711 (ALC) (GWG) (S.D.N.Y. Oct. 21, 2014) (Dkt. No. 122).

[6] As previously noted, a related private class action lawsuit seeking damages from Defendants was settled in October 2014. *See* Order and Final Judgment Approving *In Re NYC Bus Tour Antitrust Litigation* Class Action Settlement, *In re NYC Bus Tour Antitrust Litigation,* No. 13–CV–0711 (ALC) (GWG) (S.D.N.Y. Oct. 21, 2014) (Dkt. No. 122).

## V. PROCEDURES AVAILABLE FOR MODIFICATION OF THE PROPOSED FINAL JUDGMENT

The Parties have stipulated that the proposed Final Judgment may be entered by the Court after compliance with the provisions of the APPA, provided that the United States has not withdrawn its consent. The APPA conditions entry upon the Court's determination that the proposed Final Judgment is in the public interest.

The APPA provides a period of at least sixty (60) days preceding the effective date of the proposed Final Judgment within which any person may submit to the United States written comments regarding the proposed Final Judgment. Any person who wishes to comment should do so within sixty (60) days of the date of publication of this Competitive Impact Statement in the **Federal Register**, or the last date of publication in a newspaper of the summary of this Competitive Impact Statement, whichever is later. All comments received during this period will be considered by the United States Department of Justice, which remains free to withdraw its consent to the proposed Final Judgment at any time prior to the Court's entry of judgment. The comments and the response of the United States will be filed with the Court. In addition, comments will be posted on the U.S. Department of Justice, Antitrust Division's internet Web site and, under certain circumstances, published in the **Federal Register**.

Written comments should be submitted to: William H. Stallings, Chief, Transportation, Energy & Agriculture Section, Antitrust Division, United States Department of Justice, 450 Fifth Street NW., Suite 8000, Washington, DC 20530.

The proposed Final Judgment provides that the Court retains jurisdiction over this action, and the parties may apply to the Court for any order necessary or appropriate for the modification, interpretation, or enforcement of the Final Judgment.

## VI. ALTERNATIVES TO THE PROPOSED FINAL JUDGMENT

The United States considered, as an alternative to the proposed Final Judgment, a full trial on the merits against Defendants. The proposed Final Judgment, however, avoids the time, expense, and uncertainty of a full trial on the merits. The United States also considered whether the City Sights bus stop authorizations could be transferred on a standalone basis or with other assets to an upfront buyer, but determined that such a transaction was not feasible in light of current NYCDOT regulations and policies governing bus stop authorizations. The United States is satisfied that the remedies set forth in the proposed Final Judgment will sufficiently restore the competition lost when Defendants formed their joint venture and will appropriately deprive Defendants of ill-gotten gains.

## VII. STANDARD OF REVIEW UNDER THE APPA FOR THE PROPOSED FINAL JUDGMENT

The Clayton and Sherman Acts, as amended by the APPA, require that proposed consent judgments in antitrust cases brought by the United States be subject to a sixty-day comment period, after which the court shall determine whether entry of the proposed Final Judgment ''is in the public interest.'' 15 U.S.C. 16(e)(1); *see also United States* v. *Int'l Bus. Mach. Corp.,* 163 F.3d 737, 740 (2d Cir. 1998). In making a ''public interest'' determination, the court, in accordance with the statute as amended in 2004, is required to consider:

> (A) the competitive impact of such judgment, including termination of alleged violations, provisions for enforcement and modification, duration of relief sought, anticipated effects of alternative remedies actually considered, whether its terms are ambiguous, and any other competitive considerations bearing upon the adequacy of such judgment that the court deems necessary to a determination of whether the consent judgment is in the public interest; and
>
> (B) the impact of entry of such judgment upon competition in the relevant market or markets, upon the public generally and individuals alleging specific injury from the violations set forth in the complaint including consideration of the public benefit, if any, to be derived from a determination of the issues at trial.

15 U.S.C. 16(e)(1)(A) & (B); *see generally Keyspan,* 763 F. Supp. 2d at 637–38 (discussing Tunney Act standards); *United States* v. *SBC Commc'ns, Inc.,* 489 F. Supp. 2d 1 (D.D.C. 2007) (similar). In considering these statutory factors, the court's inquiry is necessarily a limited one as the government is entitled to ''broad discretion to settle with the defendant within the reaches of the public interest.'' *United States* v. *Microsoft Corp.,* 56 F.3d 1448, 1461 (D.C. Cir. 1995); *accord United States* v. *Alex. Brown & Sons, Inc.,* 963 F. Supp. 235, 238 (S.D.N.Y. 1997) (quoting Microsoft, 56 F.3d at 1460), *aff'd sub nom. United States* v. *Bleznak,* 153 F.3d 16 (2d Cir. 1998); *Keyspan,* 763 F. Supp. 2d at 637 (same).

Under the APPA a court considers, among other things, the relationship between the remedy secured and the specific allegations set forth in the government's complaint, whether the decree is sufficiently clear, whether enforcement mechanisms are sufficient, and whether the decree may positively harm third parties. *See Microsoft,* 56 F.3d at 1458–62. With respect to the adequacy of the relief secured by the decree, the court's function is ''not to determine whether the proposed [d]ecree results in the balance of rights and liabilities that is the one that will *best* serve society, but only to ensure that the resulting settlement is within the reaches of the public interest.'' *Keyspan,* 763 F. Supp. 2d at 637 (quoting *Alex. Brown & Sons,* 963 F. Supp. at 238) (internal quotations omitted). In making this determination, ''[t]he [c]ourt is not permitted to reject the proposed remedies merely because the court believes other remedies are preferable. [Rather], the relevant inquiry is whether there is a factual foundation for the government's decision such that its conclusions regarding the proposed settlement are reasonable.'' *Keyspan,* at 637–38 (quoting *United States* v. *Abitibi-Consolidated Inc.,* 584 F. Supp. 2d 162, 165 (D.D.C. 2008)); *see also United States* v. *Apple, Inc.,* 889 F. Supp. 2d 623, 631 (S.D.N.Y. 2012) (Cote, J.); *Alex. Brown & Sons,* 963 F. Supp. at 238.[7] The government's predictions about the efficacy of its remedies are entitled to deference. *Apple,* 889 F. Supp. 2d at 631 (citation omitted).[8]

Courts have greater flexibility in approving proposed consent decrees than in crafting their own decrees following a finding of liability in a litigated matter. ''[A] proposed decree must be approved even if it falls short of the remedy the court would impose on its own, as long as it falls within the range of acceptability or is 'within the reaches of public interest.' '' *United States* v. *Am. Tel. & Tel. Co.,* 552 F. Supp. 131, 151 (D.D.C. 1982) (citations omitted) (quoting *United States* v. *Gillette Co.,* 406 F. Supp. 713, 716 (D. Mass. 1975)), *aff'd sub nom. Maryland*

[7] *See also United States* v. *Bechtel Corp.,* 648 F.2d 660, 666 (9th Cir. 1981) (''The balancing of competing social and political interests affected by a proposed antitrust consent decree must be left, in the first instance, to the discretion of the Attorney General.''); *see generally Microsoft,* 56 F.3d at 1461 (discussing whether ''the remedies [obtained in the decree are] so inconsonant with the allegations charged as to fall outside of the 'reaches of the public interest' '').

[8] *See Microsoft,* 56 F.3d at 1461 (noting the need for courts to be ''deferential to the government's predictions as to the effect of the proposed remedies''); *United States* v. *Archer-Daniels-Midland Co.,* 272 F. Supp. 2d 1, 6 (D.D.C. 2003) (noting that the court should grant due respect to the United States' prediction as to the effect of proposed remedies, its perception of the market structure, and its views of the nature of the case).

v. *United States,* 460 U.S. 1001 (1983); *see also United States* v. *U.S. Airways Group, Inc.,* 38 F. Supp. 3d 69, 76 (D.D.C. 2014) (noting that room must be made for the government to grant concessions in the negotiation process for settlements); *United States* v. *Alcan Aluminum Ltd.,* 605 F. Supp. 619, 622 (W.D. Ky. 1985) (approving the consent decree even though the court would have imposed a greater remedy). To meet this standard, the United States ''need only provide a factual basis for concluding that the settlements are reasonably adequate remedies for the alleged harms.'' *SBC Commc'ns,* 489 F. Supp. 2d at 17.

Moreover, the court's role under the APPA is limited to reviewing the remedy in relationship to the violations that the United States has alleged in its Complaint, and does not authorize the court to ''construct [its] own hypothetical case and then evaluate the decree against that case.'' *Microsoft,* 56 F.3d at 1459; *see also Keyspan,* 763 F. Supp. 2d at 638 (''A court must limit its review to the issues in the complaint.'') (citations omitted). Because the ''court's authority to review the decree depends entirely on the government's exercising its prosecutorial discretion by bringing a case in the first place,'' it follows that ''the court is only authorized to review the decree itself,'' and not to ''effectively redraft the complaint'' to inquire into other matters that the United States did not pursue. *Microsoft,* 56 F.3d at 1459–60. Courts ''cannot look beyond the complaint in making the public interest determination unless the complaint is drafted so narrowly as to make a mockery of judicial power.'' *SBC Commc'ns,* 489 F. Supp. 2d at 15.

In its 2004 amendments, Congress made clear its intent to preserve the practical benefits of utilizing consent decrees in antitrust enforcement, adding the unambiguous instruction that ''[n]othing in this section shall be construed to require the court to conduct an evidentiary hearing or to require the court to permit anyone to intervene.'' 15 U.S.C. 16(e)(2); *see also U.S. Airways,* 38 F. Supp. 3d at 76 (indicating that a court is not required to hold an evidentiary hearing or to permit intervenors as part of its review under the Tunney Act). The language wrote into the statute what Congress intended when it enacted the Tunney Act in 1974, as Senator Tunney explained: ''[t]he court is nowhere compelled to go to trial or to engage in extended proceedings which might have the effect of vitiating the benefits of prompt and less costly settlement through the consent decree process.'' 119 Cong. Rec. 24,598 (1973) (statement of Sen. Tunney). Rather, the procedure for the public interest determination is left to the discretion of the court, with the recognition that the court's ''scope of review remains sharply proscribed by precedent and the nature of Tunney Act proceedings.'' *SBC Commc'ns,* 489 F. Supp. 2d at 11.[9] A court can make its public interest determination based on the competitive impact statement and response to public comments alone. *U.S. Airways,* 38 F. Supp. 3d at 76.

## VIII. DETERMINATIVE DOCUMENTS

There are no determinative materials or documents within the meaning of the APPA that were considered by the United States in formulating the proposed Final Judgment.

Dated: March 16, 2015

Respectfully submitted,

_____/s/_____ _____

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## UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF NEW YORK

*United States of America, and State of New York, Plaintiffs,* v. *Twin America, LLC, et al., Defendants.*

Civil Action No. 12–cv–8989 (ALC) (GWG).

ECF Case.

## STIPULATION AND ORDER REGARDING PROPOSED FINAL JUDGMENT

It is hereby stipulated and agreed by and between the undersigned parties, subject to approval and entry by the Court, that:

## I. DEFINITIONS

As used in this Stipulation and Order Regarding Proposed Final Judgment:

A. ''Coach'' means Coach USA, Inc., a Delaware corporation with its principal place of business in Paramus, New Jersey, and International Bus Services, Inc., a New York corporation with its principal place of business in Hoboken, New Jersey, and their successors and assigns, and any subsidiaries, divisions, groups, affiliates, partnerships and joint ventures under its control, and their directors, officers, managers, agents, and employees.

B. ''CitySights'' means CitySights LLC and City Sights Twin, LLC, New York limited liability companies with their principal places of business in New York, New York, and their successors and assigns, and any subsidiaries, divisions, groups, affiliates, partnerships and joint ventures under its control, and their directors, officers, managers, agents, and employees.

C. ''CitySights Bus Stop Authorizations'' means all of the Manhattan bus stop authorizations granted by the New York City Department of Transportation (NYCDOT) identified in Appendix A to the proposed Final Judgment, which comprises all of the bus stop authorizations granted to and currently held by CitySights to provide hop-on, hop-off bus tours in the Borough of Manhattan, New York City.

D. ''Twin America'' means Twin America, LLC, a Delaware limited liability company with its principal place of business in New York, New York, and its successors and assigns, and any subsidiaries, divisions, groups, affiliates, partnerships and joint ventures under its control, and their directors, officers, managers, agents, and employees.

E. ''Defendants'' means Coach USA, Inc., International Bus Services, Inc., CitySights LLC, City Sights Twin, LLC, and Twin America, LLC.

## II. OBJECTIVES

The proposed Final Judgment filed in this case is meant to ensure Defendants' prompt divestiture of the CitySights Bus Stop Authorizations by relinquishing them to NYCDOT in order to restore competition that Plaintiffs allege was

[9] *See United States* v. *Enova Corp.,* 107 F. Supp. 2d 10, 17 (D.D.C. 2000) (noting that the ''Tunney Act expressly allows the court to make its public interest determination on the basis of the competitive impact statement and response to comments alone''); *United States* v. *Mid-Am. Dairymen, Inc.,* No. 73–CV–681–W–1, 1977–1 Trade Cas. (CCH) ¶ 61,508, at 71,980, *22 (W.D. Mo. 1977) (''Absent a showing of corrupt failure of the government to discharge its duty, the Court, in making its public interest finding, should . . . carefully consider the explanations of the government in the competitive impact statement and its responses to comments in order to determine whether those explanations are reasonable under the circumstances.''); S. Rep. No. 93–298, at 6 (1973) (''Where the public interest can be meaningfully evaluated simply on the basis of briefs and oral arguments, that is the approach that should be utilized.'').

substantially lessened. If approved by the Court, the proposed Final Judgment would fully resolve the claims alleged in Plaintiffs' Complaint. This Stipulation and Order ensures that, prior to such divestiture, the CitySights Bus Stop Authorizations are maintained until such divestiture has been accomplished.

## III. JURISDICTION AND VENUE

The Court has jurisdiction over the subject matter of this action and over each of the parties hereto, and venue of this action is proper in the United States District Court for the Southern District of New York.

## IV. COMPLIANCE WITH AND ENTRY OF FINAL JUDGMENT

A. The parties stipulate that a Final Judgment in the form attached hereto as Exhibit A may be filed with and entered by the Court, upon the motion of any party or upon the Court's own motion, at any time after compliance with the requirements of the Antitrust Procedures and Penalties Act (''APPA''), 15 U.S.C. 16, and without further notice to any party or other proceedings, provided that the Plaintiffs have not withdrawn their consent, which they may do at any time before the entry of the proposed Final Judgment by serving notice thereof on Defendants and by filing that notice with the Court. Defendants agree to arrange, at their expense, publication as quickly as possible of the newspaper notice required by the APPA, which shall be drafted by the United States in its sole discretion. The publication shall be arranged no later than three (3) business days after Defendants' receipt from the United States of the text of the notice and the identity of the newspaper within which the publication shall be made. Defendants shall promptly send to the United States (1) confirmation that publication of the newspaper notice has been arranged, and (2) the certification of the publication prepared by the newspaper within which the notice was published.

B. Defendants shall abide by and comply with the provisions of the proposed Final Judgment, pending the Judgment's entry by the Court, or until expiration of time for all appeals of any Court ruling declining entry of the proposed Final Judgment, and shall, from the date of the signing of this Stipulation by the parties, comply with all the terms and provisions of the proposed Final Judgment. Plaintiffs shall have the full rights and enforcement powers in the proposed Final Judgment as though the same were in full force and effect as an order of the Court.

C. This Stipulation shall apply with equal force and effect to any amended proposed Final Judgment agreed upon in writing by the parties and submitted to the Court.

D. In the event (1) the Plaintiffs have withdrawn their consent, as provided in Section IV(A) above, or (2) the proposed Final Judgment is not entered pursuant to this Stipulation, the time has expired for all appeals of any Court ruling declining entry of the proposed Final Judgment, and the Court has not otherwise ordered continued compliance with the terms and provisions of the proposed Final Judgment, then the parties are released from all further obligations under this Stipulation, and the making of this Stipulation shall be without prejudice to any party in this or any other proceeding.

E. Defendants represent that the divestiture and payments ordered in the proposed Final Judgment can and will be made, and that Defendants will later raise no claim of mistake, hardship or difficulty of compliance as grounds for asking the Court to modify any of the provisions contained therein.

## V. MAINTENANCE OF CITYSIGHTS BUS STOP AUTHORIZATIONS

Until the divestiture required by the Final Judgment has been accomplished:

A. Defendants shall not, except as part of a divestiture approved by the Plaintiffs in accordance with the terms of the proposed Final Judgment, revoke, sell, lease, assign, transfer, pledge or otherwise dispose of any of the CitySights Bus Stop Authorizations.

B. Defendants shall take no action that would jeopardize, delay, or impede the divestiture of the CitySights Bus Stop Authorizations.

## VI. DURATION OF MAINTENANCE OBLIGATIONS

Defendants' obligations under Section V of this Stipulation and Order shall remain in effect until (1) consummation of the divestiture required by the proposed Final Judgment or (2) until further order of the Court or as otherwise provided in Section IV.D hereof. If Plaintiffs voluntarily dismiss the Complaint in this matter, Defendants are released from all further obligations under this Stipulation and Order.

## VII. STAY OF LITIGATION

Entry of this Stipulation and Order shall stay all deadlines established by the Amended Pretrial Scheduling Order (Doc. 125).

ORDER

It is SO ORDERED this ____ day of _____ 2015.

Judge Andrew L. Carter, Jr.
*United States District Judge.*

Respectfully submitted on _____, 2015:

_____/s/_____
Sarah Wagner,
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_____/s/_____
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_____/s/_____
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## UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF NEW YORK

*United States of America, and State of New York, Plaintiffs,* v. *Twin America, LLC, et al. Defendants.*

Civil Action No. 12–cv–8989 (ALC) (GWG).
ECF Case.

## [Proposed] Final Judgment

WHEREAS, Plaintiffs United States of America and the State of New York (collectively ''Plaintiffs'') filed their Complaint on December 11, 2012, Plaintiffs and Defendants Coach USA, Inc., International Bus Services, Inc., CitySights LLC, City Sights Twin, LLC, and Twin America, LLC (collectively ''Defendants''), by their respective attorneys, have consented to the entry of this Final Judgment without trial or adjudication of any issue of fact or law, and without this Final Judgment constituting any evidence against or admission by any party regarding any issue of fact or law;

AND WHEREAS, Defendants agree to be bound by the provisions of this Final

Judgment pending its approval by the Court;

AND WHEREAS, the essence of this Final Judgment is the execution of prompt and certain divestitures by Defendants to restore competition that Plaintiffs allege was substantially lessened, and the payment of equitable monetary relief;

AND WHEREAS, Plaintiffs require Defendants to make certain divestitures for the purpose of remedying the loss of competition alleged in the Complaint, and to pay equitable monetary relief;

AND WHEREAS, Defendants have represented to Plaintiffs that the divestitures and the other relief required below can and will be made and that Defendants will later raise no claim of hardship or difficulty as grounds for asking the Court to modify any of the provisions contained below;

NOW THEREFORE, before any trial testimony is taken, without trial or adjudication of any issue of fact or law, and upon consent of the parties, it is ORDERED, ADJUDGED AND DECREED:

**I. Jurisdiction**

This Court has jurisdiction over the subject matter of and each of the parties to this action. The Complaint states a claim upon which relief may be granted against Defendants under Section 7 of the Clayton Act, as amended (15 U.S.C. 18), Section 1 of the Sherman Act (15 U.S.C. 1), Section 340 of the Donnelly Act (N.Y. Gen. Bus. Law § 340), and Section 63(12) of the New York Executive Law (N.Y. Exec. Law § 63(12)).

**II. Definitions**

As used in this Final Judgment:

A. ''Coach'' means Coach USA, Inc., a Delaware corporation with its principal place of business in Paramus, New Jersey, and International Bus Services, Inc., a New York corporation with its principal place of business in Hoboken, New Jersey, and their successors and assigns, and any subsidiaries, divisions, groups, affiliates, partnerships and joint ventures under their control, and their directors, officers, managers, agents, and employees.

B. ''CitySights'' means CitySights LLC and City Sights Twin, LLC, New York limited liability companies with their principal places of business in New York, New York, and their successors and assigns, and any subsidiaries, divisions, groups, affiliates, partnerships and joint ventures under their control, and their directors, officers, managers, agents, and employees.

C. ''CitySights Bus Stop Authorizations'' means all of the Manhattan bus stop authorizations granted by the New York City Department of Transportation identified in Appendix A, which comprises all of the bus stop authorizations granted to and currently held by CitySights to provide hop-on, hop-off bus tours in the borough of Manhattan, New York City.

D. ''Twin America'' means Twin America, LLC, a Delaware limited liability company with its principal place of business in New York, New York, and its successors and assigns, and any subsidiaries, divisions, groups, affiliates, partnerships and joint ventures under its control, and their directors, officers, managers, agents, and employees.

E. ''Defendants'' means Coach USA, Inc., International Bus Services, Inc., CitySights LLC, City Sights Twin, LLC, and Twin America, LLC.

F. ''NYCDOT'' means the New York City Department of Transportation.

G. ''Person'' means any natural person or legal entity.

**III. Applicability**

This Final Judgment applies to Coach, CitySights, and Twin America, as defined above, and all other persons in active concert or participation with any of them who receive actual notice of this Final Judgment by personal service or otherwise.

**IV. Disgorgement**

Defendants shall pay $7.5 million in disgorgement to Plaintiffs for Defendants' alleged violations of Section 7 of the Clayton Act, as amended (15 U.S.C. 18), Section 1 of the Sherman Act (15 U.S.C. 1), Section 340 of the Donnelly Act (N.Y. Gen. Bus. Law § 340), and Section 63(12) of the New York Executive Law (N.Y. Exec. Law § 63(12)). The $7.5 million disgorgement payment shall be divided equally between the United States and the State of New York.

**V. Payment of Disgorgement**

A. Defendants' payment of disgorgement shall be made in three (3) installments. Within 30 days of the entry of this Final Judgment, Defendants must pay $2.5 million in disgorgement to Plaintiffs, divided equally between the United States and the State of New York. Within nine (9) months after entry of this Final Judgment, Defendants must pay another $2.5 million in disgorgement to Plaintiffs, divided equally between the United States and the State of New York. Within 16 months after entry of this Final Judgment, Defendants must pay the remaining $2.5 million in disgorgement to Plaintiffs, divided equally between the United States and the State of New York.

B. The payments to the United States specified in this Final Judgment must be made by wire transfer. Before making any transfer to the United States, a defendant must contact Janie Ingalls of the Antitrust Division's Antitrust Documents Group at (202) 512–2481 for wire-transfer instructions.

The payments to the State of New York specified in this Final Judgment must be made by wire transfer. Before making any transfer to the State of New York, Defendants must contact Dorcey Bennett (*Dorcey.Bennet@ag.ny.gov*) of the State of New York's Budget & Fiscal Management Bureau for wire-transfer instructions and cc: to James Yoon (*James.Yoon@ag.ny.gov*).

C. In the event of a default in payment, interest at the rate of 18 percent per annum will accrue thereon from the date of default to the date of payment.

**VI. Divestitures**

A. Defendants are ordered and directed, by May 1, 2015, to divest the CitySights Bus Stop Authorizations by relinquishing them to the NYCDOT in a manner consistent with this Final Judgment. The Plaintiffs, in their sole discretion, may agree to one or more extensions of this time period not to exceed 30 calendar days in total, and shall notify the Court in such circumstances.

B. Defendants shall not take any action that will jeopardize, delay, or impede in any way the divestiture of the CitySights Bus Stop Authorizations.

C. Unless the Plaintiffs otherwise consent in writing, the divestiture pursuant to Section VI of this Final Judgment shall include the entire CitySights Bus Stop Authorizations in the borough of Manhattan, New York City. For the avoidance of doubt, nothing in this Final Judgment requires Defendants to divest any bus stop authorizations granted to affiliates of Twin America other than CitySights, including any authorizations for shared use bus stops.

D. Defendants shall not take any action to impede in any way the reallocation or reassignment of the CitySights Bus Stop Authorizations by NYCDOT to any other person.

**VII. Maintenance of CitySights Bus Stop Authorizations**

Until the divestiture required by this Final Judgment has been accomplished, Defendants shall take all steps necessary to comply with the Stipulation and

Order Regarding Proposed Final Judgment entered by this Court. Defendants shall take no action that would jeopardize, delay, or impede the divestiture of the CitySights Bus Stop Authorizations ordered by this Court.

**VIII. Affidavits**

A. Within seven (7) calendar days of the Court entering the Stipulation and Order Regarding Proposed Final Judgment in this matter, and every thirty (30) calendar days thereafter until the divestiture has been completed under Section VI, Defendants shall deliver to Plaintiffs an affidavit that describes in reasonable detail all actions Defendants have taken to comply with Section VI of this Final Judgment. Defendants shall deliver to Plaintiffs an affidavit describing any changes to the efforts and actions outlined in Defendants' earlier affidavits filed pursuant to this section within fifteen (15) calendar days after the change is implemented.

B. Defendants shall keep all records of all efforts made to maintain and divest the CitySights Bus Stop Authorizations until one year after such divestiture has been completed.

**IX. Compliance Inspection**

A. For the purposes of determining or securing compliance with this Final Judgment, or of any related orders, or of determining whether the Final Judgment should be modified or vacated, and subject to any legally recognized privilege, from time to time Plaintiffs' authorized representatives, upon written request and on reasonable notice to Defendants, shall be permitted to:

(1) Access during Defendants' office hours to inspect and copy, or at the option of the United States or State of New York, to require Defendants to provide hard copy or electronic copies of, all books, ledgers, accounts, records, data, and documents in the possession, custody, or control of Defendants, relating to any matters contained in this Final Judgment; and

(2) interview, either informally or on the record, Defendants' officers, employees, or agents, who may have their individual counsel present, regarding such matters. The interviews shall be subject to the reasonable convenience of the interviewee and without restraint or interference by Defendants.

B. Upon the written request of an authorized representative of either Plaintiff, Defendants shall submit written reports or responses to written interrogatories, under oath if requested, relating to any of the matters contained in this Final Judgment as may be requested.

C. No information or documents obtained by the means provided in this section shall be divulged by the Plaintiffs to any person other than an authorized representative of the executive branch of the United States or the Attorney General's Office of the State of New York, except in the course of legal proceedings to which the United States or the State of New York is a party (including grand jury proceedings), or for the purpose of securing compliance with this Final Judgment, for law enforcement purposes, or as otherwise required by law.

D. If at the time information or documents are furnished by Defendants to Plaintiffs, Defendants represent and identify in writing the material in any such information or documents to which a claim of protection may be asserted under Rule 26(c)(1)(G) of the Federal Rules of Civil Procedure, and Defendants mark each pertinent page of such material, ''Subject to claim of protection under Rule 26(c)(1)(G) of the Federal Rules of Civil Procedure,'' then Plaintiffs shall give Defendants ten (10) calendar days notice prior to divulging such material in any legal proceeding (other than a grand jury proceeding).

**X. Notification**

Unless such transaction is otherwise subject to the reporting and waiting period requirements of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, as amended, 15 U.S.C. 18a (the ''HSR Act''), Defendants, without providing advance notification to the Plaintiffs, shall not directly or indirectly acquire any assets of or any interest, including any financial, security, loan, equity or management interest, in a person providing hop-on, hop-off bus tours in New York City during the term of this Final Judgment.

Such notification shall be provided to the Plaintiffs in the same format as, and per the instructions relating to the Notification and Report Form set forth in the Appendix to Part 803 of Title 16 of the Code of Federal Regulations as amended, except that the information requested in Items 4 through 8 of the instructions must be provided only about hop-on, hop-off bus tours in New York City. Notification shall be provided at least thirty (30) calendar days prior to acquiring any such interest, and shall include, beyond what may be required by the applicable instructions, the names of the principal representatives of the parties to the agreement who negotiated the agreement, and any management or strategic plans discussing the proposed transaction. If within the 30-day period after notification, representatives of either Plaintiff make a written request for additional information, Defendants shall not consummate the proposed transaction or agreement until thirty (30) calendar days after substantially complying with such request for information. Early termination of the waiting periods in this paragraph may be requested and, where appropriate, granted in the same manner as is applicable under the requirements and provisions of the HSR Act and rules promulgated thereunder. This Section shall be broadly construed and any ambiguity or uncertainty regarding the filing of notice under this Section shall be resolved in favor of filing notice.

**XI. Antitrust Compliance Program**

A. Within thirty (30) days after entry of this Final Judgment, Coach and Twin America shall each appoint an Antitrust Compliance Officer and identify to Plaintiffs his or her name, business address, and telephone number.

B. Each Antitrust Compliance Officer shall institute an antitrust compliance program for the company's officers and directors with responsibility for any operations in the U.S., and any employee with pricing or decision-making responsibility for any aspect of the provision of hop-on, hop-off bus tours in New York City. The antitrust compliance program shall provide at least two hours of training annually on the antitrust laws, such training to be delivered by an attorney with relevant experience in the field of antitrust law.

C. Each Antitrust Compliance Officer shall obtain, within six months after entry of this Final Judgment, and on an annual basis thereafter, on or before each anniversary of the entry of this Final Judgment, from each person subject to Section XI.B of this Final Judgment, and thereafter maintaining, a certification that each such person has received the required two hours of annual antitrust training.

D. Each Antitrust Compliance Officer shall communicate annually to all employees that they may disclose to the Antitrust Compliance Officer, without reprisal, information concerning any potential violation of the antitrust laws.

E. Each Antitrust Compliance Offer shall provide to Plaintiffs within six months after entry of this Final Judgment, and on an annual basis thereafter, on or before each anniversary of the entry of this Final Judgment, a written statement as to the fact and manner of the Defendant's compliance with Section XI of this Final Judgment.

**XII. No Reacquisition**

For a period of five years from the date of entry of this Final Judgment, Defendants may not apply for or obtain any bus stop authorizations for hop-on, hop-off bus tours at the locations of the divested CitySights Bus Stop Authorizations, except that, after May 1, 2016, if the NYCDOT revokes a bus stop authorization currently granted to an affiliate of Twin America other than City Sights, Defendants may apply for or obtain a bus stop authorization at the location of a divested CitySights Bus Stop Authorization that is at or in close proximity to the location of the bus stop authorization NYCDOT has revoked. Nothing in this Final Judgment shall be construed to prohibit Defendants from applying for or obtaining from the NYCDOT bus stop authorizations at locations other than the locations of the CitySights Bus Stop Authorizations, nor to limit the NYCDOT's ability to alter or amend Defendants' bus stop authorizations.

**XIII. Retention of Jurisdiction**

This Court retains jurisdiction to enable any party to this Final Judgment to apply to this Court at any time for further orders and directions as may be necessary or appropriate to carry out or construe this Final Judgment, to modify any of its provisions, to enforce compliance, and to punish violations of its provisions.

**XIV. Expiration of Final Judgment**

Unless this Court grants an extension, this Final Judgment shall expire ten years from the date of its entry, except that Sections XI and XII shall expire five years from the date of this Final Judgment's entry.

**XV. Public Interest Determination**

Entry of this Final Judgment is in the public interest. The parties have complied with the requirements of the Antitrust Procedures and Penalties Act, 15 U.S.C. 16, including making copies available to the public of this Final Judgment, the Competitive Impact Statement, and any comments thereon and the United States' responses to comments. Based upon the record before the Court, which includes the Competitive Impact Statement and any comments and response to comments filed with the Court, entry of this Final Judgment is in the public interest.

Dated:

_____

Judge Andrew L. Carter, Jr.

*United States District Judge*

[FR Doc. 2015–07055 Filed 3–26–15; 8:45 am]

BILLING CODE P

## DEPARTMENT OF JUSTICE

### Drug Enforcement Administration

**[Docket No. DEA–392]**

### Importer of Controlled Substances Application: Mylan Pharmaceuticals, Inc.

**ACTION:** Notice of application.

**DATES:** Registered bulk manufacturers of the affected basic classes, and applicants therefore, may file written comments on or objections to the issuance of the proposed registration in accordance with 21 CFR 1301.34(a) on or before April 27, 2015. Such persons may also file a written request for a hearing on the application pursuant to 21 CFR 1301.43 on or before April 27, 2015.

**ADDRESSES:** Written comments should be sent to: Drug Enforcement Administration, Attention: DEA **Federal Register** Representative/ODW, 8701 Morrissette Drive, Springfield, Virginia 22152. Request for hearings should be sent to: Drug Enforcement Administration, Attention: Hearing Clerk/LJ, 8701 Morrissette Drive, Springfield, Virginia 22152

**SUPPLEMENTARY INFORMATION:** The Attorney General has delegated his authority under the Controlled Substances Act to the Administrator of the Drug Enforcement Administration (DEA), 28 CFR 0.100(b). Authority to exercise all necessary functions with respect to the promulgation and implementation of 21 CFR part 1301, incident to the registration of manufacturers, distributors, dispensers, importers, and exporters of controlled substances (other than final orders in connection with suspension, denial, or revocation of registration) has been redelegated to the Deputy Assistant Administrator of the DEA Office of Diversion Control (''Deputy Assistant Administrator'') pursuant to section 7 of 28 CFR part 0, appendix to subpart R.

In accordance with 21 CFR 1301.34(a), this is notice that on October 13, 2014, Mylan Pharmaceuticals, Inc., 3711 Collins Ferry Road, Morgantown, West Virginia 26505, applied to be registered as an importer of the following basic classes of controlled substances:

| Controlled substance | Schedule |
|---|---|
| Amphetamine (1100) | II |
| Lisdexamfetamine (1205) | II |
| Methylphenidate (1724) | II |
| Pentobarbital (2270) | II |
| Oxycodone (9143) | II |
| Hydromorphone (9150) | II |
| Hydrocodone (9193) | II |
| Levorphanol (9220) | II |
| Morphine (9300) | II |
| Oxymorphone (9652) | II |
| Remifentanil (9739) | II |
| Fentanyl (9801) | II |

The company plans to import the listed controlled substances in finished dosage form (FDF) from foreign sources for analytical testing and clinical trials in which the foreign FDF will be compared to the company's own domestically-manufactured FDF. This analysis is required to allow the company to export domestically-manufactured FDF to foreign markets.

Dated: March 20, 2015.

**Joseph T. Rannazzisi,**

*Deputy Assistant Administrator.*

[FR Doc. 2015–06967 Filed 3–26–15; 8:45 am]

BILLING CODE 4410–09–P

## DEPARTMENT OF JUSTICE

**[OMB Number 1140–0031]**

### Agency Information Collection Activities: Proposed eCollection eComments Requested; Records of Acquisition and Disposition, Registered Importers of Arms, Ammunition, and Implements of War on the U.S. Munitions Imports List

**AGENCY:** Bureau of Alcohol, Tobacco, Firearms and Explosives, Department of Justice.

**ACTION:** 30-day notice.

**SUMMARY:** The Department of Justice (DOJ), Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) will submit the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. This proposed information collection was previously published in the **Federal Register** Volume 80, Number 14, page 3252 on January 22, 2015, allowing for a 60 day comment period.

**DATES:** The purpose of this notice is to allow for an additional 30 days for public comment until April 27, 2015.

**FOR FURTHER INFORMATION CONTACT:** If you have comments, especially on the estimated public burden or associated response time, suggestions, or need a copy of the proposed information collection instrument with instructions

or additional information, please contact William Majors at *William.Majors@atf.gov.* Written comments and/or suggestions can also be directed to the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention Department of Justice Desk Officer, Washington, DC 20503 or send email to *OIRA_submission@omb.eop.gov.*

**SUPPLEMENTARY INFORMATION:** Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

**Overview of This Information Collection 1140–0031**

(1) *Type of Information Collection:* Extension of an existing collection.

(2) *Title of the Form/Collection:* Records of Acquisition and Disposition, Registered Importers of Arms, Ammunition, and Implements of War on the U.S. Munitions Imports List.

(3) *Agency form number, if any, and the applicable component of the Department sponsoring the collection:*

Form number: None.

Component: Bureau of Alcohol, Tobacco, Firearms and Explosives, U.S. Department of Justice.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:*

Primary: Business or other for-profit.

Other: None.

Abstract: The records are of imported items that are on the United States Munitions Import List. The importers must register with ATF and must file an intent to import specific items as well as certify to the Bureau that the items were in fact received. The records are maintained at the registrant's business premises where they are available for inspection by ATF officers during compliance inspections or criminal investigations.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* An estimated 50 respondents will take 5 hours to maintain records.

(6) *An estimate of the total public burden (in hours) associated with the collection:* The estimated annual public burden associated with this collection is 250 hours.

If additional information is required contact: Jerri Murray, Department Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Two Constitution Square, 145 N Street NE., Room 3E.405B, Washington, DC 20530.

Dated: March 24, 2015.

**Jerri Murray,**

*Department Clearance Officer for PRA, U.S. Department of Justice.*

[FR Doc. 2015–07042 Filed 3–26–15; 8:45 am]

**BILLING CODE 4410–FY–P**

## DEPARTMENT OF JUSTICE

### Notice of Lodging of Proposed Consent Decree Under the Clean Air Act

On March 23, 2015, the Department of Justice lodged a proposed Consent Decree with the United States District Court for the Western District of Oklahoma in the lawsuit entitled *United States et al.* v. *Continental Carbon Company,* Civil Case. No. 5:15–cv–00290–F (W.D. Okla.).

In this civil enforcement action under the federal Clean Air Act (''Act''), the United States and the States of Alabama and Oklahoma allege that Continental Carbon Company (''Defendant''), failed to comply with certain requirements of the Act intended to protect air quality at three Carbon black manufacturing facilities in Phenix City, Alabama, Ponca City, Oklahoma, and Sunray, Texas. The complaint seeks injunctive relief and civil penalties for violations of the Clean Air Act's Prevention of Significant Deterioration (''PSD'') provisions, 42 U.S.C. 7470–92, the Act's Title V permit provisions (''Title V''), 42 U.S.C. 7661a–76661f, and various Clean Air Act implementing regulations. The complaint alleges that Defendant failed to obtain appropriate permits and failed to install and operate required pollution control devices to reduce emissions of sulfur dioxide (''$SO_2$'') and/or nitrogen oxides (''$NO_X$'') at the Phenix City, Ponca City, and Sunray facilities.

The proposed Consent Decree would resolve violations for certain provisions of the Act at the three facilities, and would require the Defendant to reduce harmful $SO_2$, $NO_X$, and particulate matter emissions through the installation and operation of pollution controls. The Defendant will also spend $550,000 to fund environmental mitigation projects that will further reduce emissions and benefit communities adversely affected by the pollution from the facilities, and pay a civil penalty of $650,000.

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 et al.* v. *Continental Carbon Company,* Civil Case. No. 5:15–cv–00290–F (W.D. Okla.), D.J. Ref. No. 90–5–2–1–09729. 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.* The Justice Department 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 $26.75 (25 cents per page reproduction cost) payable to the United States Treasury.

**Thomas Carroll,**

*Assistant Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.*

[FR Doc. 2015–07015 Filed 3–26–15; 8:45 am]

**BILLING CODE 4410–15–P**

## DEPARTMENT OF JUSTICE

**[OMB Number 1140–0060]**

### Agency Information Collection Activities: Proposed eCollection eComments Requested; Firearms Disabilities for Nonimmigrant Aliens

**AGENCY:** Bureau of Alcohol, Tobacco, Firearms and Explosives, Department of Justice.

**ACTION:** 30-Day notice.

**SUMMARY:** The Department of Justice (DOJ), Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) will submit the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. This proposed information collection was previously published in the **Federal Register** Volume 80, Number 14, page 3253, on January 22, 2015, allowing for a 60 day comment period.

**DATES:** The purpose of this notice is to allow for an additional 30 days for public comment until April 27, 2015.

**FOR FURTHER INFORMATION CONTACT:** If you have comments, especially on the estimated public burden or associated response time, suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, please contact Helen Koppe at *fipb-informationcollection@atf.gov.* Written comments and/or suggestions can also be directed to the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention Department of Justice Desk Officer, Washington, DC 20503 or send email to *OIRA_submission@omb.eop.gov.*

**SUPPLEMENTARY INFORMATION:** Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

**Overview of This Information Collection 1140–0060**

(1) *Type of Information Collection:* Extension of an existing collection.

(2) *Title of the Form/Collection:* Firearms Disabilities for Nonimmigrant Aliens.

(3) *Agency form number, if any, and the applicable component of the Department sponsoring the collection:*

*Form number:* None.

*Component:* Bureau of Alcohol, Tobacco, Firearms and Explosives, U.S. Department of Justice.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:*

*Primary:* Business or other for-profit.

*Other:* None.

*Abstract:* The nonimmigrant alien information will be used to determine if a nonimmigrant alien is eligible to purchase, obtain, possess, or import a firearm.

Nonimmigrant aliens also must maintain the documents while in possession of firearms or ammunition in the United States for verification purposes.

(5) An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond: An estimated 15,871 respondents will take 6 minutes to respond.

(6) An estimate of the total public burden (in hours) associated with the collection: The estimated annual public burden associated with this collection is 1,587 hours.

If additional information is required contact: Jerri Murray, Department Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Two Constitution Square, 145 N Street NE., Room 3E.405B, Washington, DC 20530.

Dated: March 24, 2015.

**Jerri Murray,**

*Department Clearance Officer for PRA, U.S. Department of Justice.*

[FR Doc. 2015–07043 Filed 3–26–15; 8:45 am]

**BILLING CODE 4410–FY–P**

## DEPARTMENT OF JUSTICE

**[OMB Number 1140–0067]**

### Agency Information Collection Activities: Proposed eCollection eComments Requested; Licensed Firearms Manufacturers Records of Production, Disposition, and Supporting Data

**AGENCY:** Bureau of Alcohol, Tobacco, Firearms and Explosives, Department of Justice.

**ACTION:** 30-day notice.

**SUMMARY:** The Department of Justice (DOJ), Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) will submit the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. This proposed information collection was previously published in the **Federal Register** Volume 80, Number 14, page 3253 on January 22, 2015, allowing for a 60 day comment period.

**DATES:** The purpose of this notice is to allow for an additional 30 days for public comment until April 27, 2015.

**FOR FURTHER INFORMATION CONTACT:** If you have comments, especially on the estimated public burden or associated response time, suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, please contact Helen Koppe at *fipb-informationcollection@atf.gov.* Written comments and/or suggestions can also be directed to the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention Department of Justice Desk Officer, Washington, DC 20503 or send email to *OIRA_submission@omb.eop.gov.*

**SUPPLEMENTARY INFORMATION:** Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and

• Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

**Overview of This Information Collection 1140–0067**

(1) *Type of Information Collection:* Extension of an existing collection.

(2) *Title of the Form/Collection:* Licensed Firearms Manufacturers Records of Production, Disposition, and Supporting Data.

(3) *Agency form number, if any, and the applicable component of the Department sponsoring the collection:*

Form number: None.

Component: Bureau of Alcohol, Tobacco, Firearms and Explosives, U.S. Department of Justice.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:*

Primary: Business or other for-profit.

Other: None.

Abstract: Firearms manufacturers' records are permanent records of all firearms manufactured and records of their disposition. These records are vital to support ATF's mission to inquire into the disposition of any firearm in the course of a criminal investigation.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* An estimated 2,378 respondents will take 1.068 minutes to maintain records.

(6) *An estimate of the total public burden (in hours) associated with the collection:* The estimated annual public burden associated with this collection is 177,534 hours.

If additional information is required contact: Jerri Murray, Department Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Two Constitution Square, 145 N Street NE., Room 3E.405B, Washington, DC 20530.

Dated: March 24, 2015.

**Jerri Murray,**

*Department Clearance Officer for PRA, U.S. Department of Justice.*

[FR Doc. 2015–07044 Filed 3–26–15; 8:45 am]

**BILLING CODE 4410–FY–P**

## DEPARTMENT OF JUSTICE

**[OMB Number 1140–0024]**

## Agency Information Collection Activities: Proposed eCollection eComments Requested; Report of Firearms Transaction—Demand 2

**AGENCY:** Bureau of Alcohol, Tobacco, Firearms and Explosives, Department of Justice.

**ACTION:** 30-day Notice.

**SUMMARY:** The Department of Justice (DOJ), Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) will submit the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. This proposed information collection was previously published in the **Federal Register** Volume 80, Number 13, page 2972, on January 21, 2015, allowing for a 60 day comment period.

**DATES:** The purpose of this notice is to allow for an additional 30 days for public comment until April 27, 2015.

**FOR FURTHER INFORMATION CONTACT:** If you have comments, especially on the estimated public burden or associated response time, suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, please contact Helen Koppe at *fipb-informationcollection@atf.gov.* Written comments and/or suggestions can also be directed to the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention Department of Justice Desk Officer, Washington, DC 20503 or send email to *OIRA_submission@omb.eop.gov.*

**SUPPLEMENTARY INFORMATION:** Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

• Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

• Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

• Enhance the quality, utility, and clarity of the information to be collected; and

• Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

**Overview of This Information Collection 1140–0024**

(1) *Type of Information Collection:* Extension of an existing collection.

(2) *Title of the Form/Collection:* Report of Firearms Transaction—Demand 2.

(3) *Agency form number, if any, and the applicable component of the Department sponsoring the collection:*

Form number: ATF F 5300.5.

Component: Bureau of Alcohol, Tobacco, Firearms and Explosives, U.S. Department of Justice.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:*

Primary: Business or other for-profit.

Other: None.

Abstract: The information collection documents transactions of firearms for law enforcement purposes. ATF uses the information to determine that the transaction is in accordance with laws and regulations, and establishes the person(s) involved in the transactions.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* An estimated 1,322 respondents will take 30 minutes to complete the form.

(6) *An estimate of the total public burden (in hours) associated with the collection:* The estimated annual public burden associated with this collection is 2,644 hours.

If additional information is required contact: Jerri Murray, Department Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Two Constitution Square, 145 N Street NE., Room 3E.405B, Washington, DC 20530.

Dated: March 24, 2015.

**Jerri Murray,**

*Department Clearance Officer for PRA, U.S. Department of Justice.*

[FR Doc. 2015–07041 Filed 3–26–15; 8:45 am]

**BILLING CODE 4410–FY–P**

## DEPARTMENT OF JUSTICE

### Drug Enforcement Administration

**[Docket No. DEA–392]**

### Bulk Manufacturer of Controlled Substances Application: Apertus Pharmaceuticals

**ACTION:** Notice of application.

**DATES:** Registered bulk manufacturers of the affected basic classes, and applicants therefore, may file written comments on or objections to the issuance of the proposed registration in accordance with 21 CFR 1301.33(a) on or before May 26, 2015.

**ADDRESSES:** Written comments should be sent to: Drug Enforcement Administration, Attention: DEA **Federal Register** Representative/ODW, 8701 Morrissette Drive, Springfield, Virginia 22152. Request for hearings should be sent to: Drug Enforcement Administration, Attention: Hearing Clerk/LJ, 8701 Morrissette Drive, Springfield, Virginia 22152.

**SUPPLEMENTARY INFORMATION:** The Attorney General has delegated his authority under the Controlled Substances Act to the Administrator of the Drug Enforcement Administration (DEA), 28 CFR 0.100(b). Authority to exercise all necessary functions with respect to the promulgation and implementation of 21 CFR part 1301, incident to the registration of manufacturers, distributors, dispensers, importers, and exporters of controlled substances (other than final orders in connection with suspension, denial, or revocation of registration) has been redelegated to the Deputy Assistant Administrator of the DEA Office of Diversion Control (''Deputy Assistant Administrator'') pursuant to section 7 of 28 CFR part 0, appendix to subpart R.

In accordance with 21 CFR 1301.33(a), this is notice that on March 20, 2014, Apertus Pharmaceuticals, 331 Consort Drive, St. Louis, Missouri 63011, applied to be registered as a bulk manufacturer of the following basic classes of controlled substances:

| Controlled substance | Schedule |
|---|---|
| Marihuana (7360) | I |
| Tetrahydrocannabinols (7370) | I |

The company plans to divide the synthesized cannabidiol, with a portion going for sale as an API in nabiximol. The raw material will be used to synthesize dronabinol. Therefore, they anticipate consuming and purchasing small quantities of CS for generating data to support the Drug Master File with the FDA including validation batches, standards and stability studies.

No other activity for this drug code is authorized for this registration.

Dated: March 20, 2015.

**Joseph T. Rannazzisi,**

*Deputy Assistant Administrator.*

[FR Doc. 2015–06966 Filed 3–26–15; 8:45 am]

**BILLING CODE 4410–09–P**

## DEPARTMENT OF LABOR

### Occupational Safety and Health Administration

**[Docket No. OSHA–2012–0035]**

### Traylor/Skanska/Jay Dee Joint Venture: Grant of a Permanent Variance

**AGENCY:** Occupational Safety and Health Administration (OSHA), Labor.

**ACTION:** Notice.

**SUMMARY:** In this notice, OSHA grants a permanent variance to Traylor/Skanska/Jay Dee Joint Venture from the provisions of OSHA standards that regulate work in compressed air environments at 29 CFR 1926.803.

**DATES:** The permanent variance specified by this notice becomes effective on March 27, 2015 and shall remain in effect until January 31, 2016.

**FOR FURTHER INFORMATION CONTACT:** Information regarding this notice is available from the following sources:

*Press inquiries:* Contact Mr. Frank Meilinger, Director, OSHA Office of Communications, U.S. Department of Labor, 200 Constitution Avenue NW., Room N–3647, Washington, DC 20210; telephone: (202) 693–1999; email: *Meilinger.francis2@dol.gov.*

*General and technical information:* Contact Mr. Kevin Robinson, Acting Director, Office of Technical Programs and Coordination Activities, Directorate of Technical Support and Emergency Management, Occupational Safety and Health Administration, U.S. Department of Labor, 200 Constitution Avenue NW., Room N–3655, Washington, DC 20210; phone: (202) 693–2110 or email: *robinson.kevin@dol.gov.*

**SUPPLEMENTARY INFORMATION:**

*Copies of this **Federal Register** notice.* Electronic copies of this **Federal Register** notice are available at *http://www.regulations.gov.* This **Federal Register** notice, as well as news releases and other relevant information, also are available at OSHA's Web page at *http://www.osha.gov.*

### I. Notice of Application

On April 26, 2012, Traylor Bros., Inc., 835 N. Congress Ave., Evansville, IN 47715, and Traylor/Skanska/Jay Dee Joint Venture, Blue Plains Tunnel, 5000 Overlook Avenue SW., Washington, DC 20032, submitted under Section 6(d) of the Occupational Safety and Health Act of 1970 (''OSH Act''; 29 U.S.C. 655) and 29 CFR 1905.11 (''Variances and other relief under section 6(d)'') an application for a permanent variance from several provisions of the OSHA standard that regulates work in compressed air at 29 CFR 1926.803. OSHA is addressing this request as two separate applications: (1) Traylor Bros., Inc. (''Traylor'') request for a permanent variance for future tunneling projects; and (2) Traylor/Skanska/Jay Dee Joint Venture, Blue Plains Tunnel (''Traylor JV'' or ''the applicant''). This notice only addresses the Traylor JV application for an interim order and permanent variance for the Blue Plains Tunnel project.[1] This notice does not address the Traylor application for a permanent variance for future projects. That request will be addressed separately.

Traylor JV also requested an interim order pending OSHA's decision on the application for a variance (Ex. OSHA–2012–0035–0008). Specifically, this notice addresses the application submitted by Traylor JV for the Blue Plains Tunnel project in which the applicant seeks a permanent variance and interim order from the provisions of the standard that: (1) Prohibit compressed-air worker exposure to pressures exceeding 50 pounds per square inch (p.s.i.) except in an emergency (29 CFR 1926.803(e)(5));[2] (2) require the use of the decompression values specified in decompression tables in Appendix A of the compressed-air standard for construction (29 CFR 1926.803(f)(1)); and (3) require the use of automated operational controls and a special decompression chamber (29 CFR 1926.803(g)(1)(iii) and .803(g)(1)(xvii), respectively).

The applicant is a contractor that works on complex tunnel projects using recently developed equipment and procedures for soft-ground tunneling. The applicant's workers engage in the construction of tunnels using advanced shielded mechanical excavation

[1] See Section III discussion of condition A Scope.

[2] The decompression tables in Appendix A of subpart S express the maximum working pressures as pounds per square inch gauge (p.s.i.g.), with a maximum working pressure of 50 p.s.i.g. Therefore, throughout this notice, OSHA expresses the 50 p.s.i. value specified by § 1926.803(e)(5) as 50 p.s.i.g., consistent with the terminology in Appendix A, Table 1 of subpart S.

techniques in conjunction with an earth pressure balanced tunnel boring machine (EPBTBM).

According to its application, Traylor is currently the managing partner of Traylor/Skanska/Jay Dee Joint Venture (''Traylor JV''), the general contractor for the DC Water and Sewer Authority's project to construct the Blue Plains Tunnel. Traylor JV asserts that generally, it bores tunnels (*i.e.,* Blue Plains Tunnel) below the water table through soft soils consisting of clay, silt, and sand. Traylor JV employs specially trained personnel for the construction of the tunnel, and states that this construction will use shielded mechanical-excavation techniques. Traylor JV asserts that its workers perform hyperbaric interventions at pressures greater than 50 p.s.i.g. in the excavation chamber of the EPBTBM; these interventions consist of conducting inspections and maintenance work on the cutter-head structure and cutting tools of the EPBTBM.

Traylor JV asserts that innovations in tunnel excavation, specifically with EPBTBMs, have, in most cases, eliminated the need to pressurize the entire tunnel. This technology negates the requirement that all members of a tunnel-excavation crew work in compressed air while excavating the tunnel. These advances in technology modified substantially the methods used by the construction industry to excavate subaqueous tunnels compared to the caisson work regulated by the current OSHA compressed-air standard for construction at 29 CFR 1926.803. Such advances reduce the number of workers exposed, and the total duration of exposure, to hyperbaric pressure during tunnel construction.

Using shielded mechanical-excavation techniques, in conjunction with precast concrete tunnel liners and backfill grout, EPBTBMs provide methods to achieve the face pressures required to maintain a stabilized tunnel face through various geologies, and isolate that pressure to the forward section (the working chamber) of the EPBTBM. Interventions in the working chamber (the pressurized portion of the EPBTBM) take place only after halting tunnel excavation and preparing the machine and crew for an intervention. Interventions occur to inspect or maintain the mechanical-excavation components located in the working chamber. Maintenance conducted in the working chamber includes changing replaceable cutting tools and disposable wear bars, and, in rare cases, repairing structural damage to the cutter head.

In addition to innovations in tunnel-excavation methods, Traylor JV asserts that innovations in hyperbaric medicine and technology improve the safety of decompression from hyperbaric exposures. According to Traylor JV, the use of decompression protocols incorporating oxygen is at least as effective for tunnel workers as compliance with the decompression tables specified by the existing OSHA standard (29 CFR part 1926, subpart S, Appendix A decompression tables). These hyperbaric exposures are possible due to advances in technology, a better understanding of hyperbaric medicine, and the development of a project-specific Hyperbaric Operations Manual (HOM) that requires specialized medical support and hyperbaric supervision to provide assistance to a team of specially trained man-lock attendants and hyperbaric or compressed-air workers.

OSHA initiated a technical review of the Traylor JV's variance application and developed a set of follow-up questions that it sent to Traylor JV on September 17, 2012 (Ex. OSHA–2012–0035–0003). On October 26, 2012, Traylor JV submitted its response and a request for an interim order for the Blue Plains Tunnel Project (Ex. OSHA–2012–0035–0008). In its response to OSHA's follow-up questions, Traylor JV indicated that the maximum pressure to which it is likely to expose workers during interventions for the Blue Plains Tunnel project is 52 p.s.i.g. and does not involve the use of trimix breathing gas (composed of a mixture of oxygen, nitrogen, and helium in varying concentrations used for breathing by compressed air workers for compression and decompression when working at pressures exceeding 73 p.s.i.g.). Therefore, to work effectively on this project, Traylor JV must perform hyperbaric interventions in compressed air at pressures higher than the maximum pressure specified by the existing OSHA standard, 29 CFR 1926.803(e)(5), which states: ''No employee shall be subjected to pressure exceeding 50 p.s.i.g. except in emergency'' (see footnote 2).

OSHA considered Traylor JV's application for a permanent variance and interim order for the Blue Plains Tunnel project. OSHA determined that Traylor JV proposed an alternative that will provide a workplace as safe and healthful as that provided by the standard. On July 11, 2013, OSHA granted Traylor JV a project-specific interim order for the completion of the Blue Plains Tunnel (Ex. OSHA–2012–0035–0011) in order to permit the applicant to begin work while OSHA continued to consider its application for a permanent variance. Further, on December 11, 2014, OSHA published a **Federal Register** notice announcing Traylor JV's application for a permanent variance and interim order, grant of an interim order, and request for comments (79 FR 73631) for the Blue Plains Tunnel project.

## II. The Variance Application

### *A. Background*

As indicated earlier in this notice, Traylor JV asserts that the advances in tunnel excavation technology described in Section I of this notice modified significantly the equipment and methods used by contractors to construct subaqueous tunnels, thereby making several provisions of OSHA's compressed-air standard for construction at 29 CFR 1926.803 inappropriate for this type of work. These advances reduce both the number of workers exposed, and the total duration of exposure, to the hyperbaric conditions associated with tunnel construction.

Using shielded mechanical-excavation techniques, in conjunction with pre-cast concrete tunnel liners and backfill grout, EPBTBMs provide methods to achieve the face pressures required to maintain a stabilized tunnel face, through various geologies, while isolating that pressure to the forward section (working or excavation chamber) of the EPBTBM.

Interventions involving the working chamber (the pressurized chamber at the head of the EPBTBM) take place only after the applicant halts tunnel excavation and prepares the machine and crew for an intervention. Interventions occur to inspect or maintain the mechanical-excavation components located in the forward portion of the working chamber. Maintenance conducted in the forward portion of the working chamber includes changing replaceable cutting tools, disposable wear bars, and, in rare cases, repairs to the cutter head due to structural damage.

In addition to innovations in tunnel-excavation methods, research conducted after OSHA published its compressed-air standard for construction in 1971, resulted in advances in hyperbaric medicine. In this regard, the applicant asserts that the use of decompression protocols incorporating oxygen is more efficient, effective, and safer for tunnel workers than compliance with the existing OSHA standard (29 CFR part 1926, subpart S, Appendix A decompression tables). According to the applicant, contractors routinely and safely expose employees performing

interventions in the working chamber of EPBTBMs to hyperbaric pressures up to 75 p.s.i.g., which is 50% higher than maximum pressure specified by the existing OSHA standard (see 29 CFR 1926.803(e)(5)).

The applicant contends that the alternative safety measures included in its application provide its workers with a place of employment that is at least as safe and healthful as they would obtain under the existing provisions of OSHA's compressed-air standard for construction. The applicant certifies that it provided employee representatives of affected workers with a copy of the variance application.[3] The applicant also certifies that it notified its workers of the variance application by posting, at prominent locations where it normally posts workplace notices, a summary of the application and information specifying where the workers can examine a copy of the application. In addition, the applicant informed its workers and their representatives of their rights to petition the Assistant Secretary of Labor for Occupational Safety and Health for a hearing on the variance application.

*B. Variance From Paragraph (e)(5) of 29 CFR 1926.803, Prohibition of Exposure to Pressure Greater Than 50 p.s.i.g. (See Footnote 1)*

The applicant states that it may perform hyperbaric interventions at pressures greater than 50 p.s.i.g. in the working chamber of the EPBTBM; this pressure exceeds the pressure limit of 50 p.s.i.g. specified for nonemergency purposes by 29 CFR 1926.803(e)(5). The EPBTBM has twin man locks, with each man lock having two compartments. This configuration allows workers to access the man locks for compression and decompression, and medical personnel to access the man locks if required in an emergency.

EPBTBMs are capable of maintaining pressure at the tunnel face, and stabilizing existing geological conditions, through the controlled use of propel cylinders, a mechanically driven cutter head, bulkheads within the shield, ground-treatment foam, and a screw conveyor that moves excavated material from the working chamber. As noted earlier, the forward-most portion of the EPBTBM is the working chamber, and this chamber is the only pressurized segment of the EPBTBM. Within the shield, the working chamber consists of two sections: The staging chamber and the forward working chamber. The staging chamber is the section of the working chamber between the man-lock door and the entry door to the forward working chamber. The forward working chamber is immediately behind the cutter head and tunnel face.

The applicant will pressurize the working chamber to the level required to maintain a stable tunnel face. Pressure in the staging chamber ranges from atmospheric (no increased pressure) to a maximum pressure equal to the pressure in the working chamber. The applicant asserts that most of the hyperbaric interventions will be around 14.7 p.s.i.g. However, the applicant maintains that they may have to perform interventions at pressures up to 52 p.s.i.g.

During interventions, workers enter the working chamber through one of the twin man locks that open into the staging chamber. To reach the forward part of the working chamber, workers pass through a door in a bulkhead that separates the staging chamber from the forward working chamber. The maximum crew size allowed in the forward working chamber is three. At certain hyperbaric pressures (*i.e.,* when decompression times are greater than work times), the twin man locks allow for crew rotation. During crew rotation, one crew can be compressing or decompressing while the second crew is working. Therefore, the working crew always has an unoccupied man lock at its disposal.

The applicant developed a project-specific HOM for the Blue Plains Tunnel (Ex. OSHA–2012–0035–0007) that describes in detail the hyperbaric procedures and required medical examinations used during the tunnel-construction project. The HOM discusses standard operating procedures and emergency and contingency procedures. The procedures include using experienced and knowledgeable man-lock attendants who have the training and experience necessary to recognize and treat decompression illnesses and injuries. The attendants are under the direct supervision of the hyperbaric supervisor and attending physician. In addition, procedures include medical screening and review of prospective compressed-air workers (CAWs). The purpose of this screening procedure is to vet prospective CAWs with medical conditions (*e.g.,* deep vein thrombosis, poor vascular circulation, and muscle cramping) that could be aggravated by sitting in a cramped space (*e.g.,* a man lock) for extended periods or by exposure to elevated pressures and compressed gas mixtures. A transportable recompression chamber (shuttle) is available to extract workers from the hyperbaric working chamber for emergency evacuation and medical treatment; the shuttle attaches to the topside medical lock, which is a large recompression chamber. The applicant believes that the procedures included in the HOM provide safe work conditions when interventions are necessary, including interventions above 50 p.s.i.g.

*C. Variance From Paragraph (f)(1) of 29 CFR 1926.803, Requirement To Use OSHA Decompression Tables*

OSHA's compressed-air standard for construction requires decompression in accordance with the decompression tables in Appendix A of 29 CFR part 1926, subpart S (see 29 CFR 1926.803(f)(1)). As an alternative to the OSHA decompression tables, the applicant proposes to use newer decompression schedules that supplement breathing air used during decompression with pure oxygen. The applicant asserts that these decompression protocols are safer for tunnel workers than the decompression protocols specified in Appendix A of 29 CFR part 1926, subpart S.

Accordingly, the applicant proposes to use the 1992 French Decompression Tables to decompress CAWs after they exit the hyperbaric conditions in the working chamber. Depending on the maximum working pressure and exposure times, the 1992 French Decompression Tables provide for air decompression with or without oxygen. Traylor JV asserts that oxygen decompression has many benefits, including (1) keeping the partial pressure of nitrogen in the lungs as low as possible; (2) keeping external pressure as low as possible to reduce the formation of bubbles in the blood; (3) removing nitrogen from the lungs and arterial blood and increasing the rate of elimination of nitrogen; (4) improving the quality of breathing during decompression stops so that workers are less tired and to prevent bone necrosis; (5) reducing decompression time by about 33 percent as compared to air decompression; and (6) reducing inflammation. As described in Section V of this notice, OSHA's review of the use of oxygen in several major tunneling projects completed in the past indicates that it contributed significantly to the reduction of decompression illness (DCI) and other associated adverse effects observed and reported among CAWs.

In addition, the HOM requires a physician certified in hyperbaric medicine to manage the medical condition of CAWs during hyperbaric exposures and decompression. A trained and experienced man-lock attendant also will be present during

[3] See the definition of ''Affected employee or worker'' in section VI. D.

hyperbaric exposures and decompression. This man-lock attendant will operate the hyperbaric system to ensure compliance with the specified decompression table. A hyperbaric supervisor (competent person), trained in hyperbaric operations, procedures, and safety, directly oversees all hyperbaric interventions, and ensures that staff follow the procedures delineated in the HOM or by the attending physician.

The applicant asserts that at higher hyperbaric pressures, decompression times exceed 75 minutes. The HOM establishes protocols and procedures that provide the basis for alternate means of protection for CAWs under these conditions. Accordingly, based on these protocols and procedures, the applicant requests to use the 1992 French Decompression Tables for hyperbaric interventions up to 52 p.s.i.g. for completion of the Blue Plains Tunnel project. The applicant is committed to follow the decompression procedures described in the Blue Plains Tunnel project-specific HOM during these interventions.

*D. Variance From Paragraph (g)(1)(iii) of 29 CFR 1926.803, Automatically Regulated Continuous Decompression*

According to the applicant, breathing air under hyperbaric conditions increases the amount of nitrogen gas dissolved in a CAW's tissues. The greater the hyperbaric pressure under these conditions, and the more time spent under the increased pressure, the greater the amount of nitrogen gas dissolved in the tissues. When the pressure decreases during decompression, tissues release the dissolved nitrogen gas into the blood system, which then carries the nitrogen gas to the lungs for elimination through exhalation. Releasing hyperbaric pressure too rapidly during decompression can increase the size of the bubbles formed by nitrogen gas in the blood system, resulting in DCI, commonly referred to as ''the bends.'' This description of the etiology of DCI is consistent with current scientific theory and research on the issue (see footnote 13 in this notice discussing a 1985 NIOSH report on DCI).

The 1992 French Decompression Tables proposed for use by the applicant provide for stops during worker decompression (*i.e.,* staged decompression) to control the release of nitrogen gas from tissues into the blood system. Studies show that staged decompression, in combination with other features of the 1992 French Decompression Tables such as the use of oxygen, result in a lower incidence of DCI than the OSHA decompression requirements of 29 CFR 1926.803, which specify the use of automatically regulated continuous decompression (see footnotes 9 through 14 in this notice for references to these studies).[4] In addition, the applicant asserts that staged decompression is at least as effective as an automatic controller in regulating the decompression process because:

1. A hyperbaric supervisor (a competent person experienced and trained in hyperbaric operations, procedures, and safety) directly supervises all hyperbaric interventions and ensures that the man-lock attendant, who is a competent person in the manual control of hyperbaric systems, follows the schedule specified in the decompression tables, including stops; and

2. The use of the 1992 French Decompression Tables for staged decompression offers an equal or better level of management and control over the decompression process than an automatic controller and results in lower occurrences of DCI.

Accordingly, the applicant is applying for a permanent variance from the OSHA standard at 29 CFR 1926.803(g)(1)(iii), which requires automatic controls to regulate decompression. As noted above, the applicant is committed to conduct the staged decompression according to the 1992 French Decompression Tables under the direct control of the trained man-lock attendant and under the oversight of the hyperbaric supervisor.

*E. Variance From Paragraph (g)(1)(xvii) of 29 CFR 1926.803, Requirement of Special Decompression Chamber*

The OSHA compressed-air standard for construction requires employers to use a special decompression chamber when total decompression time exceeds 75 minutes (see 29 CFR 1926.803(g)(1)(xvii)). Another provision of OSHA's compressed-air standard calls for locating the special decompression chamber adjacent to the man lock on the atmospheric pressure side of the tunnel bulkhead (see 29 CFR 1926.803(g)(2)(vii)). However, since only the working chamber of the EPBTBM is under pressure, and only a few workers out of the entire crew are exposed to hyperbaric pressure, the man locks (which, as noted earlier, connect directly to the working chamber) are of sufficient size to accommodate the exposed workers. In addition, available space in the EPBTBM does not allow for an additional special decompression lock. Again, the applicant uses the man locks, each of which adequately accommodates a three-member crew, for this purpose when decompression lasts up to 75 minutes. When decompression exceeds 75 minutes, crews can open the door connecting the two compartments in each man lock during decompression stops or exit the man lock and move into the staging chamber where additional space is available. This alternative enables CAWs to move about and flex their joints to prevent neuromuscular problems during decompression.

*F. Previous Tunnel Construction Variance*

OSHA notes that on May 23, 2014, it granted a sub-aqueous tunnel construction permanent variance to Tully/OHL USA Joint Venture (79 FR 29809) from the same provisions of the standard that regulates work in compressed air (at 29 CFR 1926.803(e)(5), (f)(1), (g)(1)(iii), and (g)(1)(xvii)) that are the subject of the present application. Generally, the alternate conditions in this notice are based on and very similar to the alternate conditions of the previous permanent variance.

*G. Multi-State Variance*

As stated earlier in this notice, Traylor JV applied for an interim order for its Blue Plains Tunnel project only. On July 11, 2013, OSHA granted an interim order to cover only the Blue Plains Tunnel project, which is located entirely in the District of Columbia and thus under Federal OSHA's exclusive jurisdiction. Further, on December 11, 2014, OSHA published a **Federal Register** notice announcing Traylor JV's application for a permanent variance and interim order, grant of an interim order, and request for comments (79 FR 73631).

[4] In the study cited in footnote 11, starting at page 338, Dr. Eric Kindwall notes that the use of automatically regulated continuous decompression in the Washington State safety standards for compressed-air work (from which OSHA derived its decompression tables) was at the insistence of contractors and the union, and against the advice of the expert who calculated the decompression table and recommended using staged decompression. Dr. Kindwall then states, ''Continuous decompression is inefficient and wasteful. For example, if the last stage from 4 psig . . . to the surface took 1 h, at least half the time is spent at pressures less than 2 psig . . ., which provides less and less meaningful bubble suppression . . .'' In addition, the report referenced in footnote 5 under the section titled, ''Background on the Need for Interim Decompression Tables'' addresses the continuous-decompression protocol in the OSHA compressed-air standard for construction, noting that ''[a]side from the tables for saturation diving to deep depths, no other widely used or officially approved diving decompression tables use straight line, continuous decompressions at varying rates. Stage decompression is usually the rule, since it is simpler to control.''

Additionally, twenty-seven state safety and health plans have been approved by OSHA under section 18 of the (OSH) Act.[5] As part of the permanent variance process, the Directorate of Cooperative and State Programs will notify the State Plans of Traylor JV's variance application and grant of the Blue Plains permanent variance. In considering Traylor JV's application for a permanent variance and interim order, OSHA noted that four states have previously granted sub-aqueous tunnel construction variances and imposed different or additional requirements and conditions (California, Nevada, Oregon, and Washington). California also promulgated a new standard[6] for similar sub-aqueous tunnel construction work.

## III. Description of the Conditions Specified for the Permanent Variance

This section describes the alternative means of compliance with 29 CFR 1926.803(e)(5), (f)(1), (g)(1)(iii), and (g)(1)(xvii) and provides additional detail regarding the conditions that form the basis of Traylor JV's permanent variance.

*Condition A: Scope*

The scope of the permanent variance limits coverage to the work situations specified under this condition. Clearly defining the scope of the permanent variance provides Traylor JV, Traylor JV's employees, other stakeholders, the public, and OSHA with necessary information regarding the work situations in which the permanent variance applies.

According to 29 CFR 1905.11, an employer or class or group of employers[7] may request a permanent variance for a specific workplace or workplaces. If granted, the variance applies to the specific employer(s) that submitted the application. In this instance, the permanent variance applies to the applicant, Traylor/Skanska/Jay Dee Joint Venture at the Blue Plains Tunnel project and does not apply to any other employers.

*Condition B: Application*

This condition specifies the circumstances under which the permanent variance is in effect, notably only for hyperbaric work performed during interventions. The condition places clear limits on the circumstances under which the applicant can expose its employees to hyperbaric pressure.

*Condition C: List of Abbreviations*

Condition C defines a number of abbreviations used in the permanent variance. OSHA believes that defining these abbreviations serves to clarify and standardize their usage, thereby enhancing the applicant's and its employees' understanding of the conditions specified by the permanent variance.

*Condition D: Definitions*

The condition defines a series of terms, mostly technical terms, used in the permanent variance to standardize and clarify their meaning. Defining these terms serves to enhance the applicant's and its employees' understanding of the conditions specified by the permanent variance.

*Condition E: Safety and Health Practices*

This condition requires the applicant to develop and submit to OSHA an HOM specific to the Blue Plains project at least six months before using the EPBTBM for tunneling operations. Additionally, the condition includes a series of related hazard prevention and control requirements and methods (*e.g.,* decompression tables, job hazard analyses (JHA), operations and inspections checklists, incident investigation, recording and notification to OSHA of recordable hyperbaric injuries and illnesses, etc.) designed to ensure the continued effective functioning of the hyperbaric equipment and operating system.

Review of the HOM enables OSHA to: (1) Determine that the safety and health instructions and measures it specifies are appropriate and do adequately protect the safety and health of the CAWs; and (2) request the applicant to revise or modify the HOM if it finds that the hyperbaric safety and health procedures are not suitable for the specific project and do not adequately protect the safety and health of the CAWs. Once approved, the project-specific HOM becomes part of the variance, thus enabling OSHA to enforce its safety and health procedures and measures.[8]

*Condition F: Communication*

Condition F requires the applicant to develop and implement an effective system of information sharing and communication. Effective information sharing and communication ensures that affected workers receive updated information regarding any safety-related hazards and incidents, and corrective actions taken, prior to the start of each shift. The condition also requires the applicant to ensure that reliable means of emergency communications are available and maintained for affected workers and support personnel during hyperbaric operations. Availability of such reliable means of communications enables affected workers and support personnel to respond quickly and effectively to hazardous conditions or emergencies that may develop during EPBTBM operations.

*Condition G: Worker Qualification and Training*

This condition requires the applicant to develop and implement an effective qualification and training program for affected workers. The condition specifies the factors that an affected worker must know to perform safely during hyperbaric operations, including how to enter, work in, and exit from hyperbaric conditions under both normal and emergency conditions. Having well-trained and qualified workers performing hyperbaric intervention work ensures that they recognize, and respond appropriately to, hyperbaric safety and health hazards. These qualification and training requirements enable affected workers to cope effectively with emergencies, as well as the discomfort and physiological effects of hyperbaric exposure, thereby preventing worker injury, illness, and fatalities.

Paragraph (2)(e) of this condition also requires the applicant to provide affected workers with information they can use to contact the appropriate healthcare professionals if they believe they are developing hyperbaric-related health effects. This requirement provides for early intervention and treatment of DCI and other health effects resulting from hyperbaric exposure, thereby reducing the potential severity of these effects.

[5] Five State Plans (Connecticut, Illinois, New Jersey, New York, and the Virgin Islands) limit their occupational safety and health authority to state and local employers only. State Plans that exercise their occupational safety and health authority over both public- and private-sector employers are: Alaska, Arizona, California, Hawaii, Indiana, Iowa, Kentucky, Maryland, Michigan, Minnesota, Nevada, New Mexico, North Carolina, Oregon, Puerto Rico, South Carolina, Tennessee, Utah, Vermont, Virginia, Washington, and Wyoming.

[6] See California Code of Regulations, Title 8, Subchapter 7, Group 26, Article 154, available at *http://www.dir.ca.gov/title8/sb7g26a154.html.*

[7] A class or group of employers (such as members of a trade alliance or association) may apply jointly for a variance provided an authorized representative for each employer signs the application and the application identifies each employer's affected facilities.

[8] Grant of the July 11, 2013, project-specific interim order constituted OSHA's approval of Traylor JV's Blue Plains Tunnel project-specific HOM.

*Condition H: Inspections, Tests, and Accident Prevention*

Condition H requires the applicant to develop, implement, and operate a program of frequent and regular inspections of the EPBTBM's hyperbaric equipment and support systems, and associated work areas. This condition helps to ensure the safe operation and physical integrity of the equipment and work areas necessary to conduct hyperbaric operations. The condition also enhances worker safety by reducing the risk of hyperbaric-related emergencies.

Paragraph (3) of this condition requires the applicant to document tests, inspections, corrective actions, and repairs involving the EPBTBM, and maintain these documents at the job site for the duration of the job. This requirement provides the applicant with information needed to schedule tests and inspections to ensure the continued safe operation of the equipment and systems, and to determine that the actions taken to correct defects in hyperbaric equipment and systems were appropriate, prior to returning them to service.

*Condition I: Compression and Decompression*

This condition requires the applicant to consult with its designated medical advisor regarding special compression or decompression procedures appropriate for any un-acclimated CAW. This provision ensures that the applicant consults with the medical advisor, and involves the medical advisor in the evaluation, development, and implementation of compression or decompression protocols appropriate for any CAW requiring acclimation to the hyperbaric conditions encountered during EPBTBM operations. Accordingly, CAWs requiring acclimation have an opportunity to acclimate prior to exposure to these hyperbaric conditions. OSHA believes this condition will prevent or reduce adverse reactions among CAWs to the effects of compression or decompression associated with the intervention work they perform in the EPBTBM.

*Condition J: Recordkeeping*

Condition J requires the applicant to maintain records of specific factors associated with each hyperbaric intervention. The information gathered and recorded under this provision, in concert with the information provided under condition K (using the OSHA 301 Incident Report form to investigate and record hyperbaric recordable injuries as defined by 29 CFR 1904.4, 1904.7, 1904.8 through 1904.12), enables the applicant and OSHA to determine the effectiveness of the permanent variance in preventing DCI and other hyperbaric-related effects.[9]

*Condition K: Notifications*

Under this condition, the applicant is required, within specified periods to: (1) Notify OSHA of any recordable injuries, illnesses, in-patient hospitalizations, amputations, loss of an eye, or fatalities that occur as a result of hyperbaric exposures during EPBTBM operations; (2) provide OSHA with a copy of the incident investigation report (using OSHA 301 form) of these events; (3) include on the 301 form information on the hyperbaric conditions associated with the recordable injury or illness, the root-cause determination, and preventive and corrective actions identified and implemented; (4) provide its certification that it informed affected workers of the incident and the results of the incident investigation; (5) notify the Office of Technical Programs and Coordination Activities (OTPCA) and the Baltimore/Washington DC Area Office within 15 working days should the applicant need to revise its HOM to accommodate changes in its compressed-air operations that affect its ability to comply with the conditions of the permanent variance; and (6) provide OTPCA and the Baltimore/Washington DC Area Office, at the end of the project, with a report evaluating the effectiveness of the decompression tables.

These notification requirements enable the applicant, its employees, and OSHA to determine the effectiveness of the permanent variance in providing the requisite level of safety to the applicant's workers and, based on this determination, whether to revise or revoke the conditions of the permanent variance. Timely notification permits OSHA to take whatever action may be necessary and appropriate to prevent further injuries and illnesses. Providing notification to employees informs them of the precautions taken by the applicant to prevent similar incidents in the future.

This condition also requires the applicant to notify OSHA if it ceases to do business, has a new address or location for its main office, or transfers the operations covered by the permanent variance to a successor company. In addition, the condition specifies that OSHA must approve the transfer of the permanent variance to a successor company. These requirements allow OSHA to communicate effectively with the applicant regarding the status of the permanent variance, and expedite the Agency's administration and enforcement of the permanent variance. Stipulating that an applicant must have OSHA's approval to transfer a variance to a successor company provides assurance that the successor company has knowledge of, and will comply with, the conditions specified by the permanent variance, thereby ensuring the safety of workers involved in performing the operations covered by the permanent variance.

## IV. Comments on the Proposed Variance Application

OSHA received no comments on the proposed variance, including no comments from State Plans.

## V. Decision

After reviewing Traylor JV's proposed variance as described above, and having received no comment, OSHA determines that:

A. Traylor JV developed, and proposed to implement, effective alternative measures to the prohibition of using compressed air under hyperbaric conditions exceeding 50 p.s.i.g. The alternative measures include use of engineering and administrative controls of the hazards associated with work performed in compressed-air conditions exceeding 50 p.s.i.g. while engaged in the construction of a subaqueous tunnel using advanced shielded mechanical-excavation techniques in conjunction with an EPBTBM. Prior to conducting interventions in the EPBTBM's pressurized working chamber, the applicant halts tunnel excavation and prepares the machine and crew to conduct the interventions. Interventions involve inspection, maintenance, or repair of the mechanical-excavation components located in the working chamber.

B. Traylor JV developed, and proposed to implement, safe hyperbaric work procedures, emergency and contingency procedures, and medical examinations for the Blue Plains Tunneling project's CAWs. The applicant compiled these standard operating procedures into a project-specific HOM (Ex. OSHA–2012–0035–0007). The HOM discusses the

[9] See 29 CFR part 1904 Recording and Reporting Occupational Injuries and Illnesses (*http://www.osha.gov/pls/oshaweb/owadisp.show_document?p_table=STANDARDS&p_id=9631*); recordkeeping forms and instructions (*http://www.osha.gov/recordkeeping/RKform300pkg-fillable-enabled.pdf*); OSHA Recordkeeping Handbook (*http://www.osha.gov/recordkeeping/handbook/index.html*); and updates to OSHA's recordkeeping rule and Web page ((79 FR 56130); *http://www.osha.gov/recordkeeping2014/index.html*)).

procedures and personnel qualifications for performing work safely during the compression and decompression phases of interventions. The HOM also specifies the decompression tables the applicant proposes to use. Depending on the maximum working pressure and exposure times during the interventions, the tables provide for decompression using air, pure oxygen, or a combination of air and oxygen. The decompression tables also include delays or stops for various time intervals at different pressure levels during the transition to atmospheric pressure (*i.e.,* staged decompression). In all cases, a physician certified in hyperbaric medicine will manage the medical condition of CAWs during decompression. In addition, a trained and experienced man-lock attendant, experienced in recognizing decompression sickness or illnesses and injuries, will be present. Of key importance, a hyperbaric supervisor (competent person), trained in hyperbaric operations, procedures, and safety, will directly supervise all hyperbaric operations to ensure compliance with the procedures delineated in the project-specific HOM or by the attending physician.

C. Traylor JV developed, and proposed to implement, a training program to instruct affected workers in the hazards associated with conducting hyperbaric operations.

D. Traylor JV developed, and proposed to implement, an effective alternative to the use of automatic controllers that continuously decrease pressure to achieve decompression in accordance with the tables specified by the standard. The alternative includes using the 1992 French Decompression Tables for guiding staged decompression to achieve lower occurrences of DCI, using a trained and competent attendant for implementing appropriate hyperbaric entry and exit procedures, and providing a competent hyperbaric supervisor and attending physician certified in hyperbaric medicine, to oversee all hyperbaric operations.

E. Traylor JV developed, and proposed to implement, an effective alternative to the use of the special decompression chamber required by the standard. EPBTBM technology permits the tunnel's work areas to be at atmospheric pressure, with only the face of the EPBTBM (*i.e.,* the working chamber) at elevated pressure during interventions. The applicant limits interventions conducted in the working chamber to performing required inspection, maintenance, and repair of the cutting tools on the face of the EPBTBM. The EPBTBM's man lock and working chamber provide sufficient space for the maximum crew of three CAWs to stand up and move around, and safely accommodate decompression times up to 360 minutes. Therefore, OSHA preliminarily determined that the EPBTBM's man lock and working chamber function as effectively as the special decompression chamber required by the standard.

OSHA conducted a review of the scientific literature regarding decompression to determine whether the alternative decompression method (*i.e.,* the 1992 French Decompression Tables) Traylor JV proposed provide a workplace as safe and healthful as that provided by the standard. Based on this review, OSHA determined that tunneling operations performed with these tables [10] resulted in a lower occurrence of DCI than the decompression tables specified by the standard.[11] [12] [13]

The review conducted by OSHA found several research studies supporting the determination that the 1992 French Decompression Tables resulted in a lower rate of DCI than the decompression tables specified by the standard. For example, H. L. Anderson studied the occurrence of DCI at maximum hyperbaric pressures ranging from 4 p.s.i.g. to 43 p.s.i.g. during construction of the Great Belt Tunnel in Denmark (1992–1996); [14] this project used the 1992 French Decompression Tables to decompress the workers during part of the construction. Anderson observed 6 DCI cases out of 7,220 decompression events, and reported that switching to the 1992 French Decompression tables reduced the DCI incidence to 0.08%. The DCI incidence in the study by H. L. Andersen is substantially less than the DCI incidence reported for the decompression tables specified in Appendix A. OSHA found no studies in which the DCI incidence reported for the 1992 French Decompression Tables were higher than the DCI incidence reported for the OSHA decompression tables.[15] Therefore, OSHA concludes that use of the 1992 French Decompression Tables protects workers at least as effectively as the OSHA decompression tables.

Based on a review of available evidence, the experience of State Plans that either granted variances (Nevada, Oregon and Washington) [16] or promulgated a new standard (California) [17] for hyperbaric exposures occurring during similar subaqueous tunnel-construction work, and the information provided in the applicant's variance application, OSHA is granting the permanent variance.

Under section 6(d) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 655), the Agency finds that when the employer complies with the conditions of the following order, the working conditions of the employer's workers are at least as safe and healthful as if the employer complied with the working conditions specified by paragraphs (e)(5), (f)(1), (g)(1)(iii), and (g)(1)(xvii) of 29 CFR 1926.803. Therefore, Traylor JV will: (1) Comply with the conditions listed in section VI of this notice for the period between the grant of the interim order and completion of the Blue Plains Tunnel project, but no later than January 31, 2016; (2) comply fully with

[10] In 1992, the French Ministry of Labour replaced the 1974 French Decompression Tables with the 1992 French Decompression Tables, which differ from OSHA's decompression tables in Appendix A by using: (1) Staged decompression as opposed to continuous (linear) decompression; (2) decompression tables based on air or both air and pure oxygen; and (3) emergency tables when unexpected exposure times occur (up to 30 minutes above the maximum allowed working time).

[11] Kindwall, EP (1997). Compressed air tunneling and caisson work decompression procedures: Development, problems, and solutions. *Undersea and Hyperbaric Medicine,* 24(4), pp. 337–345. This article reported 60 treated cases of DCI among 4,168 exposures between 19 and 31 p.s.i.g. over a 51-week contract period, for a DCI incidence of 1.44% for the decompression tables specified by the OSHA standard.

[12] Sealey, JL (1969). Safe exit from the hyperbaric environment: Medical experience with pressurized tunnel operations. *Journal of Occupational Medicine,* 11(5), pp. 273–275. This article reported 210 treated cases of DCI among 38,600 hyperbaric exposures between 13 and 34 p.s.i.g. over a 32-month period, for an incidence of 0.54% for the decompression tables specified by the Washington State safety standards for compressed-air work, which are similar to the tables in the OSHA standard. Moreover, the article reported 51 treated cases of DCI for 3,000 exposures between 30 and 34 p.s.i.g., for an incidence of 1.7% for the Washington State tables.

[13] In 1985, the National Institute for Occupational Safety and Health (NIOSH) published a report entitled ''Criteria for Interim Decompression Tables for Caisson and Tunnel Workers''; this report reviewed studies of DCI and other hyperbaric-related injuries resulting from use of OSHA's tables. This report is available on NIOSH's Web site: *http://www.cdc.gov/niosh/topics/decompression/default.html.*

[14] Anderson HL (2002). Decompression sickness during construction of the Great Belt tunnel, Denmark. *Undersea and Hyperbaric Medicine,* 29(3), pp. 172–188.

[15] Le Péchon JC, Barre P, Baud JP, Ollivier F (September 1996). Compressed air work—French Tables 1992—operational results. *JCLP Hyperbarie Paris, Centre Medical Subaquatique Interentreprise, Marseille: Communication a l'EUBS,* pp. 1–5 (see Ex. OSHA–2012–0035–0008).

[16] These state variances are available in the docket: Exs. OSHA–2012–0035–0006 (Nevada), OSHA–2012–0035–0005 (Oregon), and OSHA–2012–0035–0004 (Washington).

[17] See California Code of Regulations, Title 8, Subchapter 7, Group 26, Article 154, available at *http://www.dir.ca.gov/title8/sb7g26a154.html.*

all other applicable provisions of 29 CFR part 1926; and (3) provide a copy of this **Federal Register** notice to all employees affected by the conditions, including the affected employees of other employers, using the same means it used to inform these employees of its application for a permanent variance. Additionally, this final order will remain in effect until OSHA modifies or revokes it in accordance with 29 CFR 1905.13.

## VI. Order

As of the effective date of this final order, OSHA is revoking the interim order granted to the employer on July 11, 2013, and affirmed on December 11, 2014 (79 FR 73631). OSHA issues this final order authorizing Traylor/Skanska/Jay Dee Joint Venture (''Traylor JV'') to comply with following conditions instead of complying with the requirements of paragraphs 29 CFR 1926.803(e)(5), (f)(1), (g)(1)(iii), and (g)(1)(xvii). This final order applies to all employees of Traylor JV exposed to hyperbaric conditions at the Blue Plains Tunnel project. These conditions are:

### *A. Scope*

The permanent variance applies only to work:

1. That occurs in conjunction with construction of the Blue Plains Tunnel project, a tunnel constructed using advanced shielded mechanical-excavation techniques and involving operation of an EPBTBM;
2. Performed under compressed-air and hyperbaric conditions up to 52 p.s.i.g;
3. In the EPBTBM's forward section (the working chamber) and associated hyperbaric chambers used to pressurize and decompress employees entering and exiting the working chamber;
4. Except for the requirements specified by 29 CFR 1926.803(e)(5), (f)(1), (g)(1)(iii), and (g)(1)(xvii), Traylor JV must comply fully with all other applicable provisions of 29 CFR part 1926; and
5. This order remains in effect until one of the following conditions occurs: (1) Completion of the Blue Plains Tunnel project, but no later than January 31, 2016; or (2) OSHA modifies or revokes this final order in accordance with 29 CFR 1905.13.

### *B. Application*

The permanent variance applies only when Traylor JV stops the tunnel-boring work, pressurizes the working chamber, and the CAWs either enter the working chamber to perform interventions (*i.e.,* inspect, maintain, or repair the mechanical-excavation components), or exit the working chamber after performing interventions.

### *C. List of Abbreviations*

Abbreviations used throughout this permanent variance include the following:

1. CAW—Compressed-air worker
2. CFR—Code of Federal Regulations
3. DCI—Decompression Illness
4. EPBTBM—Earth Pressure Balanced Tunnel Boring Machine
5. HOM—Hyperbaric Operations and Safety Manual
6. JHA—Job hazard analysis
7. OSHA—Occupational Safety and Health Administration
8. OTPCA—Office of Technical Programs and Coordination Activities

### *D. Definitions*

The following definitions apply to this permanent variance. These definitions supplement the definitions in Traylor JV's project-specific HOM.

1. *Affected employee or worker*—an employee or worker who is affected by the conditions of this permanent variance, or any one of his or her authorized representatives. The term ''employee'' has the meaning defined and used under the Occupational Safety and Health Act of 1970 (29 U.S.C. 651 *et seq.*)
2. *Atmospheric pressure*—the pressure of air at sea-level, generally 14.7 p.s.i.a., 1 atmosphere absolute, or 0 p.s.i.g.
3. *Compressed-air worker*—an individual who is specially trained and medically qualified to perform work in a pressurized environment while breathing air at pressures up to 52 p.s.i.g.
4. *Competent person*—an individual who is capable of identifying existing and predictable hazards in the surroundings or working conditions that are unsanitary, hazardous, or dangerous to employees, and who has authorization to take prompt corrective measures to eliminate them.[18]
5. *Decompression illness* (also called decompression sickness or the bends)—an illness caused by gas bubbles appearing in body compartments due to a reduction in ambient pressure. Examples of symptoms of decompression illness include (but are not limited to): Joint pain (also known as the ''bends'' for agonizing pain or the ''niggles'' for slight pain); areas of bone destruction (termed dysbaric osteonecrosis); skin disorders (such as cutis marmorata, which causes a pink marbling of the skin); spinal cord and brain disorders (such as stroke, paralysis, paresthesia, and bladder dysfunction); cardiopulmonary disorders, such as shortness of breath; and arterial gas embolism (gas bubbles in the arteries that block blood flow).[19]

**Note:** Health effects associated with hyperbaric intervention but not considered symptoms of DCI can include: Barotrauma (direct damage to air-containing cavities in the body such as ears, sinuses and lungs); nitrogen narcosis (reversible alteration in consciousness that may occur in hyperbaric environments and is caused by the anesthetic effect of certain gases at high pressure); and oxygen toxicity (a central nervous system condition resulting from the harmful effects of breathing molecular oxygen ($O_2$) at elevated partial pressures).

6. *Earth Pressure Balanced Tunnel Boring Machine*—the machinery used to excavate the tunnel.
7. *Hot work*—any activity performed in a hazardous location that may introduce an ignition source into a potentially flammable atmosphere.[20]
8. *Hyperbaric*—at a higher pressure than atmospheric pressure.
9. *Hyperbaric intervention*—a term that describes the process of stopping the EPBTBM and preparing and executing work under hyperbaric pressure in the working chamber for the purpose of inspecting, replacing, or repairing cutting tools and/or the cutter head structure.
10. *Hyperbaric Operations Manual*—a detailed, project-specific health and safety plan developed and implemented by Traylor JV for working in compressed air during the Blue Plains' tunnel project.
11. *Job hazard analysis*—an evaluation of tasks or operations to identify potential hazards and to determine the necessary controls.
12. *Man lock*—an enclosed space capable of pressurization, and used for compressing or decompressing any employee or material when either is passing into or out of a working chamber.
13. *Pressure*—a force acting on a unit area. Usually expressed as pounds per square inch (p.s.i.).
14. *p.s.i.*—pounds per square inch, a common unit of measurement of pressure; a pressure given in p.s.i. corresponds to absolute pressure.
15. *p.s.i.a.*—pounds per square inch absolute, or absolute pressure, is the sum of the atmospheric pressure and gauge pressure. At sea-level, atmospheric pressure is approximately 14.7 p.s.i. Adding 14.7 to a pressure

[18] Adapted from 29 CFR 1926.32(f).

[19] See Appendix 10 of ''A Guide to the Work in Compressed Air Regulations 1996,'' published by the United Kingdom Health and Safety Executive available from NIOSH at *http://www.cdc.gov/niosh/docket/archive/pdfs/NIOSH-254/compReg1996.pdf.*

[20] Also see 29 CFR 1910.146(b).

expressed in units of p.s.i.g. will yield the absolute pressure, expressed as p.s.i.a.

16. *p.s.i.g.*—pounds per square inch gauge, a common unit of pressure; pressure expressed as p.s.i.g. corresponds to pressure relative to atmospheric pressure. At sea-level, atmospheric pressure is approximately 14.7 p.s.i. Subtracting 14.7 from a pressure expressed in units of p.s.i.a. yields the gauge pressure, expressed as p.s.i.g.

17. *Qualified person*—an individual who, by possession of a recognized degree, certificate, or professional standing, or who, by extensive knowledge, training, and experience, successfully demonstrates an ability to solve or resolve problems relating to the subject matter, the work, or the project.[21]

18. *Working chamber*—an enclosed space in the EPBTBM in which CAWs perform interventions, and which is accessible only through a man lock.

*E. Safety and Health Practices*

1. Traylor JV must develop and implement an HOM specific to the Blue Plains project, and submit the HOM to OSHA at least six months before using the EPBTBM. Traylor JV must receive a written acknowledgement from OSHA regarding the acceptability of the HOM.[22] The HOM shall provide the governing safety and health requirements regarding hyperbaric exposures during the tunnel-construction project.

2. Traylor JV must implement the safety and health instructions included in the manufacturer's operations manuals for the EPBTBM, and the safety and health instructions provided by the manufacturer for the operation of decompression equipment.

3. Traylor JV must use air as the only breathing gas in the working chamber.

4. Traylor JV must use the 1992 French Decompression Tables for air, air-oxygen, and oxygen decompression specified in the HOM, specifically the extracted portions of the 1992 French Decompression tables titled ''French Regulation Air Standard Tables.''

5. Traylor JV must equip man-locks used by its employees with an oxygen-delivery system as specified by the HOM. Traylor JV must not store oxygen or other compressed gases used in conjunction with hyperbaric work in the tunnel.

6. Workers performing hot work under hyperbaric conditions must use flame-retardant personal protective equipment and clothing.

7. In hyperbaric work areas, Traylor JV must maintain an adequate fire-suppression system approved for hyperbaric work areas.

8. Traylor JV must develop and implement one or more JHAs for work in the hyperbaric work areas, and review, periodically and as necessary (*e.g.,* after making changes to a planned intervention that affects its operation), the contents of the JHAs with affected employees. The JHAs must include all the job functions that the risk assessment[23] indicates are essential to prevent injury or illness.

9. Traylor JV must develop a set of checklists to guide compressed-air work and ensure that employees follow the procedures required by this permanent variance (including all procedures required by the HOM, which this variance incorporates by reference). The checklists must include all steps and equipment functions that the risk assessment indicates are essential to prevent injury or illness during compressed-air work.

10. Traylor JV must ensure that the safety and health provisions of the HOM adequately protect the workers of all contractors and subcontractors involved in hyperbaric operations.[24]

*F. Communication*

1. Prior to beginning a shift, Traylor JV must implement a system that informs workers exposed to hyperbaric conditions of any hazardous occurrences or conditions that might affect their safety, including hyperbaric incidents, gas releases, equipment failures, earth or rock slides, cave-ins, flooding, fires, or explosions.

2. Traylor JV must provide a power-assisted means of communication among affected workers and support personnel in hyperbaric conditions where unassisted voice communication is inadequate.

(a) Traylor JV must use an independent power supply for powered communication systems, and these systems must operate such that use or disruption of any one phone or signal location will not disrupt the operation of the system from any other location.

(b) Traylor JV must test communication systems at the start of each shift and as necessary thereafter to ensure proper operation.

*G. Worker Qualifications and Training*

Traylor JV must:

1. Ensure that each affected worker receives effective training on how to safely enter, work in, exit from, and undertake emergency evacuation or rescue from, hyperbaric conditions, and document this training.

2. Provide effective instruction, before beginning hyperbaric operations, to each worker who performs work, or controls the exposure of others, in hyperbaric conditions, and document this instruction. The instruction must include topics such as:

(a) The physics and physiology of hyperbaric work;

(b) Recognition of pressure-related injuries;

(c) Information on the causes and recognition of the signs and symptoms associated with decompression illness, and other hyperbaric intervention-related health effects (*e.g.,* barotrauma, nitrogen narcosis, and oxygen toxicity).

(d) How to avoid discomfort during compression and decompression; and

(e) Information the workers can use to contact the appropriate healthcare professionals should the workers have concerns that they may be experiencing adverse health effects from hyperbaric exposure.

3. Repeat the instruction specified in paragraph (2) of this condition periodically and as necessary (*e.g.,* after making changes to its hyperbaric operations).

4. When conducting training for its hyperbaric workers make this training available to OSHA personnel and notify the OTPCA at OSHA's national office and OSHA's Baltimore/Washington DC Area Office before the training takes place.

*H. Inspections, Tests, and Accident Prevention*

1. Traylor JV must initiate and maintain a program of frequent and regular inspections of the EPBTBM's hyperbaric equipment and support systems (such as temperature control, illumination, ventilation, and fire-prevention and fire-suppression systems), and hyperbaric work areas, as required under 29 CFR 1926.20(b)(2) by:

(a) Developing a set of checklists to be used by a competent person in conducting weekly inspections of hyperbaric equipment and work areas; and

(b) Ensuring that a competent person conducts daily visual checks and weekly inspections of the EPBTBM.

2. If the competent person determines that the equipment constitutes a safety hazard, Traylor JV must remove the

[21] Adapted from 29 CFR 1926.32(m).

[22] See footnote 8.

[23] See ANSI/AIHA Z10–2012, American National Standard for Occupational Health and Safety Management Systems, for reference.

[24] See ANSI/ASSE A10.33–2011, American National Standard for Construction and Demolition Operations—Safety and Health Program Requirements for Multi-Employer Projects, for reference.

equipment from service until it corrects the hazardous condition and has the correction approved by a qualified person.

3. Traylor JV must maintain records of all tests and inspections of the EPBTBM, as well as associated corrective actions and repairs, at the job site for the duration of the job.

*I. Compression and Decompression*

Traylor JV must consult with its attending physician concerning the need for special compression or decompression exposures appropriate for CAWs not acclimated to hyperbaric exposure.

*J. Recordkeeping*

Traylor JV must maintain a record of any recordable injury, illness, or fatality (as defined by 29 CFR part 1904 Recording and Reporting Occupational Injuries and Illnesses), resulting from exposure of an employee to hyperbaric conditions by completing the OSHA 301 Incident Report form and OSHA 300 Log of Work Related Injuries and Illnesses.

**Note:** Examples of important information to include on the OSHA 301 Incident Report form (along with the corresponding question on the form) are: The task performed (Question (Q) 14); an estimate of the CAW's workload (Q 14); the composition of the gas mixture (*e.g.,* air or oxygen (Q 14)); the maximum working pressure (Q 14); temperature in the work and decompression environments (Q 14); unusual occurrences, if any, during the task or decompression (Q 14); time of symptom onset (Q 15); duration between decompression and onset of symptoms (Q 15); type and duration of symptoms (Q 16); a medical summary of the illness or injury (Q 16); duration of the hyperbaric intervention (Q 17); possible contributing factors (Q 17); the number of prior interventions completed by the injured or ill CAW (Q 17); the number of prior interventions completed by the injured or ill CAW at this working pressure (Q 17); contact information for the treating healthcare provider (Q 17); and date and time of last hyperbaric exposure for this CAW.

In addition to completing the OSHA 301 Incident Report form and OSHA 300 Log of Work Related Injuries and Illnesses, Traylor JV must maintain records of:

1. The date, times (*e.g.,* began compression, time spent compressing, time performing intervention, time spent decompressing), and pressure for each hyperbaric intervention.

2. The name of each individual worker exposed to hyperbaric pressure and the decompression protocols and results for each worker.

3. The total number of interventions and the amount of hyperbaric work time at each pressure.

4. The results of the post-intervention physical assessment of each CAW for signs and symptoms of decompression illness, barotrauma, nitrogen narcosis, oxygen toxicity or other health effects associated with work in compressed air for each hyperbaric intervention.

*K. Notifications*

1. To assist OSHA in administering the conditions specified herein, Traylor JV must:

(a) Notify the OTPCA and the Baltimore/Washington DC Area Office of any recordable injuries, illnesses, in-patient hospitalizations, amputations, loss of an eye, or fatality (by submitting the completed OSHA 301 Incident Report form [25]) resulting from exposure of an employee to hyperbaric conditions including those that do not require recompression treatment (*e.g.,* nitrogen narcosis, oxygen toxicity, barotrauma), but still meet the recordable injury or illness criteria of 29 CFR part 1904. The notification must be made within 8 hours of the incident or 8 hours after becoming aware of a recordable injury, illness, in-patient hospitalizations, amputations, loss of an eye, or fatality, and submit a copy of the incident investigation (OSHA form 301) within 24 hours of the incident or 24 hours after becoming aware of a recordable case. In addition to the information required by the OSHA form 301, the incident-investigation report must include a root-cause determination, and the preventive and corrective actions identified and implemented.

(b) Provide certification within 15 working days of the incident that Traylor JV informed affected workers of the incident and the results of the incident investigation (including the root-cause determination and preventive and corrective actions identified and implemented).

(c) Notify the OTPCA and the Baltimore/Washington DC Area Office within 15 working days and in writing, of any change in the compressed-air operations that affects Traylor JV's ability to comply with the conditions specified herein.

(d) Upon completion of the Blue Plains Tunnel project, evaluate the effectiveness of the decompression tables used throughout the project, and provide a written report of this evaluation to the OTPCA and the Baltimore/Washington DC Area Office.

**Note:** The evaluation report must contain summaries of: (1) The number, dates, durations, and pressures of the hyperbaric interventions completed; (2) decompression protocols implemented (including composition of gas mixtures (air and/or oxygen), and the results achieved; (3) the total number of interventions and the number of hyperbaric incidents (decompression illnesses and/or health effects associated with hyperbaric interventions as recorded on OSHA 301 and 300 forms, and relevant medical diagnoses and treating physicians' opinions); and (4) root causes of any hyperbaric incidents, and preventive and corrective actions identified and implemented.

[25] See footnote 9.

(e) To assist OSHA in administering the conditions specified herein, inform the OTPCA and the Baltimore/Washington DC Area Office as soon as possible after it has knowledge that it will:

(i) Cease to do business;

(ii) Change the location and address of the main office for managing the tunneling operations specified herein; or

(iii) Transfer the operations specified herein to a successor company.

(f) Notify all affected employees of this permanent variance by the same means required to inform them of its application for a variance.

2. OSHA must approve the transfer of the permanent variance to a successor company.

## Authority and Signature

David Michaels, Ph.D., MPH, Assistant Secretary of Labor for Occupational Safety and Health, 200 Constitution Avenue NW., Washington, DC 20210, authorized the preparation of this notice. Accordingly, the Agency is issuing this notice pursuant to Section 29 U.S.C. 655(6)(d), Secretary of Labor's Order No. 1–2012 (77 FR 3912, Jan. 25, 2012), and 29 CFR 1905.11.

**David Michaels,**

*Assistant Secretary of Labor for Occupational Safety and Health.*

[FR Doc. 2015–06975 Filed 3–26–15; 8:45 am]

BILLING CODE 4510–26–P

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## DEPARTMENT OF LABOR

### Office of the Secretary

### Agency Information Collection Activities; Submission for OMB Review; Comment Request; Inorganic Arsenic Standard

**ACTION:** Notice.

**SUMMARY:** The Department of Labor (DOL) is submitting the Occupational Safety and Health Administration (OSHA) sponsored information collection request (ICR) titled, ''Inorganic Arsenic Standard,'' to the Office of Management and Budget (OMB) for review and approval for continued use, without change, in accordance with the Paperwork

Reduction Act of 1995 (PRA), 44 U.S.C. 3501 *et seq.* Public comments on the ICR are invited.

**DATES:** The OMB will consider all written comments that agency receives on or before April 27, 2015.

**ADDRESSES:** A copy of this ICR with applicable supporting documentation; including a description of the likely respondents, proposed frequency of response, and estimated total burden may be obtained free of charge from the RegInfo.gov Web site at *http://www.reginfo.gov/public/do/PRAViewICR?ref_nbr=201501-1218-008* (this link will only become active on the day following publication of this notice) or by contacting Michel Smyth by telephone at 202–693–4129, TTY 202–693–8064, (these are not toll-free numbers) or by email at *DOL_PRA_PUBLIC@dol.gov.*

Submit comments about this request by mail or courier to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for DOL–OSHA, Office of Management and Budget, Room 10235, 725 17th Street NW., Washington, DC 20503; by Fax: 202–395–5806 (this is not a toll-free number); or by email: *OIRA_submission@omb.eop.gov.* Commenters are encouraged, but not required, to send a courtesy copy of any comments by mail or courier to the U.S. Department of Labor-OASAM, Office of the Chief Information Officer, Attn: Departmental Information Compliance Management Program, Room N1301, 200 Constitution Avenue NW., Washington, DC 20210; or by email: *DOL_PRA_PUBLIC@dol.gov.*

**FOR FURTHER INFORMATION CONTACT:** Michel Smyth by telephone at 202–693–4129, TTY 202–693–8064, (these are not toll-free numbers) or by email at *DOL_PRA_PUBLIC@dol.gov.*

**Authority:** 44 U.S.C. 3507(a)(1)(D).

**SUPPLEMENTARY INFORMATION:** This ICR seeks to extend PRA authority for the Inorganic Arsenic Standard information collection requirements codified in regulations 29 CFR 1910.1018. The Inorganic Arsenic Standard protects workers from the adverse health effects associated with occupational exposure to inorganic arsenic. The Standard affects primarily copper smelters and some chemical facilities. The Standard requires employers to monitor workers' exposure to inorganic arsenic, to monitor worker health, to develop and maintain worker exposure monitoring and medical records, to establish and implement written compliance programs, and to provide workers with information about their exposures and the health effects of exposure to inorganic arsenic. Occupational Safety and Health Act of 1970 sections 2(b)(9), 6, and 8(c) authorize this information collection. *See* 29 U.S.C. 651(b)(9), 655, and 657.

This information collection is subject to the PRA. A Federal agency generally cannot conduct or sponsor a collection of information, and the public is generally not required to respond to an information collection, unless it is approved by the OMB under the PRA and displays a currently valid OMB Control Number. In addition, notwithstanding any other provisions of law, no person shall generally be subject to penalty for failing to comply with a collection of information that does not display a valid Control Number. *See* 5 CFR 1320.5(a) and 1320.6. The DOL obtains OMB approval for this information collection under Control Number 1218–0104.

OMB authorization for an ICR cannot be for more than three (3) years without renewal, and the current approval for this collection is scheduled to expire on March 31, 2015. The DOL seeks to extend PRA authorization for this information collection for three (3) more years, without any change to existing requirements. The DOL notes that existing information collection requirements submitted to the OMB receive a month-to-month extension while they undergo review. For additional substantive information about this ICR, see the related notice published in the **Federal Register** on January 14, 2015 (80 FR 1970).

Interested parties are encouraged to send comments to the OMB, Office of Information and Regulatory Affairs at the address shown in the **ADDRESSES** section within thirty (30) days of publication of this notice in the **Federal Register**. In order to help ensure appropriate consideration, comments should mention OMB Control Number 1218–0104. The OMB is particularly interested in comments that:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

*Agency:* DOL–OSHA.

*Title of Collection:* Inorganic Arsenic Standard.

*OMB Control Number:* 1218–0104.

*Affected Public:* Private Sector—businesses or other for-profits.

*Total Estimated Number of Respondents:* 691.

*Total Estimated Number of Responses:* 24,764.

*Total Estimated Annual Time Burden:* 15,365 hours.

*Total Estimated Annual Other Costs Burden:* $1,078,069.

Dated: March 23, 2015.

**Michel Smyth,**

*Departmental Clearance Officer.*

[FR Doc. 2015–07023 Filed 3–26–15; 8:45 am]

BILLING CODE 4510–26–P

## DEPARTMENT OF LABOR

### Employment and Training Administration

### Workforce Innovation and Opportunity Act; Lower Living Standard Income Level

**AGENCY:** Employment and Training Administration (ETA), Labor.

**ACTION:** Notice.

**SUMMARY:** Title I of WIOA requires the U.S. Secretary of Labor (Secretary) to update and publish the LLSIL tables annually, for uses described in the law (including determining eligibility for youth). WIOA defines the term ''low income individual'' as one who qualifies under various criteria, including an individual who receives, or received for a prior six-month period, income that does not exceed the higher level of the poverty line or 70 percent of the LLSIL. This issuance provides the Secretary's annual LLSIL for 2015 and references the current 2015 Health and Human Services ''Poverty Guidelines.'' These provisions in WIOA pertaining to LLSIL reflect no change from the prior language under the Workforce Investment Act of 1998, as amended.

**DATES:** This notice is effective *March 27, 2015.*

*For Further Information or Questions on LLSIL:* Please contact Samuel Wright, Department of Labor, Employment and Training Administration, 200 Constitution Avenue NW., Room C–4526, Washington, DC 20210; Telephone: 202–693–2870; Fax: 202–693–3015 (these are not toll-free

numbers); Email address: *wright.samuel.e@dol.gov.* Individuals with hearing or speech impairments may access the telephone number above via Text Telephone (TTY/TDD) by calling the toll-free Federal Information Relay Service at 1–877–889–5627 (TTY/TDD).

*For Further Information or Questions on Federal Youth Employment Programs:* Please contact Jennifer Kemp, Department of Labor, Employment and Training Administration, 200 Constitution Avenue NW., Room N–4464, Washington, DC 20210; Telephone: 202–693–3377; Fax: 202–693–3113 (these are not toll-free numbers); Email: *kemp.jennifer.n@dol.gov.* Individuals with hearing or speech impairments may access the telephone number above via TTY by calling the toll-free Federal Information Relay Service at 1–877–889–5627 (TTY/TDD).

**SUPPLEMENTARY INFORMATION:** The purpose of WIOA is to provide workforce investment activities through statewide and local workforce investment systems that increase the employment, retention, and earnings of participants. WIOA programs are intended to increase attainment of recognized postsecondary credentials by participants and the quality of the workforce, thereby reducing welfare dependency, increase economic self-sufficiency, meet the skill requirements of employers, and enhance the productivity and competitiveness of the Nation.

LLSIL is used for several purposes under WIOA. Specifically, WIOA Section 3(36) defines the term ''low income individual'' for eligibility purposes, and Sections 127(b)(2)(C) and 132(b)(1)(B)(v)(IV) define the terms ''disadvantaged youth'' and ''disadvantaged adult'' in terms of the poverty line or LLSIL for State formula allotments. The governor and state/local workforce development boards (WDBs) use the LLSIL for determining eligibility for youth and adults for certain services. The U.S. Department of Health and Human Services (HHS) published the most current poverty-level guidelines in the **Federal Register** on January 22, 2015 (Volume 80, Number 14), pp. 3236–3237. The HHS 2015 Poverty guidelines may also be found on the Internet at *http://aspe.hhs.gov/poverty/15poverty.cfm.* ETA plans to have the 2015 LLSIL available on its Web site at *http://www.doleta.gov/llsil/2015/.*

WIOA Section 3(36)(B) defines LLSIL as ''that income level (adjusted for regional, metropolitan, urban and rural differences and family size) determined annually by the Secretary [of Labor] based on the most recent lower living family budget issued by the Secretary.'' The most recent lower living family budget was issued by the Secretary in fall 1981. The four-person urban family budget estimates, previously published by the U.S. Bureau of Labor Statistics (BLS), provided the basis for the Secretary to determine the LLSIL. BLS terminated the four-person family budget series in 1982, after publication of the fall 1981 estimates. Currently, BLS provides data to ETA, which ETA then uses to develop the LLSIL tables, as provided in the Appendices to this **Federal Register** notice.

ETA published the 2014 updates to the LLSIL in the **Federal Register** of March 27, 2014, at Vol. 79, No. 59 pp. 17184–17188. This notice again updates the LLSIL to reflect cost of living increases for 2015, by using the percentage change in the most recent 2014 Consumer Price Index for All Urban Consumers (CPI–U) for an area, and then applying this calculation to each of the March 27, 2014 LLSIL figures. The updated figures for a four-person family are listed in Appendix A, Table 1, by region for both metropolitan and non-metropolitan areas. Numbers in all of the Appendix tables are rounded up to the nearest dollar. Since program eligibility for ''low-income individuals,'' ''disadvantaged adults,'' and ''disadvantaged youth'' may be determined by family income at 70 percent of the LLSIL, pursuant to WIOA Sections 3(36), 127(b)(2)(C), and 132(b)(1)(B)(v)(IV), respectively, those figures are listed as well.

## I. Jurisdictions

Jurisdictions included in the various regions, based generally on the Census Regions of the U.S. Department of Commerce, are as follows:

### *A. Northeast*

Connecticut, Maine, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, Virgin Islands.

### *B. Midwest*

Illinois, Indiana, Iowa, Kansas, Michigan, Minnesota, Missouri, Nebraska, North Dakota, Ohio, South Dakota, Wisconsin.

### *C. South*

Alabama, American Samoa, Arkansas, Delaware, District of Columbia, Florida, Georgia, Kentucky, Louisiana, Marshall Islands, Maryland, Micronesia, Mississippi, North Carolina, Northern Marianas, Oklahoma, Palau, Puerto Rico, South Carolina, Tennessee, Texas, Virginia, West Virginia.

### *D. West*

Arizona, California, Colorado, Idaho, Montana, Nevada, New Mexico, Oregon, Utah, Washington, Wyoming.

Additionally, separate figures have been provided for Alaska, Hawaii, and Guam as indicated in Appendix B, Table 2.

For Alaska, Hawaii, and Guam, the year 2015 figures were updated from the 2014 ''State Index'' based on the ratio of the urban change in the state (using Anchorage for Alaska and Honolulu for Hawaii and Guam) compared to the West regional metropolitan change, and then applying that index to the West regional metropolitan change.

Data on 23 selected Metropolitan Statistical Areas (MSAs) are also available. These are based on annual and semiannual CPI–U changes for a 12-month period ending in December 2014. The updated LLSIL figures for these MSAs and 70 percent of LLSIL are reported in Appendix C, Table 3.

Appendix D, Table 4 lists each of the various figures at 70 percent of the updated 2014 LLSIL for family sizes of one to six persons. Because Tables 1–3 only list the LLSIL for a family of four, Table 4 can be used to separately determine the LLSIL for families of between one and six persons. For families larger than six persons, an amount equal to the difference between the six-person and the five-person family income levels should be added to the six-person family income level for each additional person in the family. Where the poverty level for a particular family size is greater than the corresponding 70 percent of the LLSIL figure, the figure is shaded. A modified Microsoft Excel version of Appendix D, Table 4, with the area names, will be available on the ETA LLSIL Web site at *http://www.doleta.gov/llsil/2015/.* Appendix E, Table 5, indicates 100 percent of LLSIL for family sizes of one to six.

## II. Use of These Data

Governors should designate the appropriate LLSILs for use within the State from Appendices A, B, and C, containing Tables 1 through 3. Appendices D and E, which contain Tables 4 and 5, which adjust a family of four figure for larger and smaller families, may be used with any LLSIL designated area. The governor's designation may be provided by disseminating information on MSAs and metropolitan and non-metropolitan areas within the state or it may involve further calculations. For example, the

State of New Jersey may have four or more LLSIL figures for Northeast metropolitan, Northeast non-metropolitan, portions of the state in the New York City MSA, and those in the Philadelphia MSA. If a workforce investment area includes areas that would be covered by more than one LLSIL figure, the governor may determine which is to be used.

## III. Disclaimer on Statistical Uses

It should be noted that publication of these figures is only for the purpose of meeting the requirements specified by WIOA as defined in the law and in any subsequent guidance or regulations. BLS has not revised the lower living family budget since 1981, and has no plans to do so. The four-person urban family budget estimates series has been terminated. The CPI–U adjustments used to update LLSIL for this publication are not precisely comparable, most notably because certain tax items were included in the 1981 LLSIL, but are not in the CPI–U. Thus, these figures should not be used for any statistical purposes, and are valid only for those purposes under WIOA as defined in the law.

## Appendix A

TABLE 1—LOWER LIVING STANDARD INCOME LEVEL (FOR A FAMILY OF FOUR PERSONS) BY REGION [1]

| Region [2] | 2015 Adjusted LLSIL | 70 Percent LLSIL |
|---|---|---|
| Northeast: | | |
| Metro | $41,954 | $29,368 |
| Non-Metro [3] | 41,994 | 29,396 |
| Midwest: | | |
| Metro | 37,014 | 25,910 |
| Non-Metro | 35,711 | 24,998 |
| South: | | |
| Metro | 38,485 | 26,939 |
| Non-Metro | 35,533 | 24,873 |
| West: | | |
| Metro | 42,887 | 30,021 |
| Non-Metro [4] | 42,727 | 29,909 |

[1] For ease of use, these figures are rounded to the next highest dollar.

[2] Metropolitan area measures were calculated from the weighted average CPI–U's for city size classes A and B/C. Non-metropolitan area measures were calculated from the CPI–U's for city size class D.

[3] Non-metropolitan area percent changes for the Northeast region are no longer available. The Non-metropolitan percent change was calculated using the U.S. average CPI–U for city size class D.

[4] Non-metropolitan area percent changes for the West region are based on unpublished BLS data.

## Appendix B

TABLE 2—LOWER LIVING STANDARD INCOME LEVEL (FOR A FAMILY OF FOUR PERSONS), FOR ALASKA, HAWAII AND GUAM [1]

| Region | 2015 Adjusted LLSIL | 70 Percent LLSIL |
|---|---|---|
| Alaska: | | |
| Metro | $48,043 | $33,630 |
| Non-Metro [2] | 51,152 | 35,806 |
| Hawaii, Guam: | | |
| Metro | 51,810 | 36,267 |
| Non-Metro [2] | 54,609 | 38,226 |

[1] For ease of use, these figures are rounded to the next highest dollar.

[2] Non-Metropolitan percent changes for Alaska, Hawaii and Guam were calculated from the CPI–U's for all urban consumers for city size class D in the Western Region. Generally the non-metro areas LLSIL is lower than the LLSIL in metro areas. This year the non-metro area LLSIL incomes were larger because the change in CPI–U was smaller in the metro areas compared to the change in CPI–U in the non-metro areas of Alaska, Hawaii and Guam.

## Appendix C

TABLE 3—LOWER LIVING STANDARD INCOME LEVEL (FOR A FAMILY OF FOUR PERSONS), FOR 23 SELECTED MSAS [1]

| Metropolitan statistical areas (MSAs) | 2015 Adjusted LLSIL | 70 Percent LLSIL |
|---|---|---|
| Anchorage, AK | $49,244 | $34,471 |
| Atlanta, GA | 34,612 | 24,228 |
| Boston-Brockton-Nashua, MA/NH/ME/CT | 44,808 | 31,366 |
| Chicago-Gary-Kenosha, IL/IN/WI | 38,019 | 26,613 |
| Cincinnati-Hamilton, OH/KY/IN | 36,218 | 25,353 |
| Cleveland-Akron, OH | 37,538 | 26,276 |
| Dallas-Ft. Worth, TX | 34,141 | 23,899 |
| Denver-Boulder-Greeley, CO | 38,300 | 26,810 |
| Detroit-Ann Arbor-Flint, MI | 35,521 | 24,865 |
| Honolulu, HI | 52,741 | 36,919 |
| Houston-Galveston-Brazoria, TX | 34,462 | 24,124 |
| Kansas City, MO/KS | 34,915 | 24,440 |
| Los Angeles-Riverside-Orange County, CA | 42,615 | 29,830 |
| Milwaukee-Racine, WI | 36,595 | 25,617 |
| Minneapolis-St. Paul, MN/WI | 36,540 | 25,578 |
| New York-Northern NJ-Long Island, NY/NJ/CT/PA | 45,053 | 31,537 |
| Philadelphia-Wilmington-Atlantic City, PA/NJ/DE/MD | 40,652 | 28,457 |
| Pittsburgh, PA | 44,495 | 31,147 |
| St. Louis, MO/IL | 34,317 | 24,022 |
| San Diego, CA | 46,274 | 32,392 |
| San Francisco-Oakland-San Jose, CA | 44,850 | 31,395 |
| Seattle-Tacoma-Bremerton, WA | 44,928 | 31,450 |
| Washington-Baltimore, DC/MD/VA/WV [2] | 45,460 | 31,822 |

[1] For ease of use, these figures are rounded to the next highest dollar.

[2] Baltimore and Washington are calculated as a single metropolitan statistical area.

## Appendix D

**Table 4: 70 Percent of Updated 2015 Lower Living Standard Income Level (LLSIL), by Family Size**

To use the 70 percent LLSIL value, where it is stipulated for WIOA programs, begin by locating the region or metropolitan area where the program applicant resides. These are listed in Tables 1, 2 and 3. After locating the appropriate region or metropolitan statistical area, find the 70 percent LLSIL amount for that location. The 70 percent LLSIL figures are listed in the last column to the right on each of the three tables. These figures apply to a family of four. Larger and smaller family eligibility is based on a percentage of the family of four. To determine eligibility for other size families consult Table 4 and the instructions below.

To use Table 4, locate the 70 percent LLSIL value that applies to the individual's region or metropolitan area from Tables 1, 2 or 3. Find the same number in the ''family of four'' column of Table 4. Move left or right across that row to the size that corresponds to the individual's family unit. That figure is the maximum household income the individual is permitted in order to qualify as economically disadvantaged under WIOA.

Where the HHS poverty level for a particular family size is greater than the corresponding LLSIL figure, the LLSIL figure appears in a shaded block. For individuals from these size families, consult the 2015 HHS poverty guidelines found on the Health and Human Services Web site at *http://aspe.hhs.gov/poverty/15poverty.cfm* to find the higher eligibility standard. For individuals from Alaska and Hawaii, consult the HHS guidelines for the generally higher poverty levels that apply in those States.

Table 4.

| Family Of One | Family of Two | Family of Three | Family of Four | Family of Five | Family of Six |
|---|---|---|---|---|---|
| 8,609 | 14,107 | 19,363 | 23,899 | 28,207 | 32,985 |
| 8,655 | 14,179 | 19,462 | 24,022 | 28,350 | 33,151 |
| 8,692 | 14,240 | 19,544 | 24,124 | 28,470 | 33,295 |
| 8,724 | 14,297 | 19,633 | 24,228 | 28,593 | 33,437 |
| 8,799 | 14,423 | 19,803 | 24,440 | 28,843 | 33,733 |
| 8,954 | 14,671 | 20,144 | 24,865 | 29,342 | 34,313 |
| 8,961 | 14,681 | 20,149 | 24,873 | 29,353 | 34,327 |
| 9,006 | 14,752 | 20,252 | 24,998 | 29,505 | 34,504 |
| 9,129 | 14,964 | 20,542 | 25,353 | 29,920 | 34,990 |
| 9,212 | 15,095 | 20,723 | 25,578 | 30,188 | 35,304 |
| 9,222 | 15,116 | 20,753 | 25,617 | 30,232 | 35,354 |
| 9,328 | 15,291 | 20,988 | 25,910 | 30,574 | 35,763 |
| 9,462 | 15,510 | 21,287 | 26,276 | 31,011 | 36,262 |
| 9,581 | 15,708 | 21,556 | 26,613 | 31,408 | 36,733 |
| 9,656 | 15,823 | 21,722 | 26,810 | 31,638 | 37,002 |
| 9,703 | 15,898 | 21,821 | 26,939 | 31,795 | 37,186 |
| 10,250 | 16,794 | 23,053 | 28,457 | 33,586 | 39,273 |
| 10,576 | 17,334 | 23,790 | 29,368 | 34,660 | 40,530 |
| 10,585 | 17,350 | 23,818 | 29,396 | 34,693 | 40,567 |
| 10,740 | 17,600 | 24,164 | 29,830 | 35,201 | 41,172 |
| 10,769 | 17,649 | 24,232 | 29,909 | 35,299 | 41,284 |
| 10,808 | 17,712 | 24,319 | 30,021 | 35,426 | 41,434 |
| 11,219 | 18,384 | 25,235 | 31,147 | 36,760 | 42,988 |
| 11,294 | 18,509 | 25,413 | 31,366 | 37,017 | 43,286 |
| 11,308 | 18,530 | 25,432 | 31,395 | 37,050 | 43,332 |

| Family Of One | Family of Two | Family of Three | Family of Four | Family of Five | Family of Six |
|---|---|---|---|---|---|
| 11,329 | 18,557 | 25,478 | 31,450 | 37,114 | 43,403 |
| 11,355 | 18,612 | 25,546 | 31,537 | 37,214 | 43,529 |
| 11,461 | 18,782 | 25,780 | 31,822 | 37,557 | 43,923 |
| 11,667 | 19,113 | 26,242 | 32,392 | 38,227 | 44,708 |
| 12,113 | 19,843 | 27,245 | 33,630 | 39,687 | 46,417 |
| 12,415 | 20,345 | 27,925 | 34,471 | 40,683 | 47,571 |
| 12,896 | 21,126 | 29,006 | 35,806 | 42,254 | 49,413 |
| 13,063 | 21,400 | 29,382 | 36,267 | 42,798 | 50,055 |
| 13,296 | 21,784 | 29,904 | 36,919 | 43,566 | 50,955 |
| 13,766 | 22,559 | 30,966 | 38,226 | 45,109 | 52,754 |

## Appendix E

**Table 5: Updated 2015 LLSIL (100 percent), by Family Size**

To use the LLSIL to determine the minimum level for establishing self-sufficiency criteria at the State or local level, begin by locating the metropolitan area or region from Table 1, 2 or 3. Then locate the appropriate region or metropolitan statistical area and then find the 2015 adjusted LLSIL amount for that location. These figures apply to a family of four. Locate the corresponding number in the family-of-four column in the table below. Move left or right across that row to the size that corresponds to the individual's family unit.

TABLE 5.

| Family of one | Family of two | Family of three | Family of four | Family of five | Family of six |
|---|---|---|---|---|---|
| 12,298 | 20,153 | 27,662 | 34,141 | 40,296 | 47,121 |
| 12,364 | 20,255 | 27,803 | 34,317 | 40,500 | 47,359 |
| 12,417 | 20,342 | 27,920 | 34,462 | 40,671 | 47,564 |
| 12,462 | 20,424 | 28,046 | 34,612 | 40,847 | 47,767 |
| 12,569 | 20,604 | 28,290 | 34,915 | 41,205 | 48,190 |
| 12,792 | 20,958 | 28,777 | 35,521 | 41,917 | 49,018 |
| 12,802 | 20,972 | 28,784 | 35,533 | 41,932 | 49,038 |
| 12,866 | 21,074 | 28,931 | 35,711 | 42,150 | 49,291 |
| 13,042 | 21,377 | 29,346 | 36,218 | 42,744 | 49,986 |
| 13,160 | 21,564 | 29,605 | 36,540 | 43,126 | 50,434 |
| 13,175 | 21,595 | 29,646 | 36,595 | 43,188 | 50,506 |
| 13,326 | 21,844 | 29,983 | 37,014 | 43,677 | 51,090 |
| 13,517 | 22,157 | 30,409 | 37,538 | 44,301 | 51,803 |
| 13,687 | 22,440 | 30,794 | 38,019 | 44,869 | 52,476 |
| 13,794 | 22,604 | 31,031 | 38,300 | 45,196 | 52,860 |
| 13,861 | 22,711 | 31,172 | 38,485 | 45,422 | 53,122 |
| 14,643 | 23,991 | 32,933 | 40,652 | 47,979 | 56,104 |
| 15,109 | 24,763 | 33,986 | 41,954 | 49,514 | 57,900 |
| 15,121 | 24,786 | 34,026 | 41,994 | 49,562 | 57,952 |
| 15,343 | 25,143 | 34,520 | 42,615 | 50,287 | 58,817 |
| 15,384 | 25,213 | 34,617 | 42,727 | 50,427 | 58,977 |
| 15,441 | 25,303 | 34,741 | 42,887 | 50,608 | 59,192 |
| 16,027 | 26,263 | 36,050 | 44,495 | 52,514 | 61,411 |
| 16,134 | 26,441 | 36,305 | 44,808 | 52,881 | 61,838 |
| 16,155 | 26,471 | 36,331 | 44,850 | 52,929 | 61,904 |
| 16,184 | 26,510 | 36,397 | 44,928 | 53,020 | 62,004 |
| 16,222 | 26,588 | 36,494 | 45,053 | 53,163 | 62,184 |
| 16,373 | 26,831 | 36,829 | 45,460 | 53,653 | 62,747 |
| 16,668 | 27,304 | 37,488 | 46,274 | 54,609 | 63,868 |
| 17,304 | 28,348 | 38,922 | 48,043 | 56,696 | 66,310 |
| 17,736 | 29,065 | 39,893 | 49,244 | 58,118 | 67,959 |
| 18,423 | 30,181 | 41,438 | 51,152 | 60,363 | 70,590 |

TABLE 5.—Continued

| Family of one | Family of two | Family of three | Family of four | Family of five | Family of six |
|---|---|---|---|---|---|
| 18,662 | 30,571 | 41,974 | 51,810 | 61,140 | 71,508 |
| 18,994 | 31,120 | 42,721 | 52,741 | 62,237 | 72,794 |
| 19,666 | 32,227 | 44,237 | 54,609 | 64,441 | 75,363 |

**Portia Wu,**

*Assistant Secretary for Employment and Training Administration.*

[FR Doc. 2015–07031 Filed 3–26–15; 8:45 am]

**BILLING CODE 4510–FT–P**

## DEPARTMENT OF LABOR

### Office of the Secretary

### Agency Information Collection Activities; Submission for OMB Review; Comment Request; Labor Condition Application for H–1B, H–1B1, and E–3 Non-Immigrants

**ACTION:** Notice.

**SUMMARY:** On March 31, 2015, the Department of Labor (DOL) will submit the Employment and Training Administration (ETA) sponsored information collection request (ICR) titled, ''Labor Condition Application for H–1B, H–1B1, and E–3 Non-Immigrants,'' to the Office of Management and Budget (OMB) for review and approval for continued use, without change, in accordance with the Paperwork Reduction Act of 1995 (PRA), 44 U.S.C. 3501 *et seq.* Public comments on the ICR are invited.

**DATES:** The OMB will consider all written comments that agency receives on or before April 30, 2015.

**ADDRESSES:** A copy of this ICR with applicable supporting documentation; including a description of the likely respondents, proposed frequency of response, and estimated total burden may be obtained free of charge from the RegInfo.gov Web site at *http://www.reginfo.gov/public/do/PRAViewICR?ref_nbr=201503-1205-016* (this link will only become active on April 1, 2015) or by contacting Michel Smyth by telephone at 202–693–4129, TTY 202–693–8064, (these are not toll-free numbers) or by email at *DOL_PRA_PUBLIC@dol.gov*.

Submit comments about this request by mail or courier to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for DOL–ETA, Office of Management and Budget, Room 10235, 725 17th Street NW., Washington, DC 20503; by Fax: 202–395–5806 (this is not a toll-free number); or by email: *OIRA_submission@omb.eop.gov*. Commenters are encouraged, but not required, to send a courtesy copy of any comments by mail or courier to the U.S. Department of Labor—OASAM, Office of the Chief Information Officer, Attn: Departmental Information Compliance Management Program, Room N1301, 200 Constitution Avenue NW., Washington, DC 20210; or by email: *DOL_PRA_PUBLIC@dol.gov*.

**FOR FURTHER INFORMATION CONTACT:** Contact Michel Smyth by telephone at 202–693–4129, TTY 202–693–8064, (these are not toll-free numbers) or by email at *DOL_PRA_PUBLIC@dol.gov*.

**Authority:** 44 U.S.C. 3507(a)(1)(D).

**SUPPLEMENTARY INFORMATION:** This ICR seeks to extend PRA authority for the Labor Condition Application for H–1B, H–1B1, and E–3 Non-Immigrants information collection. Immigration and Nationality Act (INA) sections 212(n) and (t) and 214(c) require this information collection. *See* 8 U.S.C. 1182(n) and (t) and 1184(c). The DOL and Department of Homeland Security have promulgated regulations to implement the INA. Specifically for this collection, 20 CFR 655 Subparts H and I and 8 CFR 214.2(h)(4) are applicable. The INA mandates that no alien may enter the U.S. for the purpose of performing professional work on a temporary basis unless the U.S. employer has attested to the Secretary of Labor that the working conditions for the alien will not adversely affect the working conditions of similarly employed U.S. workers; that the salary will be at least the prevailing wage for the occupational classification in the area of employment or the actual wage paid by the employer to all other individuals with similar experience and qualifications for the specific employment in question, whichever is higher; that there is no strike or lockout in the course of a labor dispute in the occupational classification at the place of employment; and that the employer has met all other requirements of the program as specified in the regulations. The information collection instruments are used by employers seeking to use non-immigrants (H–1B, H–1B1, E–3) in specialty occupations and as fashion models or by interested parties who want to report violations. The information permits the DOL to meet its statutory responsibilities for program administration, management, and oversight.

This information collection is subject to the PRA. A Federal agency generally cannot conduct or sponsor a collection of information, and the public is generally not required to respond to an information collection, unless it is approved by the OMB under the PRA and displays a currently valid OMB Control Number. In addition, notwithstanding any other provisions of law, no person shall generally be subject to penalty for failing to comply with a collection of information that does not display a valid Control Number. *See* 5 CFR 1320.5(a) and 1320.6. The DOL obtains OMB approval for this information collection under Control Number 1205–0310.

OMB authorization for an ICR cannot be for more than three (3) years without renewal, and the current approval for this collection is scheduled to expire on March 31, 2015. The DOL seeks to extend PRA authorization for this information collection for three (3) more years, without any change to existing requirements. The DOL notes that existing information collection requirements submitted to the OMB receive a month-to-month extension while they undergo review. For additional substantive information about this ICR, see the related notice published in the **Federal Register** on December 31, 2014 (79 FR 78910).

Interested parties are encouraged to send comments to the OMB, Office of Information and Regulatory Affairs at the address shown in the **ADDRESSES** section by April 30, 2015. In order to help ensure appropriate consideration, comments should mention OMB Control Number 1205–0310. The OMB is particularly interested in comments that:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

• Enhance the quality, utility, and clarity of the information to be collected; and

• Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

*Agency:* DOL–ETA.

*Title of Collection:* Labor Condition Application for H–1B, H–1B1, and E–3 Non-Immigrants.

*OMB Control Number:* 1205–0310.

*Affected Public:* Individuals or Households; State, Local, and Tribal Governments: and Private Sector—businesses or other for-profits and not-for-profit institutions.

*Total Estimated Number of Respondents:* 58,014.

*Total Estimated Number of Responses:* 1,299,841.

*Total Estimated Annual Time Burden:* 567,627 hours.

*Total Estimated Annual Other Costs Burden:* $0.

Dated: March 24, 2015.

**Michel Smyth,**

*Departmental Clearance Officer.*

[FR Doc. 2015–07068 Filed 3–26–15; 8:45 am]

**BILLING CODE 4510–FP–P**

## DEPARTMENT OF LABOR

### Office of the Secretary

### Agency Information Collection Activities; Submission for OMB Review; Comment Request; Senior Community Service Employment Program Performance Measurement System

**ACTION:** Notice.

**SUMMARY:** On March 31, 2015, the Department of Labor (DOL) will submit the Employment and Training Administration (ETA) sponsored information collection request (ICR) revision titled, ''Senior Community Service Employment Program Performance Measurement System,'' to the Office of Management and Budget (OMB) for review and approval for use in accordance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501 *et seq.*). Public comments on the ICR are invited.

**DATES:** The OMB will consider all written comments that agency receives on or before April 30, 2015.

**ADDRESSES:** A copy of this ICR with applicable supporting documentation; including a description of the likely respondents, proposed frequency of response, and estimated total burden may be obtained free of charge from the RegInfo.gov Web site at *http://www.reginfo.gov/public/do/PRAViewICR?ref_nbr=201411-1205-004* (this link will only become active on April 1, 2015) or by contacting Michel Smyth by telephone at 202–693–4129, TTY 202–693–8064, (these are not toll-free numbers) or sending an email to *DOL_PRA_PUBLIC@dol.gov.*

Submit comments about this request by mail or courier to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for DOL–ETA, Office of Management and Budget, Room 10235, 725 17th Street NW., Washington, DC 20503; by Fax: 202–395–5806 (this is not a toll-free number); or by email: *OIRA_submission@omb.eop.gov.* Commenters are encouraged, but not required, to send a courtesy copy of any comments by mail or courier to the U.S. Department of Labor—OASAM, Office of the Chief Information Officer, Attn: Departmental Information Compliance Management Program, Room N1301, 200 Constitution Avenue NW., Washington, DC 20210; or by email: *DOL_PRA_PUBLIC@dol.gov.*

**FOR FURTHER INFORMATION CONTACT:** Contact Michel Smyth by telephone at 202–693–4129, TTY 202–693–8064, (these are not toll-free numbers) or sending an email to *DOL_PRA_PUBLIC@dol.gov.*

**Authority:** 44 U.S.C. 3507(a)(1)(D).

**SUPPLEMENTARY INFORMATION:** This ICR seeks approval under the PRA for revisions to the Senior Community Service Employment Program (SCSEP) Performance Measurement System—Reporting Forms ETA–9120, Participant Data; ETA–9121, Community Service Assignment; ETA–9122, Unsubsidized Employment; ETA–9123, Exit; ETA–9124 Part A, Participant Customer Satisfaction; ETA–9124 Part B, Host Agency Customer Satisfaction; ETA–9124 Part C, Employer Customer Satisfaction; and ETA–8705, State Equitable Distribution Report. The SCSEP Performance Measurement System has six core indicators of performance: (1) Aggregate hours of community service provided compared to the number of hours funded by the grant; (2) entry into unsubsidized employment; (3) retention in unsubsidized employment for six months; (4) average earnings; (5) number of eligible individuals served compared to the number of positions funded; and (6) average number of most-in-need barriers of the individuals served. Additional indicators of performance include: (1) Retention in unsubsidized employment for one (1) year; (2) satisfaction of the participants, employers, and host agencies with their experiences and the services provided; and (3) exiting participants who enter volunteer work. This information collection has been classified as a revision, because (1) of changes that will provide additional data fields to grantees that have received awards in PY 2013 under a limited competition for pilot grants; (2) the ETA is introducing a quarterly narrative report to standardize the quarterly submission; (3) of changes to the Equitable Distribution Report to reflect that all of the data required for an analysis equitable distribution of resources is now provided to grantees on SCSEPED.org; and (4) additional questions to each of the customer satisfaction surveys. Older Americans Act section 513(f) authorizes this information collection. *See* 42 U.S.C. 3056(f).

This information collection is subject to the PRA. A Federal agency generally cannot conduct or sponsor a collection of information, and the public is generally not required to respond to an information collection, unless it is approved by the OMB under the PRA and displays a currently valid OMB Control Number. In addition, notwithstanding any other provisions of law, no person shall generally be subject to penalty for failing to comply with a collection of information that does not display a valid Control Number. *See* 5 CFR 1320.5(a) and 1320.6. The DOL obtains OMB approval for this information collection under Control Number 1205–0040. The current approval is scheduled to expire on March 31, 2015; however, the DOL notes that existing information collection requirements submitted to the OMB receive a month-to-month extension while they undergo review. New requirements would only take effect upon OMB approval. For additional substantive information about this ICR, see the related notice published in the **Federal Register** on November 5, 2014 (79 FR 65705).

Interested parties are encouraged to send comments to the OMB, Office of Information and Regulatory Affairs at the address shown in the **ADDRESSES** section by April 30, 2015. In order to help ensure appropriate consideration, comments should mention OMB Control Number 1205–0040. The OMB is particularly interested in comments that:

• Evaluate whether the proposed collection of information is necessary

for the proper performance of the functions of the agency, including whether the information will have practical utility;

• Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

• Enhance the quality, utility, and clarity of the information to be collected; and

• Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

*Agency:* DOL–ETA.

*Title of Collection:* Senior Community Service Employment Program Performance Measurement System.

*OMB Control Number:* 1205–0040.

*Affected Public:* Individuals or Households; State, Local, and Tribal Governments; and Private Sector—businesses or other for profits and not-for-profit institutions.

*Total Estimated Number of Respondents:* 22,128.

*Total Estimated Number of Responses:* 232,520.

*Total Estimated Annual Time Burden:* 32,922 hours.

*Total Estimated Annual Other Costs Burden:* $0.

Dated: March 23, 2015.

**Michel Smyth,**

*Departmental Clearance Officer.*

[FR Doc. 2015–07025 Filed 3–26–15; 8:45 am]

**BILLING CODE 4510–FN–P**

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## DEPARTMENT OF LABOR

### Employment and Training Administration

### Comment Request for Information Collection for OMB 1205–0028, Weekly Initial and Continued Claims (ETA 538 and ETA 539); Extension Without Revision

**AGENCY:** Employment and Training Administration (ETA), Labor.

**ACTION:** Notice.

**SUMMARY:** The Department of Labor (Department), as part of its continuing effort to reduce paperwork and respondent burden, conducts a preclearance consultation program to provide the public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 [44 U.S.C. 3506(c)(2)(A)]. This program helps ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed.

Currently, ETA is soliciting comments concerning the collection of data about the Unemployment Insurance Weekly Claims data collection, which expires October 31, 2015.

**DATES:** Written comments must be submitted to the office listed in the **ADDRESSES** section below on or before May 26, 2015.

**ADDRESSES:** Submit written comments to Thomas Stengle, Office of Unemployment Insurance, Room S–4524, Employment and Training Administration, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, DC 20210. Telephone number: 202–693–3029 (this is not a toll-free number). Individuals with hearing or speech impairments may access the telephone number above via TTY by calling the toll-free Federal Information Relay Service at 1–877–889–5627 (TTY/TDD). Email: *Stengle.Thomas@dol.gov.* To obtain a copy of the proposed information collection request (ICR), please contact the person listed above.

**SUPPLEMENTARY INFORMATION:**

#### I. Background

The ETA 538 and ETA 539 reports are weekly reports which contain information on initial claims and continued weeks claimed. These figures are important economic indicators. The ETA 538 provides information that allows unemployment claims information to be released to the public five days after the close of the reference period. The ETA 539 contains more detailed weekly claims information and the state's 13-week insured unemployment rate which is used to determine eligibility for the Extended Benefits program.

#### II. Review Focus

The Department is particularly interested in comments which:

• Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

• evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

• enhance the quality, utility, and clarity of the information to be collected; and minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submissions of responses.

#### III. Current Actions

*Type of Review:* Extension without revision.

*Title:* Weekly Initial and Continued Claims, ETA 538 and ETA 539.

*OMB Number:* 1205–0028.

*Affected Public:* State Workforce Agencies.

*Estimated Total Annual Responses:* 104 (52 weekly responses for each of the two reports).

*Average Time per Response:* 30 minutes per submittal for the ETA 538, 50 minutes per submittal for the ETA 539.

*Estimated Total Burden Hours:*

ETA 538—53 States × 52 reports × 30 min. = 1,378 hours.

ETA 539—53 States × 52 reports × 50 min. = 2,297 hours.

Total Burden = 3,675 hours.

*Total Burden Cost (capital/startup):* $0.

*Total Burden Cost (operating/maintaining*): $0.

We will summarize and/or include in the request for OMB approval of the ICR, the comments received in response to this comment request; they will also become a matter of public record.

**Portia Wu,**

*Assistant Secretary for Employment and Training, Labor.*

[FR Doc. 2015–07030 Filed 3–26–15; 8:45 am]

**BILLING CODE 4510–FW–P**

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## DEPARTMENT OF LABOR

### Occupational Safety and Health Administration

**[Docket No. OSHA–2014–0028]**

### Whistleblower Protection Advisory Committee (WPAC)

**AGENCY:** Occupational Safety and Health Administration (OSHA), Labor.

**ACTION:** Announcement of a meeting of WPAC.

**SUMMARY:** WPAC will meet April 20 and 21, 2015, in Washington, DC.

**DATES:**

*WPAC meeting:* WPAC will meet from 1 p.m. to 4 p.m., E.T., Monday, April 20, 2015 and 9 a.m. to 4 p.m., E.T., Tuesday, April 21, 2015.

*Written comments, requests to speak, speaker presentations, and requests for special accommodation:* You must submit (postmark, send, transmit) comments, requests to address the WPAC meeting, speaker presentations (written or electronic), and requests for special accommodations for the WPAC meeting by April 6, 2015.

**ADDRESSES:**

*WPAC meeting:* WPAC will meet in Room S–4215 A–C, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, DC 20210.

*Submission of comments, requests to speak, and speaker presentations:* You may submit comments, requests to speak at the WPAC meeting, and speaker presentations using one of the following methods:

*Electronically:* You may submit materials, including attachments, electronically at *http://www.regulations.gov,* which is the Federal eRulemaking Portal. Follow the on-line instructions for submissions.

*Facsimile (Fax):* If your submission, including attachments, does not exceed 10 pages, you may fax it to the OSHA Docket Office at (202) 693–1648.

*Regular mail, express mail, hand delivery, or messenger (courier) service:* You may submit your materials to the OSHA Docket Office, Docket No. OSHA–2014–0028, Room N–2625, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, DC 20210; telephone (202) 693–2350 (TTY (877) 889–5627). OSHA's Docket Office accepts deliveries (hand deliveries, express mail, and messenger service) during normal business hours, 8:15 a.m.–4:45 p.m., E.T., weekdays.

*Requests for special accommodations:* Please submit any requests for special accommodations to attend the WPAC meeting to Ms. Gretta Jameson, OSHA, Office of Communications, Room N–3647, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, DC 20210; telephone (202) 693–1999; email *jameson.grettah@dol.gov.*

*Instructions:* Your submissions must include the agency name and docket number for this **Federal Register** notice (Docket No. OSHA–2014–0028). Due to security-related procedures, submissions by regular mail may experience significant delays. Please contact the OSHA Docket Office for information about security procedures for making submissions. For additional information on submitting comments, requests to speak, and speaker presentations, see the **SUPPLEMENTARY INFORMATION** section of this notice.

**FOR FURTHER INFORMATION CONTACT:**

*For press inquiries:* Mr. Frank Meilinger, Director, OSHA Office of Communications, Room N–3647, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, DC 20210; telephone (202) 693–1999; email *meilinger.francis2@dol.gov.*

*For general information about WPAC and WPAC meetings:* Mr. Anthony Rosa, OSHA, Directorate of Whistleblower Protection Programs, Room N–4618, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, DC 20210; telephone (202) 693–2199; email *osha.dwpp@dol.gov.*

**SUPPLEMENTARY INFORMATION:**

## WPAC Meeting

WPAC will meet Monday, April 20, 2015, and Tuesday, April 21, 2015, in Washington, DC. WPAC meetings are open to the public.

The tentative agenda of the WPAC meeting includes:

Remarks from the Assistant Secretary of Labor for Occupational Safety and Health (OSHA);

Public comments (April 20); and

Best Practices and Corporate Culture Work Group's presentation (April 21).

OSHA transcribes WPAC meetings and prepares detailed minutes of the meetings. OSHA places the meeting transcripts and minutes in the public record of the WPAC meeting. The public record also includes Work Group reports, speaker presentations, comments and other materials submitted to WPAC.

## Public Participation, Submissions, and Access to Public Record

*WPAC meetings:* All WPAC meetings are open to the public. Individuals attending meetings at the U.S. Department of Labor must enter the building at the visitors' entrance, 3rd and C Streets NW., and pass through building security. Attendees must have valid government-issued photo identification (such as a driver's license) to enter the building. For additional information about building security measures for attending WPAC meetings, please contact Ms. Jameson (see **ADDRESSES** section).

Individuals needing special accommodations to attend the WPAC meeting should contact to Ms. Jameson as well.

*Submission of written comments:* You may submit written comments regarding best practices for protecting whistleblowers and preventing retaliation using one of the methods identified in the **ADDRESSES** section. Your submissions must include the Agency name and docket number for this WPAC meeting (Docket No. OSHA–2014–0028). OSHA will provide copies of submissions to WPAC members.

Because of security-related procedures, submissions by regular mail may experience significant delays. For information about security procedures for submitting materials by hand delivery, express mail, and messenger or courier service, please contact the OSHA Docket Office (see **ADDRESSES** section).

*Requests to speak and speaker presentations:* If you want to address WPAC regarding best practices at the meeting you must submit your request to speak, as well as any written or electronic presentation, by April 6, 2015, using one of the methods listed in the **ADDRESSES** section. Your request must state:

- The amount of time requested to speak;
- The interest you represent (*e.g.,* business, organization, affiliation), if any; and
- A brief outline of your presentation.

The WPAC Chair may grant requests to address WPAC as time and circumstances permit.

*Public docket of the WPAC meeting:* OSHA will place comments, requests to speak, and speaker presentations, including any personal information you provide, in the public docket of this WPAC meeting without change, and those documents may be available online at *http://www.regulations.gov.* Therefore, OSHA cautions you about submitting personal information such as Social Security numbers and birthdates.

OSHA also places in the public docket the meeting transcript, meeting minutes, documents presented at the WPAC meeting, and other documents pertaining to the WPAC meeting. These documents are available online at *http://www.regulations.gov* under Docket No. OSHA–2014–0028.

*Access to the public record of WPAC meetings:* To read or download documents in the public docket of this WPAC meeting, go to Docket No. OSHA–2014–0028 at *http://www.regulations.gov.* The *http://www.regulations.gov* index also lists all documents in the public record for this meeting; however, some documents (*e.g.,* copyrighted materials) are not publicly available through that Web page. All documents in the public record, including materials not available through *http://www.regulations.gov,* are available for inspection and copying in the OSHA Docket Office (see **ADDRESSES**

section). Please contact the OSHA Docket Office for assistance in making submissions to, or obtaining materials from, the public docket.

Electronic copies of this **Federal Register** notice are available at *http://www.regulations.gov.* This notice, as well as news releases and other relevant information, also are available on the Directorate of Whistleblower Protections Programs Web page at *http://www.whistleblowers.gov.*

**Authority and Signature**

David Michaels, Ph.D., MPH, Assistant Secretary of Labor for Occupational Safety and Health, authorized the preparation of this notice under the authority granted by 5 U.S.C. App. 2, 41 CFR part 102–3, chapter 1600 of Department of Labor Management Series 3 (Mar. 17, 2008), 77 FR 3912 (Jan. 25, 2012), and the Secretary of Labor's authority to administer the whistleblower provisions found in 29 U.S.C. 660(c), 49 U.S.C. 31105, 15 U.S.C. 2651, 46 U.S.C. 80507, 42 U.S.C. 300j–9(i), 33 U.S.C. 1367, 15 U.S.C. 2622, 42 U.S.C. 6971, 42 U.S.C. 7622, 42 U.S.C. 9610, 42 U.S.C. 5851, 49 U.S.C. 42121, 18 U.S.C. 1514A, 49 U.S.C. 60129, 49 U.S.C. 20109, 6 U.S.C. 1142, 15 U.S.C. 2087, 29 U.S.C. 218c, 12 U.S.C. 5567, 46 U.S.C. 2114, 21 U.S.C. 399d, and 49 U.S.C. 30171.

Signed at Washington, DC, on March 24, 2015.

**David Michaels,**

*Assistant Secretary of Labor for Occupational Safety and Health.*

[FR Doc. 2015–07075 Filed 3–26–15; 8:45 am]

**BILLING CODE 4510–26–P**

## DEPARTMENT OF LABOR

### Office of the Secretary

### Agency Information Collection Activities; Submission for OMB Review; Comment Request; Methylene Chloride Standard

**ACTION:** Notice.

**SUMMARY:** On March 31, 2015, the Department of Labor (DOL) will submit the Occupational Safety and Health Administration (OSHA) sponsored information collection request (ICR) titled, ''Methylene Chloride Standard,'' to the Office of Management and Budget (OMB) for review and approval for continued use, without change, in accordance with the Paperwork Reduction Act of 1995 (PRA), 44 U.S.C. 3501 *et seq.* Public comments on the ICR are invited.

**DATES:** The OMB will consider all written comments that agency receives on or before April 30, 2015.

**ADDRESSES:** A copy of this ICR with applicable supporting documentation; including a description of the likely respondents, proposed frequency of response, and estimated total burden may be obtained free of charge from the RegInfo.gov Web site at *http://www.reginfo.gov/public/do/PRAViewICR?ref_nbr=201501-1218-007* (this link will only become active on April 1, 2015) or by contacting Michel Smyth by telephone at 202–693–4129, TTY 202–693–8064, (these are not toll-free numbers) or by email at *DOL_PRA_PUBLIC@dol.gov.*

Submit comments about this request by mail or courier to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for DOL–OSHA, Office of Management and Budget, Room 10235, 725 17th Street NW., Washington, DC 20503; by Fax: 202–395–5806 (this is not a toll-free number); or by email: *OIRA_submission@omb.eop.gov.* Commenters are encouraged, but not required, to send a courtesy copy of any comments by mail or courier to the U.S. Department of Labor-OASAM, Office of the Chief Information Officer, Attn: Departmental Information Compliance Management Program, Room N1301, 200 Constitution Avenue NW., Washington, DC 20210; or by email: *DOL_PRA_PUBLIC@dol.gov.*

**FOR FURTHER INFORMATION CONTACT:** Michel Smyth by telephone at 202–693–4129, TTY 202–693–8064, (these are not toll-free numbers) or by email at *DOL_PRA_PUBLIC@dol.gov.*

**Authority:** 44 U.S.C. 3507(a)(1)(D).

**SUPPLEMENTARY INFORMATION:** This ICR seeks to extend PRA authority for the Methylene Chloride (MC) Standard information collection. The purpose of the Standard and its information collection requirements, codified at 29 CFR 1910.1052, is to protect workers from the adverse health effects that may result from their exposure to MC. The requirements in the Standard include: Worker exposure monitoring, notifying workers of their MC exposures, administering medical examinations to workers, providing examining physicians with specific program and worker information, ensuring that workers receive a copy of their medical examination results, maintaining workers' exposure monitoring and medical examination records for specific periods, and providing access to these records to affected workers and their authorized representatives. Occupational Safety and Health Act of 1970 sections 2(b)(9), 6, and 8(c) authorize this information collection. *See* 29 U.S.C. 651(b)(9), 655, and 657.

This information collection is subject to the PRA. A Federal agency generally cannot conduct or sponsor a collection of information, and the public is generally not required to respond to an information collection, unless it is approved by the OMB under the PRA and displays a currently valid OMB Control Number. In addition, notwithstanding any other provisions of law, no person shall generally be subject to penalty for failing to comply with a collection of information that does not display a valid Control Number. *See* 5 CFR 1320.5(a) and 1320.6. The DOL obtains OMB approval for this information collection under Control Number 1218–0179.

OMB authorization for an ICR cannot be for more than three (3) years without renewal, and the current approval for this collection is scheduled to expire on March 31, 2015. The DOL seeks to extend PRA authorization for this information collection for three (3) more years, without any change to existing requirements. The DOL notes that existing information collection requirements submitted to the OMB receive a month-to-month extension while they undergo review. For additional substantive information about this ICR, see the related notice published in the **Federal Register** on December 4, 2014 (79 FR 72030).

Interested parties are encouraged to send comments to the OMB, Office of Information and Regulatory Affairs at the address shown in the **ADDRESSES** section by April 30, 2015. In order to help ensure appropriate consideration, comments should mention OMB Control Number 1218–0179. The OMB is particularly interested in comments that:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology,

*e.g.,* permitting electronic submission of responses.

*Agency:* DOL–OSHA.

*Title of Collection:* Methylene Chloride Standard.

*OMB Control Number:* 1218–0179.

*Affected Public:* Private Sector—businesses or other for-profits.

*Total Estimated Number of Respondents:* 78,770.

*Total Estimated Number of Responses:* 213,472.

*Total Estimated Annual Time Burden:* 54,393 hours.

*Total Estimated Annual Other Costs Burden:* $19,381,635.

Dated: March 23, 2015.

**Michel Smyth,**

*Departmental Clearance Officer.*

[FR Doc. 2015–07024 Filed 3–26–15; 8:45 am]

BILLING CODE 4510–26–P

## LEGAL SERVICES CORPORATION

### Notice of Availability of Calendar Year 2016 Competitive Grant Funds.

**AGENCY:** Legal Services Corporation.

**ACTION:** Solicitation for Proposals for the Provision of Civil Legal Services.

**SUMMARY:** The Legal Services Corporation (LSC) is the national organization charged with administering Federal funds provided for civil legal services to low-income people.

LSC hereby announces the availability of competitive grant funds for calendar year 2016 and solicits grant proposals from interested parties who are qualified to provide effective, efficient and high quality civil legal services to eligible clients in the service area(s) of the states and territories identified below. The exact amount of congressionally appropriated funds and the date, terms, and conditions of their availability for calendar year 2016 have not been determined.

**DATES:** See **SUPPLEMENTARY INFORMATION** section for grants competition dates.

**ADDRESSES:** Legal Services Corporation—Competitive Grants, 3333 K Street NW., Third Floor, Washington, DC 20007–3522.

**FOR FURTHER INFORMATION CONTACT:** Office of Program Performance by email at *competition@lsc.gov,* or visit the grants competition Web site at *www.grants.lsc.gov.*

**SUPPLEMENTARY INFORMATION:** The Request for Proposals (RFP) will be available the week of April 6, 2015. Applicants must file a Notice of Intent to Compete (NIC) to participate in the competitive grants process. Applicants must file the NIC by May 8, 2015, 5:00 p.m. E.D.T. Other key application and filing dates, including the dates for filing grant applications, are published at *www.grants.lsc.gov/resources/notices.*

LSC is seeking proposals from: (1) Non-profit organizations that have as a purpose the provision of legal assistance to eligible clients; (2) private attorneys; (3) groups of private attorneys or law firms; (4) state or local governments; and (5) sub-state regional planning and coordination agencies that are composed of sub-state areas and whose governing boards are controlled by locally elected officials.

The RFP, containing the NIC and grant application, guidelines, proposal content requirements, service area descriptions, and specific selection criteria, will be available from *www.grants.lsc.gov* the week of April 6, 2015.

Below are the service areas for which LSC is requesting grant proposals. Service area descriptions will be available at *www.grants.lsc.gov/about-grants/where-we-fund.* LSC will post all updates and/or changes to this notice at *www.grants.lsc.gov.* Interested parties are asked to visit *www.grants.lsc.gov* regularly for updates on the LSC competitive grants process.

| State or territory | Service area(s) |
|---|---|
| Alabama | AL–4. |
| American Samoa | AS–1. |
| Arizona | AZ–2, NAZ–5. |
| California | CA–19, CA–2, CA–26, CA–29, CA–30. |
| Colorado | CO–6, MCO, NCO–1. |
| Connecticut | CT–1. |
| Delaware | MDE. |
| Florida | FL–13, FL–14, FL–15, FL–16, FL–17, FL–18, FL–5, MFL. |
| Georgia | GA–1, GA–2, MGA, |
| Hawaii | HI–1, NHI–1, |
| Illinois | IL–6, MIL. |
| Indiana | IN–5, MIN. |
| Kentucky | KY–5. |
| Louisiana | LA–10, LA–11. |
| Massachusetts | MA–12. |
| Maryland | MD–1, MMD. |
| Michigan | MI–13, MI–14. |
| Missouri | MMO, MO–3. |
| Mississippi | MS–9. |
| Montana | MMT, MT–1, NMT–1. |
| North Carolina | MNC, NC–5, NNC–1. |
| New Jersey | NJ–12. |
| New Mexico | NM–1, NNM–2. |
| New York | MNY, NY–20, NY–21, NY–22, NY–23, NY–24, NY–7. |
| Oklahoma | MOK, OK–3. |
| Pennsylvania | MPA, PA–1, PA–11, PA–23, PA–26, PA–5, PA–8. |
| Puerto Rico | MPR, PR–1. |
| South Carolina | MSC, SC–8. |
| South Dakota | SD–2. |
| Virginia | MVA, VA–18. |
| Vermont | VT–1. |

Dated: March 23, 2015.

**Stefanie K. Davis,**

*Assistant General Counsel.*

[FR Doc. 2015–06980 Filed 3–26–15; 8:45 am]

BILLING CODE 7050–01–P

## NUCLEAR REGULATORY COMMISSION

### Advisory Committee on Reactor Safeguards; Meeting of the ACRS Subcommittee on Structural Analysis; Notice of Meeting

The ACRS Subcommittee on Structural Analysis will hold a meeting on April 8, 2015, Room T–2B1, 11545 Rockville Pike, Rockville, Maryland.

The meeting will be open to public attendance.

The agenda for the subject meeting shall be as follows:

**Wednesday, April 8, 2015—1:30 p.m. Until 5:00 p.m.**

The Subcommittee will discuss lessons learned from the San Onofre Steam Generator Tube Degradation event. The Subcommittee will hear presentations by and hold discussions with representatives of the NRC staff regarding this matter. The Subcommittee will gather information, analyze relevant issues and facts, and formulate proposed positions and actions, as appropriate, for deliberation by the Full Committee, if necessary.

Members of the public desiring to provide oral statements and/or written comments should notify the Designated Federal Official (DFO), Kent Howard (Telephone 301–415–2989 or Email: *Kent.Howard@nrc.gov*) five days prior to the meeting, if possible, so that appropriate arrangements can be made. Thirty-five hard copies of each presentation or handout should be provided to the DFO thirty minutes before the meeting. In addition, one electronic copy of each presentation should be emailed to the DFO one day before the meeting. If an electronic copy cannot be provided within this timeframe, presenters should provide the DFO with a CD containing each presentation at least thirty minutes before the meeting. Electronic recordings will be permitted only during those portions of the meeting that are open to the public. Detailed procedures for the conduct of and participation in ACRS meetings were published in the **Federal Register** on October 13, 2014 (79 FR 59307).

Detailed meeting agendas and meeting transcripts are available on the NRC Web site at *http://www.nrc.gov/reading-rm/doc-collections/acrs.* Information

regarding topics to be discussed, changes to the agenda, whether the meeting has been canceled or rescheduled, and the time allotted to present oral statements can be obtained from the Web site cited above or by contacting the identified DFO. Moreover, in view of the possibility that the schedule for ACRS meetings may be adjusted by the Chairman as necessary to facilitate the conduct of the meeting, persons planning to attend should check with these references if such rescheduling would result in a major inconvenience.

If attending this meeting, please enter through the One White Flint North building, 11555 Rockville Pike, Rockville, MD. After registering with security, please contact Mr. Theron Brown (Telephone 240–888–9835) to be escorted to the meeting room.

Dated: March 18, 2015.

**Mark L. Banks,**

*Chief, Technical Support Branch, Advisory Committee on Reactor Safeguards.*

[FR Doc. 2015–07086 Filed 3–26–15; 8:45 am]

**BILLING CODE 7590–01–P**

## NUCLEAR REGULATORY COMMISSION

### Advisory Committee on Reactor Safeguards (ACRS); Meeting of the ACRS Subcommittee on Metallurgy and Reactor Fuels; Notice of Meeting

The ACRS Subcommittee on Metallurgy & Reactor Fuels will hold a meeting on April 8, 2015, Room T–2B1, 11545 Rockville Pike, Rockville, Maryland.

The meeting will be open to public attendance with the exception of portions that may be closed to protect information that is propriety pursuant to 5 U.S.C. 552b(c)(4). The agenda for the subject meeting shall be as follows:

**Wednesday, April 8, 2015—8:30 a.m. Until 12:00 p.m.**

The Subcommittee will discuss Storage Aging Management Guidance Update and Development. The Subcommittee will hear presentations by and hold discussions with the NRC staff and other interested persons regarding this matter. The Subcommittee will gather information, analyze relevant issues and facts, and formulate proposed positions and actions, as appropriate, for deliberation by the Full Committee.

Members of the public desiring to provide oral statements and/or written comments should notify the Designated Federal Official (DFO), Christopher Brown (Telephone 301–415–7111 or Email: *Christopher.Brown@nrc.gov*) five days prior to the meeting, if possible, so that appropriate arrangements can be made. Thirty-five hard copies of each presentation or handout should be provided to the DFO thirty minutes before the meeting. In addition, one electronic copy of each presentation should be emailed to the DFO one day before the meeting. If an electronic copy cannot be provided within this timeframe, presenters should provide the DFO with a CD containing each presentation at least thirty minutes before the meeting. Electronic recordings will be permitted only during those portions of the meeting that are open to the public. Detailed procedures for the conduct of and participation in ACRS meetings were published in the **Federal Register** on October 13, 2014 (79 FR 59307).

Detailed meeting agendas and meeting transcripts are available on the NRC Web site at *http://www.nrc.gov/reading-rm/doc-collections/acrs.* Information regarding topics to be discussed, changes to the agenda, whether the meeting has been canceled or rescheduled, and the time allotted to present oral statements can be obtained from the Web site cited above or by contacting the identified DFO. Moreover, in view of the possibility that the schedule for ACRS meetings may be adjusted by the Chairman as necessary to facilitate the conduct of the meeting, persons planning to attend should check with these references if such rescheduling would result in a major inconvenience.

If attending this meeting, please enter through the One White Flint North building, 11555 Rockville Pike, Rockville, MD. After registering with security, please contact Mr. Theron Brown (Telephone 240–888–9835) to be escorted to the meeting room.

Dated: March 18, 2015.

**Mark L. Banks,**

*Chief, Technical Support Branch, Advisory Committee on Reactor Safeguards.*

[FR Doc. 2015–07091 Filed 3–26–15; 8:45 am]

**BILLING CODE 7590–01–P**

## NUCLEAR REGULATORY COMMISSION

### Advisory Committee on Reactor Safeguards (ACRS); Meeting of the ACRS Subcommittee on Planning and Procedures; Notice of Meeting

The ACRS Subcommittee on Planning and Procedures will hold a meeting on April 8, 2015, Room T–2B3, 11545 Rockville Pike, Rockville, Maryland.

The meeting will be open to public attendance with the exception of a portion that may be closed pursuant to 5 U.S.C. 552b(c)(2) and (6) to discuss organizational and personnel matters that relate solely to the internal personnel rules and practices of the ACRS, and information the release of which would constitute a clearly unwarranted invasion of personal privacy.

The agenda for the subject meeting shall be as follows:

**Wednesday, April 8, 2015—12 p.m. Until 1 p.m.**

The Subcommittee will discuss proposed ACRS activities and related matters. The Subcommittee will gather information, analyze relevant issues and facts, and formulate proposed positions and actions, as appropriate, for deliberation by the Full Committee.

Members of the public desiring to provide oral statements and/or written comments should notify the Designated Federal Official (DFO), Quynh Nguyen (Telephone 301–415–5844 or Email: *Quynh.Nguyen@nrc.gov*) five days prior to the meeting, if possible, so that arrangements can be made. Thirty-five hard copies of each presentation or handout should be provided to the DFO thirty minutes before the meeting. In addition, one electronic copy of each presentation should be emailed to the DFO one day before the meeting. If an electronic copy cannot be provided within this timeframe, presenters should provide the DFO with a CD containing each presentation at least thirty minutes before the meeting. Electronic recordings will be permitted only during those portions of the meeting that are open to the public. Detailed procedures for the conduct of and participation in ACRS meetings were published in the **Federal Register** on October 13, 2014 (79 FR 59307–59308).

Information regarding changes to the agenda, whether the meeting has been canceled or rescheduled, and the time allotted to present oral statements can be obtained by contacting the identified DFO. Moreover, in view of the possibility that the schedule for ACRS meetings may be adjusted by the Chairman as necessary to facilitate the conduct of the meeting, persons planning to attend should check with the DFO if such rescheduling would result in a major inconvenience.

If attending this meeting, please enter through the One White Flint North building, 11555 Rockville Pike, Rockville, MD. After registering with security, please contact Mr. Theron

Brown (240–888–9835) to be escorted to the meeting room.

Dated: March 18, 2015.

**Mark L. Banks,**

*Chief, Technical Support Branch, Advisory Committee on Reactor Safeguards.*

[FR Doc. 2015–07087 Filed 3–26–15; 8:45 am]

BILLING CODE 7590–01–P

## NUCLEAR REGULATORY COMMISSION

**[Docket Nos. 50–327 and 50–328; NRC–2013–0037]**

### Sequoyah Nuclear Plant, Units 1 & 2

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** Supplemental environmental impact statement; issuance.

**SUMMARY:** The U.S. Nuclear Regulatory Commission (NRC) is issuing a final plant-specific supplement, Supplement 53, to NUREG–1437, ''Generic Environmental Impact Statement for License Renewal of Nuclear Plants (GEIS),'' regarding the renewal of Tennessee Valley Authority (TVA) operating licenses DPR–77 and DPR–79 for an additional 20 years of operation for Sequoyah Nuclear Plant, Units 1 & 2 (SQN).

**DATES:** The supplemental environmental impact statement referenced in this document is available on March 27, 2015.

**ADDRESSES:** Please refer to Docket ID NRC–2013–0037 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–2013–0037. Address questions about NRC dockets to Carol Gallagher; telephone: 301–415–3463; email: *Carol.Gallagher@nrc.gov.* For technical questions, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.
- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly-available documents online in the ADAMS Public Documents collection at *http://www.nrc.gov/reading-rm/adams.html.* To begin the search, select ''*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 final Supplement 53 to the GEIS is available in ADAMS under Accession No. ML15075A438.
- *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.
- *Chattanooga-Hamilton County Library, Northgate Branch:* The final Supplement 53 to the GEIS is available for public inspection at 520 Northgate Mall Road, Chattanooga, TN 37415.

**FOR FURTHER INFORMATION CONTACT:** David Drucker, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 800–368–5692, ext. 6223, email: *David.Drucker@nrc.gov.*

**SUPPLEMENTARY INFORMATION:**

### I. Background

In accordance with § 51.118 of Title 10 of the *Code of Federal Regulations,* the NRC is issuing the final Supplement 53 to the GEIS regarding the renewal of TVA operating licenses DPR–77 and DPR–79 for an additional 20 years of operation for SQN. Draft Supplement 53 to the GEIS was noticed by the NRC in the **Federal Register** on August 11, 2014 (79 FR 46878), and noticed by the Environmental Protection Agency on August 15, 2014 (79 FR 48140). The public comment period on draft Supplement 53 to the GEIS ended on September 29, 2014, and the comments received are addressed in final Supplement 53 to the GEIS.

### II. Discussion

As discussed in Chapter 5 of the final Supplement 53 to the GEIS, the NRC determined that the adverse environmental impacts of license renewal for SQN are not so great that preserving the option of license renewal for energy-planning decisionmakers would be unreasonable. This recommendation is based on: (1) The analysis and findings in the GEIS; (2) information provided in the environmental report and other documents submitted by TVA; (3) consultation with Federal, State, local, and Tribal agencies; (4) the NRC staff's independent environmental review; and (5) consideration of public comments received during the scoping process and on the draft supplemental environmental impact statement.

Dated at Rockville, Maryland, this 19th day of March, 2015.

For the Nuclear Regulatory Commission.

**Brian D. Wittick,**

*Chief, Projects Branch 2, Division of License Renewal, Office of Nuclear Reactor Regulation.*

[FR Doc. 2015–06961 Filed 3–26–15; 8:45 am]

BILLING CODE 7590–01–P

## PACIFIC NORTHWEST ELECTRIC POWER AND CONSERVATION PLANNING COUNCIL

### Amended Columbia River Basin Fish and Wildlife Program; Corrected Notice

**AGENCY:** Pacific Northwest Electric Power and Conservation Planning Council (Northwest Power and Conservation Council, Council), an interstate compact agency organized under the authority of the Pacific Northwest Electric Power Planning and Conservation Act of 1980, 16 U.S.C. 839 *et seq.* (Northwest Power Act).

**ACTION:** Notice of final action adopting the amended *Columbia River Basin Fish and Wildlife Program.*

**SUMMARY:** Pursuant to Section 4(h) of the Northwest Power Act, the Council has amended its *Columbia River Basin Fish and Wildlife Program* (program). The final amended program may be found on the Council's Web site at *http://www.nwcouncil.org/fw/program/2014-12.* In the Council's earlier notice of the amended program (Doc #2015–06299, published 3/19/2015) the URL link was incorrectly stated as *http://www.nwcouncil.org/fw/2014F&WProgram/.*

*Background:* Pursuant to Section 4(h) of the Northwest Power Act, in March 2013 the Northwest Power and Conservation Council requested in writing that state and federal fish and wildlife agencies, Indian tribes, and others submit recommendations for amendments to the Council's *Columbia River Basin Fish and Wildlife Program.* The Council received over 1,500 pages of recommendations and supporting information from 68 entities and 412 individuals. The Council subsequently received extensive written public comment on the program amendment recommendations.

In May 2014, after reviewing the recommendations, the supporting information, the comments received on the recommendations, and other information in the administrative record, the Council released for public review a draft revised program. The Council received over 1,500 pages of substantial written comments on the draft amendments. The Council also took oral testimony at ten public

hearings around the region and at regularly scheduled Council meetings. Transcripts of these hearings are in the administrative record along with the written comments. As specified in Section 4(h)(5), the Council also held a number of consultations on the recommendations and draft amendments with representatives of state and federal fish and wildlife agencies, Indian tribes, federal hydrosystem agencies, and customers of the Bonneville Power Administration. Notes from these consultations are also in the administrative record. Relevant documents from the program amendment process, including the recommendations, draft program amendments and comments, may be found on the Council's Web site at *http://www.nwcouncil.org/fw/program/2014-03.*

Following this public review process required by the Northwest Power Act, and after deliberations in public over the course of several Council meetings, the Council adopted the final revised program in October 2014 at a regularly scheduled Council meeting in Pendleton, Oregon. The Council based its decisions on the recommendations, supporting documents, and views and information obtained through public comment and participation and consultation with the agencies, tribes, and customers. In the final step of this program amendment process, at its regularly scheduled March 2015 meeting in Eugene, Oregon, the Council adopted written findings as part of the program explaining its disposition of program amendment recommendations along with responses to comments received on the program amendment recommendations and on the draft amended program. The findings and responses have been made part of the program as Appendix S.

**FOR FURTHER INFORMATION CONTACT:** Please visit the Council's Web site at *www.nwcouncil.org* or contact the Council at (503) 222–5161 or toll free (800) 452–5161.

**Stephen L. Crow,**

*Executive Director.*

[FR Doc. 2015–07065 Filed 3–26–15; 8:45 am]

**BILLING CODE P**

## POSTAL REGULATORY COMMISSION

**[Docket Nos. MC2015–41 and CP2015–53; Order No. 2406]**

### New Postal Product

**AGENCY:** Postal Regulatory Commission.

**ACTION:** Notice.

**SUMMARY:** The Commission is noticing a recent Postal Service filing concerning an addition of Parcel Return Service Contract 6 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:* March 30, 2015.

**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 Parcel Return Service Contract 6 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. MC2015–41 and CP2015–53 to consider the Request pertaining to the proposed Parcel Return Service Contract 6 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 March 30, 2015. The public portions of these filings can be accessed via the Commission's Web site (*http://www.prc.gov*).

The Commission appoints Kenneth R. Moeller to serve as Public Representative in these dockets.

### III. Ordering Paragraphs

*It is ordered:*

1. The Commission establishes Docket Nos. MC2015–41 and CP2015–53 to consider the matters raised in each docket.
2. Pursuant to 39 U.S.C. 505, Kenneth R. Moeller 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 March 30, 2015.
4. The Secretary shall arrange for publication of this order in the **Federal Register**.

By the Commission.

**Shoshana M. Grove,**

*Secretary.*

[FR Doc. 2015–06954 Filed 3–26–15; 8:45 am]

**BILLING CODE 7710–FW–P**

[1] Request of the United States Postal Service to Add Parcel Return Service Contract 6 to Competitive Product List and Notice of Filing (Under Seal) of Unredacted Governors' Decision, Contract, and Supporting Data, March 20, 2015 (Request).

## POSTAL REGULATORY COMMISSION

**[Docket No. CP2013–13; Order No. 2407]**

### New Postal Product

**AGENCY:** Postal Regulatory Commission.

**ACTION:** Notice.

**SUMMARY:** The Commission is noticing a recent Postal Service filing concerning an amendment to Parcel Select Contract 6. This notice informs the public of the filing, invites public comment, and takes other administrative steps.

**DATES:** *Comments are due:* March 30, 2015.

**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:**

### Table of Contents

I. Introduction

II. Notice of Commission Action
III. Ordering Paragraphs

## I. Introduction

On March 20, 2015, the Postal Service filed notice that it has agreed to an Amendment to the existing Parcel Select Contract 6 negotiated service agreement approved in this docket.[1] In support of its Notice, the Postal Service includes a redacted copy of the Amendment. The Postal Service asserts that the amendment will not materially affect the cost coverage of the agreement. Notice at 1. Therefore, the supporting financial documentation and financial certification initially provided in this docket remain applicable. *Id.*

The Postal Service also filed the unredacted Amendment 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. *Id.*

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.*

## II. Notice of Filings

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 March 30, 2015. The public portions of these filings can be accessed via the Commission's Web site (*http://www.prc.gov*).

The Commission appoints Curtis E. Kidd 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. CP2013–13 for consideration of matters raised by the Postal Service's Notice.

2. Pursuant to 39 U.S.C. 505, the Commission appoints Curtis E. Kidd 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 March 30, 2015.

4. The Secretary shall arrange for publication of this order in the **Federal Register**.

By the Commission.

**Shoshana M. Grove,**

*Secretary.*

[FR Doc. 2015–06956 Filed 3–26–15; 8:45 am]

**BILLING CODE 7710–FW–P**

[1] Notice of United States Postal Service of Second Amendment to Parcel Select Contract 6, with Portions Filed Under Seal, March 20, 2015 (Notice).

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# POSTAL REGULATORY COMMISSION

**[Docket Nos. CP2012–47; Order No. 2409]**

## New Postal Product

**AGENCY:** Postal Regulatory Commission.

**ACTION:** Notice.

**SUMMARY:** The Commission is noticing a recent Postal Service filing concerning an amendment to the existing Priority Mail Contract 41 negotiated service agreement. This notice informs the public of the filing, invites public comment, and takes other administrative steps.

**DATES:** *Comments are due:* March 30, 2015.

**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:**

## Table of Contents

I. Introduction
II. Notice of Commission Action
III. Ordering Paragraphs

## I. Introduction

On March 20, 2015, the Postal Service filed notice that it has agreed to an Amendment to the existing Priority Mail Contract 41 negotiated service agreement approved in this docket.[1] In support of its Notice, the Postal Service includes a redacted copy of the Amendment.

The Postal Service also filed the unredacted Amendment. 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. *Id.*

The Amendment concerns price changes and extends the contract expiration date. *Id.* Attachment A at 1.

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. Notice at 1. The Postal Service asserts that the Amendment will not affect the cost coverage of the Agreement. *Id.*

## II. Notice of Filings

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 March 30, 2015. 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 represent the interests of the general public (Public Representative) in this docket.

## III. Ordering Paragraphs

*It is ordered:*

1. The Commission reopens Docket No. CP2012–47 for consideration of matters raised by the Postal Service's Notice.

2. Pursuant to 39 U.S.C. 505, the Commission appoints James F. Callow 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 March 30, 2015.

4. The Secretary shall arrange for publication of this order in the **Federal Register**.

By the Commission.

**Shoshana M. Grove,**

*Secretary.*

[FR Doc. 2015–07017 Filed 3–26–15; 8:45 am]

**BILLING CODE 7710–FW–P**

[1] Notice of United States Postal Service of Amendment to Priority Mail Contract 41, with Portions Filed Under Seal, March 20, 2015 (Notice).

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# PRIVACY AND CIVIL LIBERTIES OVERSIGHT BOARD

**[Notice–PCLOB–2015–02; Docket No. 2015–0002, Sequence No. 2]**

## Sunshine Act Meeting

**TIME AND DATE:** The meeting will be held Wednesday, April 8, 2015, from 10:00 a.m. through 12:00 p.m. Eastern Standard Time (EST).

**PLACE:** 2100 K Street NW., Washington, DC 20427. Any change in location will be announced on *http://www.pclob.gov.*

**STATUS:** This meeting will be open to the public.

**MATTERS TO BE CONSIDERED:** The Privacy and Civil Liberties Oversight Board will conduct a public meeting to discuss and vote on the work plan for its review of

Executive Order 12333—United States intelligence activities. The discussion will allow the Board to refine its plan of action on this issue.

*Procedures for public observation:* The meeting is open to the public. Pre-registration is not required. Individuals who plan to attend and require special assistance should contact Executive Director Sharon Bradford Franklin at 202–331–2986, at least 72 hours prior to the meeting date.

**CONTACT PERSON FOR MORE INFORMATION:** Sharon Bradford Franklin, Executive Director, 202–331–1986.

Dated: March 24, 2015.

**Lynn Parker Dupree,**

*Acting General Counsel, Privacy and Civil Liberties Oversight Board.*

[FR Doc. 2015–07173 Filed 3–25–15; 4:15 pm]

**BILLING CODE 6820–B3–P**

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–74564; File No. SR–MSRB–2015–02]**

## Self-Regulatory Organizations; Municipal Securities Rulemaking Board; Notice of Filing of a Proposed Rule Change Consisting of Proposed Amendments to the MSRB Rule G–14 RTRS Procedures, and the Real-Time Transaction Reporting System and Subscription Service

March 23, 2015.

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 March 19, 2015, the Municipal Securities Rulemaking Board (the ''MSRB'' or ''Board'') filed with the Securities and Exchange Commission (the ''SEC'' or ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the MSRB. 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 MSRB filed with the Commission a proposed rule change consisting of proposed amendments to the MSRB Rule G–14 RTRS Procedures, and the Real-Time Transaction Reporting System and subscription service (collectively, the ''proposed rule change''). The MSRB is proposing that the effective date for the proposed rule change be no later than May 23, 2016 and announced by the MSRB in a notice published on the MSRB Web site no later than sixty (60) days prior to the effective date.

The text of the proposed rule change is available on the MSRB's Web site at *www.msrb.org/Rules-and-Interpretations/SEC-Filings/2015-Filings.aspx,* at the MSRB'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, the MSRB 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 MSRB 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

MSRB Rule G–14, on reports of sales or purchases, requires brokers, dealers and municipal securities dealers (collectively ''dealers'') to report all executed transactions in municipal securities to RTRS within 15 minutes of the time of trade, with limited exceptions.[3] RTRS serves the dual objectives of price transparency and market surveillance. Because a comprehensive database of transactions is needed for the surveillance function of RTRS, Rule G–14, with limited exceptions, requires dealers to report all of their purchase-sale transactions to RTRS, not only those that qualify for public dissemination to serve the transparency function of the system.[4] The MSRB makes transaction data available to the general public through the Electronic Municipal Market Access (''EMMA'') Web site at no cost, and disseminates such data through paid subscription services to market data vendors, institutional market participants and others that subscribe to the data feed.

As more fully described below, the proposed rule change would enhance the post-trade price transparency information provided through RTRS by:

- Expanding the application of the existing list offering price and takedown indicator to cases involving distribution participant dealers and takedown transactions that are not at a discount from the list offering price;
- eliminating the requirement for dealers to report yield on customer trade reports and, instead, enabling the MSRB to calculate and disseminate yield on customer trades;
- establishing a new indicator for customer trades involving non-transaction-based compensation arrangements; and
- establishing a new indicator for alternative trading system (''ATS'') transactions.

Expanding the Application of Existing List Offering Price and RTRS Takedown Indicator

Transaction reporting procedures require dealers that are part of the underwriting group for a new issuance of municipal securities to include an indicator on trade reports, which indicator is disseminated to the public, for transactions executed on the first day of trading in a new issue with prices set under an offering agreement for the new issue. These transactions include sales to customers by a sole underwriter, syndicate manager, syndicate member or selling group member at the published list offering price for the security (''List Offering Price Transaction'') or by a sole underwriter or syndicate manager to a syndicate or selling group member at a discount from the published list offering price for the security (''RTRS Takedown Transaction''). Such trade reports are provided an end-of-day exception from Rule G–14's general 15-minute reporting requirement.

Since the introduction of the List Offering Price Transaction indicator in 2005 and RTRS Takedown Transaction indicator in 2007, certain market practices in this area have evolved. First, outside of traditional underwriting syndicates or selling groups, some dealers have entered into long-term marketing arrangements with other dealers that serve in the syndicate or selling group relating to purchases and re-sales of new issue securities

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Transactions in securities without CUSIP numbers, in municipal fund securities, and certain inter-dealer securities movements not eligible for comparison through a clearing agency are the only transactions exempt from the reporting requirements of Rule G–14.

[4] In this respect, RTRS serves as an audit trail for municipal securities trading, with the exception of certain internal movements of securities within dealers that currently are not required to be reported, customer identifications, and other related specific items of information. *Compare Consolidated Audit Trail,* Release No. 34–67457 (July 18, 2012), 77 FR 45722 (August 1, 2012), File No. S7–11–10.

(''distribution participant dealers''). The MSRB understands that these distribution participant dealers agree to execute transactions with customers at the published list offering prices. Accordingly, the proposed rule change would expand the application of List Offering Price Transaction and RTRS Takedown Transaction indicators to sale transactions by distribution participant dealers to customers at the list offering price and sale transactions by a sole underwriter or syndicate manager to distribution participant dealers.

A second evolution in market practice in this area relates to the prices at which takedown transactions occur. The RTRS Takedown Transaction indicator currently is limited to inter-dealer transactions occurring at a discount from the published list offering price. The MSRB understands that, in some new issues, transactions between a sole underwriter or syndicate manager to a syndicate member, selling group member or distribution participant dealer are not executed at a discount from the published list offering price or at the full takedown amount. This typically occurs in the case of group net or net designated order arrangements. The proposed rule change expands the application of the RTRS Takedown Transaction indicator to any sale transaction by a sole underwriter or syndicate manager to a syndicate member, selling group member or distribution participant dealer on the first day of trading in the new issue.

Eliminating the Requirement for Dealers To Report Yield on Customer Trade Reports

Transaction reporting procedures currently require dealers to include on most reports of customer transactions to RTRS both a dollar price and yield.[5] The yield required to be reported to RTRS for customer trades is consistent with the yield required to be displayed on a customer confirmation under Rule G–15(a), which requires that yield be computed to the lower of an ''in whole'' call or maturity, subject to certain requirements set forth in the rule for specific special situations (generally referred to as the ''yield to worst''). Rule G–15(a) requires the confirmation to include the date to which yield is calculated if that date is other than the nominal maturity date, and also requires the confirmation for a transaction effected based on a yield other than yield to worst to include both yields. Since April 30, 2012, the MSRB has calculated and included in disseminated RTRS information the yield on inter-dealer trades computed in the same manner as required for customer trades.[6]

The proposed rule change would eliminate the requirement for dealers to include yield on customer trade reports.[7] Consistent with the manner in which the MSRB calculates and includes in disseminated RTRS information yield on inter-dealer trades, the MSRB would calculate and disseminate yield on customer trade reports.[8] This would remove one aspect of a dealer's burden in reporting customer transactions to the MSRB in compliance with MSRB Rule G–14 [9] and ensure that the calculation and dissemination of yields for both inter-dealer and customer transactions are consistent.

Establishing a New Indicator for Customer Trades Involving Non-Transaction-Based Compensation Arrangements

For principal transactions by dealers, the trade price reported to and publicly disseminated by the MSRB includes all aspects of the price, including any mark-up or mark-down that compensates the dealer for executing the transaction. In agency transactions, dealers are required to report to the MSRB both the price of the security and the commission charged to the customer. The prices publicly disseminated for agency transactions incorporate the reported commission to provide for comparability with the prices for principal trades. However, dealers effecting transactions with customers as part of an arrangement that does not provide for dealer compensation to be paid on a transaction-based basis, such as in certain wrap fee arrangements, report to the MSRB transaction prices that do not include a compensation component.

To distinguish in the transaction information disseminated publicly between customer transactions that do not include a dealer compensation component and those that include a mark-up or mark-down or a commission, the proposed rule change would require dealers to include a new indicator on their trade reports that would be disseminated publicly. This would improve the usefulness of the transaction information disseminated publicly by enabling users of the price transparency information to distinguish those customer transactions that do not include a dealer compensation component.

Establishing a New Indicator for ATS Transactions

Dealers may use a variety of means to transact in municipal securities, including broker's brokers or ATSs as well as traditional direct transactions with a known counterparty. The MSRB currently identifies all transactions reported as having been executed by a broker's broker in the transaction information disseminated publicly. This identifier is applied based on the broker's broker informing the MSRB that it acts in such capacity. The MSRB does not currently identify trades as having been executed through an ATS.

To better ascertain the extent to which ATSs are used in the municipal market and to indicate to market participants on disseminated transaction information that an ATS was used, the proposed rule change would establish an additional new indicator. For those ATSs that take a principal position between a buyer and seller, the ATS and the dealers that transact with the ATS would be required to include the ATS indicator on trade reports. In instances where an ATS connects a buyer and seller but does not take a principal or agency position between those parties and therefore does not have a transaction reporting requirement under MSRB rules, the dealers that transact with each other as a result of using the services of the ATS would be required to include the ATS indicator on their trade reports. In all cases, the ATS indicator would be included on transaction information

[5] For inter-dealer transactions, dealers report the dollar price at which the transaction was effected and the MSRB calculates and includes in disseminated information the corresponding yield.

[6] *See* ''SEC Approves Amendments to MSRB Rule G–14, on Reports of Sales or Purchases, Including Rule G–14 RTRS Procedures, and Amendments to the Real-Time Transaction Reporting System,'' MSRB Notice 2012–15 (March 21, 2012).

[7] This change is anticipated to also have the benefit of alleviating particular operational concerns cited by dealers in connection with reporting certain ''away from market'' trade reports.

[8] Note that dealers would continue to be able to report that a when, as and if issued transaction was executed on the basis of yield in the event that the settlement date is not known at the time the trade is executed, which prevents an accurate calculation of the corresponding dollar price to be performed.

[9] RTRS currently performs price/yield calculations, compares RTRS-computed values to dealer-reported values, and returns errors to dealers when discrepancies are found. This results in dealers researching and responding to such errors which, in many cases, are the results of differences in vendor-provided security descriptive information utilized by dealers and RTRS. By removing the requirement to include yield on customer trade reports, the proposed rule change would have the effect of eliminating these errors. In addition, in the case of transactions arising from customer repurchase agreements, the proposed rule change would eliminate the burden on dealers of calculating for trade reporting purposes a yield consistent with the requirements of Rule G–15(a), which the MSRB understands presents operational challenges given that this represents a different calculation from the calculation used to determine the yield resulting from the terms of the repurchase agreement.

disseminated publicly. Identifying in disseminated transaction information that an ATS was employed should facilitate higher quality research and analysis of market structure by providing information about the extent to which ATSs are used and should complement the existing indicator disseminated for transactions involving a broker's broker.

Effective Date of the Proposed Rule Change

To provide time for the MSRB to undertake the programming changes to implement the proposed rule change, as well as to provide an adequate testing period for dealers and subscribers that interface with RTRS, the MSRB is proposing an effective date for the proposed rule change to be announced by the MSRB in a notice published on the MSRB Web site, which date shall be no later than May 23, 2016 and shall be announced no later than sixty (60) days prior to the effective date.

2. Statutory Basis

The MSRB believes that the proposed rule change is consistent with Section 15B(b)(2)(C) of the Act, which provides that the MSRB's rules shall:

be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in municipal securities and municipal financial products, to remove impediments to and perfect the mechanism of a free and open market in municipal securities and municipal financial products, and, in general, to protect investors, municipal entities, obligated persons, and the public interest.

The MSRB believes that the proposed rule change is consistent with the Act. The MSRB believes that the proposed rule change would remove impediments to and perfect the mechanism of a free and open market in municipal securities by increasing the quality and usefulness of the post-trade price transparency information provided through RTRS. The MSRB believes the expansion of the application of the existing list offering price and takedown indicator to cases involving distribution participant dealers and takedown transactions that are not at a discount from the list offering price, establishment of a new indicator for customer trades involving non-transaction-based compensation arrangements, and establishment of a new indicator for ATS transactions would enable users of the post-trade price transparency information provided through RTRS to better understand the pricing of certain transactions as well as how such transactions were executed. As previously noted, identifying in disseminated transaction information that an ATS was employed should facilitate higher quality research and analysis of market structure by providing information about the extent to which ATSs are used and should complement the existing indicator disseminated for transactions involving a broker's broker. Accordingly, the proposed rule change would contribute to the MSRB's continuing efforts to improve market transparency and to protect investors, municipal entities, obligated persons and the public interest.

*B. Self-Regulatory Organization's Statement on Burden on Competition*

The MSRB does not believe the proposed rule change would impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. Information disseminated by RTRS is available to all persons on an equal and non-discriminatory basis. In addition to making the information available for free on the EMMA web portal to all members of the public, the MSRB makes the information collected by RTRS available by subscription on an equal and non-discriminatory basis without imposing restrictions on subscribers from, or imposing additional charges on subscribers for, re-disseminating such information or otherwise providing value-added services and products to third parties based on such information on terms determined by each subscriber.[10]

The MSRB recognizes that the proposed rule change would impose a burden on dealers and subscribers that interface with RTRS to comply with the reporting and dissemination of the new indicators that would be required by the proposed rule change. The MSRB solicited and received comment on several potential burdens of the proposed rule change and the specific comments and responses thereto are discussed below.[11] The MSRB plans to provide a six month testing period in advance of the effective date. The MSRB believes that a six month testing period in advance of the effective date would provide dealers and subscribers with sufficient time to make any required changes in due course without causing adverse disruptions to their information technology plans or budgets.

*C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others*

On January 17, 2013, the MSRB provided background information on the MSRB's initiative under the Long-Range Plan [12] to refresh the technology of RTRS and sought public comment on the appropriate standard for ''real-time'' reporting and dissemination of transaction price and related information, as well as on baseline technology, processing and data protocols for post-trade transaction information (''January Release'').[13] On July 31, 2013, the MSRB sought public comment on enhancements to data elements disseminated publicly through RTRS (''July Release'').[14] Based upon the comments received in response to the January and July Releases, the MSRB identified specific enhancements to RTRS and solicited on August 13, 2014 public input on the specific components of the post-trade reporting and public dissemination enhancements as well as on the likely benefits and burdens associated with the potential enhancements (''August Release'').[15] The MSRB received comments on the January Release from fifteen commenters,[16] on the July Release from

[10] The MSRB notes that subscribers may be subject to proprietary rights of third parties in information provided by such third parties that is made available through the subscription.

[11] *See* ''Request for Comment on Enhancements to Post-Trade Transaction Data Disseminated Through a New Central Transparency Platform,'' MSRB Notice 2014–14 (August 31, 2014).

[12] *See* ''MSRB Publishes Long-Range Market Transparency Plan,'' MSRB Notice 2012–06 (February 23, 2012).

[13] *See* ''Request for Comment on More Contemporaneous Trade Price Information Through a New Central Transparency Platform,'' MSRB Notice 2013–02 (January 17, 2013).

[14] *See* ''Concept Release on Pre-Trade and Post-Trade Pricing Data Dissemination Through a New Central Transparency Platform,'' MSRB Notice 2013–14 (July 31, 2013).

[15] *See* ''Request for Comment on Enhancements to Post-Trade Transaction Data Disseminated Through a New Central Transparency Platform,'' MSRB Notice 2014–14 (August 13, 2014).

[16] Comments were received on the January Release from Barclays Capital Inc.: Letter from Scott Coya, Director, Municipal Compliance, dated March 15, 2013 (''Barclays''); Bond Dealers of America: Letter from Michael Nicholas, Chief Executive Officer, dated March 15, 2013 (''BDA–1''); Charles Schwab & Co. Inc.: Letter from Michael P. Moran, Vice President, Fixed Income Compliance, dated March 15, 2013 (''Schwab''); Eastern Bank: Email from James N. Fox, SVP and Managing Director, dated March 15, 2013 (''Eastern''); Financial Information Forum: Letter from Arsalan Shahid, Program Director, dated March 15, 2013 (''FIF–1''); Financial Services Institute: Letter from David T. Bellaire, Executive Vice President and General Counsel, dated March 15, 2013 (''FSI''); Frost Bank: Letter from Robert N. Jacobs, Assistant Vice President/Compliance Officer, dated March 11, 2013 (''Frost''); Investment Company Institute: Letter from Dorothy Donohue, Deputy General Counsel-Securities Regulation, dated March 15,

nine commenters,[17] and on the August Release from seven commenters.[18] The portions of these notices relating to the proposed rule change, the comments received in response to such portions, and the MSRB's responses are discussed below.[19]

Expanding the Application of Existing List Offering Price and RTRS Takedown Indicators

The July Release solicited input on whether changes to the List Offering Price Transaction and RTRS Takedown Transaction indicators would be warranted given evolutions in market practices and the information publicly available through the EMMA Web site. The August Release proposed expanding the application of the List Offering Price Transaction and RTRS Takedown Transaction indicators to include scenarios where: (i) Dealers have entered into long-term marketing arrangements with other dealers that serve in the syndicate or selling group for purchasing and re-selling new issue securities (''distribution participant dealers''); (ii) takedown transactions are not at a discount from the list offering price; and (iii) offerings that occur over a number of days with different list offering prices set each day.

FIF–3 and SIFMA–3 stated support for expanding the application of the List Offering Price Transaction and RTRS Takedown Transaction indicators. With respect to including distribution participant dealers in the definition of which dealers must use the indicator, SIFMA–3 noted that these dealers perform ''a similar function to a selling group member.'' Further, in response to whether takedown transactions that are not at a discount from the list offering price, which would occur in the case of a group net or net designated order arrangement, should be included in the definition of an RTRS Takedown Transaction, FIF–3 and SIFMA–3 indicated support and SIFMA–3 stated that this change ''will conform the rule to widespread industry practice'' although FIF–3 noted that they ''see this happening frequently in the corporate bond market but infrequently in the municipal bond market.''

Comments were mixed in response to whether offerings that occur over a number of days with different list offering prices set each day should be included in the List Offering Price Transaction and RTRS Takedown Transaction indicators. FIF–3 offered support for this change and stated that it ''agree[s] that if the distribution occurs on days that are not the first day of trading of a new issue, the distribution should still be reported as the list price.'' SIFMA–3 did not support this change and stated that this ''change would be confusing for investors.''

After careful consideration of the comments received, and given the absence of evidence of widespread use of offerings occurring over a number of days with different list offering prices set each day, the MSRB has determined not to propose to expand the application of the indicator to address this scenario at this time, although the MSRB may revisit this issue if these types of offerings become more frequent.

Eliminating the Requirement for Dealers To Report Yield on Customer Trade Reports

The July and August Releases proposed to eliminate the requirement for dealers to include yield on customer trade reports and, instead, enable the MSRB to calculate and disseminate yield on customer trades. The August Release solicited input on whether this change would alleviate operational concerns cited by dealers in connection with reporting certain ''away from market'' trade reports.

BDA–3, FIF–2, FIF–3, IDC, SIFMA–2 and SIFMA–3 supported eliminating the requirement to include yield on customer trade reports. Eliminating this requirement would make the MSRB's RTRS yield reporting requirements consistent with those established by Financial Industry Regulatory Authority (''FINRA'') for corporate bond transactions and reduce the amount of error feedback returned to dealers when minor discrepancies arise. BDA–3 stated that ''MSRB's calculation of yields would avoid differences in yield calculations across dealers due to security master differences'' and ''[c]ustomers and dealers would also benefit from the improved consistency in the calculation of yield to worst.'' SIFMA–3 noted that the ''elimination of the broker-dealer requirement to report yield on customer trade reports does also alleviate some operational concerns in connection with reporting certain 'away from market' trade reports, such as transactions arising from customer repurchase agreements.''

FIF–3, SIFMA–2 and SIFMA–3 cited a concern related to potential differences in the yield calculated by MSRB and displayed on EMMA and the yield calculated by dealers and displayed on customer confirmations. FIF–3 stated that the MSRB should ''consider the impact of discrepancies between the MSRB's calculations and dealer-calculated yield to worst which will appear on a customer's confirm'' and recommends that the MSRB ''[provide] guidance for cases where there are discrepancies between the MSRB's calculations and dealer-calculated yield to worst on a customer's confirm.'' SIFMA–2 observed that dealers have the responsibility to report yield to customers on trade confirmations and that, due to the complicated nature of some redemption provisions, the dealer-calculated yield and the MSRB-calculated yield may not always match precisely. FIF–2 and IDC suggested that the display of the date to which this

2013 (''ICI''); J.W. Korth & Company LP: Email from James Korth dated March 14, 2013 (''JWKorth''); R.W. Smith & Associates, Inc.: Email from Paige Pierce dated March 20, 2013 (''RWSmith–1''); Securities Industry and Financial Markets Association: Letter from Leslie M. Norwood, Managing Director and Associate General Counsel, dated March 15, 2013 (''SIFMA–1''); Seidel & Shaw, LLC: Letter from Thomas W. Shaw, President, dated March 15, 2013 (''Seidel''); Standish Mellon Asset Management Company LLC: Email from Daniel Rabasco dated March 15, 2013 (''Standish''); TMC Bonds, L.L.C.: Letter from Thomas S. Vales, Chief Executive Officer, dated March 15, 2013 (''TMCBonds''); and Tradition Asiel Securities, Inc.: Letter from Eric M. Earnhardt, Chief Compliance Officer, dated March 19, 2013 (''TASI'').

[17] Comments were received on the July Release from Bond Dealers of America: Letter from Michael Nicholas, Chief Executive Officer, dated November 1, 2013 (''BDA–2''); Corporate Treasury Investment Consulting LLC: Letter from Mark O. Conner, Principal, dated August 16, 2013 (''CTIC''); Financial Information Forum: Letter from Manisha Kimmel, Executive Director, dated November 1, 2013 (''FIF–2''); Interactive Data Corporation: Letter from Mark Hepsworth, President, Interactive Data Pricing and Reference Data, dated November 1, 2013 (''IDC''); Leonard, Jack: Letter dated August 1, 2013 (''Mr. Leonard''); Long, Cate: Email dated November 1, 2013 (''Ms. Long''); Sayer, Steven: Email dated November 3, 2013 (''Mr. Sayer''); Securities Industry and Financial Markets Association: Letter from Leslie M. Norwood, Managing Director and Associate General Counsel, dated November 1, 2013 (''SIFMA–2''); and Wells Fargo Advisors, LLC: Letter from Robert J.McCarthy, Director of Regulatory Policy, dated November 1, 2013 (''Wells Fargo'').

[18] Comments were received on the August Release from Bond Dealers of America: Letter from Michael Nicholas, Chief Executive Officer, dated September 26, 2014 (''BDA–3''); Financial Information Forum: Letter from Darren Wasney, Program Manager, dated September 19, 2014 (''FIF–3''); Income Securities Advisor Inc.: Email from Richard Lehmann dated August 26, 2014 (''ISA''); Murez, Herbert: Email dated August 13, 2014 (''Mr. Murez''); RW Smith & Associates, LLC: Email from Paige W. Pierce, President and Chief Executive Officer, dated September 26, 2014 (''RWSmith–2''); Securities Industry and Financial Markets Association: Letter from Leslie M. Norwood, Managing Director and Associate General Counsel, dated September 25, 2014 (''SIFMA–3''); and Trigo, Loren: Email dated August 13, 2014 (''Trigo'').

[19] The January, July and August Releases contemplated additional enhancements to RTRS as well as the establishment of a new program for pre-trade transparency. Comments in response to those items are not addressed in this proposed rule change but would be addressed in any future rulemaking on those items that the MSRB determines to undertake.

yield-to-worst calculation is determined would be helpful.

After carefully considering commenters' concerns, the MSRB believes potential confusion would be addressed by additionally displaying on EMMA the calculation method (yield to call or maturity) and, for yield to call, the call date and price used. Under this approach, any differences between dealer and MSRB calculations could be understood by viewing the inputs the MSRB used in its calculation.

Establishing a New Indicator for Customer Trades Involving Non-Transaction-Based Compensation Arrangements

The July and August Releases proposed the establishment of a new indicator to distinguish in the price transparency data between customer transactions that do not include a dealer compensation component and those that include a mark-up or mark-down or a commission.

BDA–3, FIF–2, FIF–3, Ms. Long, SIFMA–2, SIFMA–3, and Wells Fargo favored the addition of an indicator for identifying transactions that are not inclusive of a compensation component. SIFMA–2, however, opposed requiring the reporting of the details of the non-transaction based compensation arrangement. BDA–3 stated that a new indicator ''would provide the users of trade transparency products with information that could explain certain variations in trade prices and assist in best execution determinations.'' SIFMA–3 suggested that, if the MSRB publicly disseminates the existing agency or principal trade indicator currently collected, this would accomplish the same benefit and also stated that the MSRB should not consider collecting information on the nature of alternative compensation beyond an indicator as such information would be burdensome to report.

The MSRB does not believe that SIFMA–3's suggestion that disseminating the existing agency or principal trade indicator currently collected would help distinguish in the price transparency data customer transactions that do not include a dealer compensation component, particularly because the MSRB understands that both agency and principal transactions can occur under current market practices without a dealer compensation component. With respect to SIFMA–2's view that the MSRB should not consider collecting information on the nature of alternative compensation, the MSRB notes that this was not contemplated in the July or August Release and is not part of the proposed rule change.

Establishing a New Indicator for ATS Transactions

The July and August Releases proposed adding an indicator to identify transactions executed using the services of an ATS, which indicator would be included in the information disseminated publicly. The August Release also proposed that, in instances where an ATS does not take a principal position between two dealers, each dealer would be required to report the identity of the ATS employed.

In response to the July Release, Ms. Long supported the addition of an ATS indicator on trades, and stated that the specific ATS used should be identified, initially for surveillance purposes and potentially for future public dissemination. FIF–2 noted operational burdens associated with identifying trades executed using the services of an ATS, particularly in instances where the ATS does not act as the counter-party to the trade. SIFMA–2 questioned the ''tangible transparency benefits to the market'' of including an ATS indicator. In response to the August Release, SIFMA–3 and FIF–3 noted that this indicator would result in a cost to dealers to implement. SIFMA–3 stated that it ''recognizes that the MSRB has a legitimate interest in determining ATS participation in the market, and likely has no other way to get this information on a real-time basis.'' FIF–3 noted that FINRA is pursuing the establishment of a similar ATS indicator for corporate bond trade reports.

In response to a potential requirement that dealers also would need to identify in some cases the ATS employed, SIFMA–3 and FIF–3 suggested that this component would add operational complexity and compliance costs to the requirement. SIFMA–3 stated that ''[a]lthough flagging these trades would be a significant operational and administrative burden, the burden would be minimized for the broker-dealer community if the result was a mere change in an 'M code' '' (which is the change that would be made to simply identify that an ATS was employed, exclusive of the ATS's identity). FIF–3 stated in response to the proposed requirement to identify the ATS employed that they ''believe this would be challenging to implement.''

From a market structure perspective, the MSRB believes that it is important to know the extent to which ATSs are employed for inter-dealer transactions as such information could inform future system development, research and rulemaking initiatives. While also having the identity of the ATS in instances where the ATS does not take a principal position between two dealers would increase the usefulness of the ATS indicator, the MSRB is sensitive to the burden such a requirement would impose, particularly given the future potential establishment by the MSRB of a pre-trade transparency system. The MSRB notes that under a comprehensive pre-trade transparency system, it is anticipated that the identity of each ATS would be known and the extent to which each is used in the municipal market would therefore be quantifiable. Accordingly, the MSRB believes that proceeding with the establishment of an ATS indicator, which the MSRB plans to implement utilizing the existing special condition indicator (the ''M code'') field in RTRS, is appropriate. The MSRB, however, in acknowledgement of the burdens identified by commenters, has not included in this proposed rule change a requirement to report the identity of the ATS that was used.

## 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 of 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. Comments may be submitted by any of the following methods:

*Electronic Comments*

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include File Number SR–MSRB–2015–02 on the subject line.

*Paper Comments*

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549.

All submissions should refer to File Number SR–MSRB–2015–02. 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 MSRB. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–MSRB–2015–02 and should be submitted on or before April 17, 2015.

For the Commission, pursuant to delegated authority.[20]

**Brent J. Fields,**

*Secretary.*

[FR Doc. 2015–06993 Filed 3–26–15; 8:45 am]

**BILLING CODE 8011–01–P**

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## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–74563; File No. SR–ICC–2015–004]**

## Self-Regulatory Organizations; ICE Clear Credit LLC; Notice of Filing of Proposed Rule Change Relating to Physical Settlement of CDS Contracts

March 23, 2015.

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 March 11, 2015, ICE Clear Credit LLC (''ICC'' or the ''clearinghouse'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II and III below, which Items have been prepared primarily by ICC. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

### I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The purpose of the proposed rule change is to amend ICC rules to modify the terms and conditions for physical settlement of cleared CDS Contracts, and to adopt certain new delivery procedures relating to physical settlement.

### II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, ICC included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. ICC has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of these statements.

*A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change*

ICC submits proposed amendments to the ICC Clearing Rules (''ICC Rules'') relating to physical settlement of CDS Contracts. Upon the occurrence of a credit event under a cleared CDS Contract, the contract is typically settled in cash in accordance with the terms of the ICC Rules, which incorporate the applicable ISDA Credit Derivatives Definitions (the ''ISDA Definitions'') and the market-standard credit default swap auction methodology for determining the cash settlement price. However, in certain circumstances, such as where the Credit Derivatives Determinations Committee decides not to hold a cash settlement auction for a particular credit event, or such an auction is cancelled under the terms of the auction methodology (including because of a failure to determine the auction settlement price), the CDS Contracts provide for a fallback settlement method of physical settlement. Under physical settlement of a CDS contract generally, the protection buyer will be entitled to deliver one or more qualifying deliverable obligations to the protection seller, in which case the protection seller will be required to pay the protection buyer a defined physical settlement amount. Under the current ICC Rules, if physical settlement applies,[3] the clearinghouse will match clearing participants (''Participants'') that are protection buyers with Participants that are protection sellers in the relevant contract, and the two Participants will be responsible for effecting physical settlement between them. ICC does not itself perform or guarantee performance of physical settlement between the matched Participants. Once matching occurs, the contract is purely a bilateral contract between the matched Participants, and the clearinghouse has no further rights or obligations with respect to the contract. ICC does, however, collect and hold physical settlement margin as collateral agent on behalf of the protection buyer to secure the protection seller's obligations to the protection buyer under physical settlement.

At the request of its Participants, and following extensive consultation with them, ICC proposes to amend the ICC Rules relating to physical settlement such that the clearinghouse will be responsible for financial performance of physical settlement. ICC understands that Participants and other market participants view the current approach, in which cash settlement of credit events is guaranteed by the clearinghouse but physical settlement is not, as creating a potentially anomalous result in the unlikely case that physical settlement may apply. The application of physical settlement would be a circumstance that is generally not within any Participant's control, and under the current rules may expose Participants to a significantly different credit risk profile than under cash settlement (where the Participant is exposed to the credit of the clearinghouse). In light of these discussions, ICC has determined that it is appropriate to extend the clearing guarantee to the financial performance of physical settlement. ICC notes that under the amended approach, it would still require payments and deliveries in the ordinary course under physical settlement to be made directly between the matched buying Participant and selling Participant, with the clearinghouse only being obligated to make direct payments in the case of certain defined settlement failure scenarios. ICC believes that this proposed rule change will further the general policy goals of central clearing for CDS transactions, and is consistent with the clearinghouse's financial

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[20] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] ICC notes that to date, physical settlement has not been necessary for any of the CDS Contracts cleared by ICC.

resources, risk management procedures and operational capabilities.[4]

ICC proposes to make certain amendments to Chapters 1, 4, 5, 21 and 22 of the ICC Rules. ICC also proposes to adopt a related set of Delivery Procedures and Physical Settlement and Notices Terms. ICC also proposes to make certain related and conforming changes to its Risk Management Framework. All capitalized terms not defined herein are defined in the ICC Rules.

In Chapter 1 of the ICC Rules, the definition of ''Client-Related Initial Margin'' has been amended so that it now includes Physical Settlement Margin collected with respect to Client-Related Positions. As discussed below, such Physical Settlement Margin will now secure the obligations of a Participant to ICC in connection with physical settlement. Similarly, in Rule 403, the definition of ''Physical Settlement Margin'' has been amended to refer to such obligations to ICC (as opposed to the obligations to the matched Participant under the current ICC Rules). In Rule 502(b), a conforming reference to Physical Settlement Margin has been updated. A conforming change is also made in Rule 2101–02(a)(iv).

In Chapter 22 (which covers physical settlement), a new Rule 2200 is added with definitions relating to the revised physical settlement provisions, including ''Matched Delivery Buyer'' and ''Matched Delivery Seller,'' and the related terms ''Matched Delivery Contract,'' ''Matched Delivery Buyer Contract,'' ''Matched Delivery Seller Contract'' and ''MP Delivery Amount.'' As discussed below, these terms are used in connection with the matching of buying Participants and selling Participants in the revised settlement procedures. A new definition of ''Asset Package Delivery Notice'' has also been added to address notices in connection with Asset Package delivery under the 2014 ISDA Credit Derivatives Definitions (the ''2014 ISDA Definitions'').

Rule 2201(a), which provides for matching of buying Participants and selling Participants into a Matched Delivery Pair in the case of physical settlement, has been revised to address scenarios where a Participant's CDS contracts must be split and matched with multiple other Participants for purposes of physical settlement. Conforming changes to use applicable defined terms (such as Relevant Restructuring Credit Event) have also been made. Rule 2201(b), which addresses delivery of certain notices between a Matched Delivery Pair, has been revised to include references to Asset Package Delivery Notices. Rule 2201(c) has been deleted at the request of Participants as being inconsistent with the terms of uncleared CDS and unnecessary in light of the provisions of the ISDA Definitions and Rule 2202.

Rule 2202, which addresses resolution of disputes related to permissible deliverable obligations, has been revised to incorporate the concept of Asset Package Delivery under the 2014 ISDA Definitions, as well as related concepts of Prior Deliverable Obligations, Package Observable Bonds and Asset Package Delivery Notices. Rules 2202(b) and (c) have also been revised to address the consequences of a selling Participant's refusal to accept delivery of a particular obligation, including for the offsetting transaction between ICC and the buying Participant.

Rule 2203 has been replaced with new provisions addressing the clearinghouse's role in physical settlement. When a Matched Delivery Pair is established, the CDS Contract between the Matched Delivery Buyer and ICC is referred to as the Matched Delivery Buyer Contract, and the corresponding CDS Contract between ICC and the Matched Delivery Seller is referred to as the Matched Delivery Seller Contract. Under the revised physical settlement approach, ICC remains party to each such contract, but requires certain notices, payments and deliveries to take place directly between the Matched Delivery Buyer and Matched Delivery Seller. Accordingly, under Rule 2203(a), for each Matched Delivery Buyer Contract, ICC designates the Matched Delivery Seller to receive on ICC's behalf notices and deliveries from the Matched Delivery Buyer and to make payments on ICC's behalf to the Matched Delivery Buyer. Similarly, under Rule 2203(b), for each Matched Delivery Seller Contract, ICC designates the Matched Delivery Buyer to deliver on ICC's behalf notices and deliveries to the Matched Delivery Seller, and to receive on ICC's behalf payments from the Matched Delivery Seller. The result is that notices, payments and deliveries will be made directly between the Matched Delivery Buyer and Matched Delivery Seller, in satisfaction of the parties and ICC's respective obligations under both the Matched Delivery Buyer Contract and Matched Delivery Seller Contract. Rule 2203(c) further clarifies that the exercise of rights by Matched Delivery Buyer against ICC will be deemed the exercise by ICC of the corresponding rights against Matched Delivery Seller, and vice versa. Rules 2203(d) and (e) provide for copies of relevant notices to be provided to ICC, as well as notice of the completion of settlement between the Matched Delivery Buyer and Matched Delivery Seller. Rule 2203(f) clarifies the obligations of the respective parties to a Matched Delivery Contract, and addresses a scenario where an Asset Package being delivered is deemed to have a value of zero under the 2014 ISDA Definitions. Rule 2203(g) allocates costs and expenses that may be incurred by ICC in connection with physical settlement.

Rule 2204, as revised, addresses physical settlement of certain deliverable obligations that do not settle in the ordinary course on a delivery-versus-payment basis (''Non-DVP Obligations''). The rule establishes a procedure under which the Matched Delivery Seller pays the physical settlement amount owed to ICC, which in turn will not pay such amount to the Matched Delivery Buyer until ICC receives notice that the obligation has been received by the Matched Delivery Seller from the Matched Delivery Buyer. If the obligation is not delivered, the physical settlement amount is returned to the Matched Delivery Seller.

Rule 2205 addresses settlement failures by the Matched Delivery Seller or Matched Delivery Buyer. Under subsection (a), if the Matched Delivery Seller fails to pay the physical settlement amount when due, the Matched Delivery Buyer Contract will be cash settled as between the Matched Delivery Buyer and ICC. ICC thus will not be obligated to take delivery of the relevant deliverable obligations (and dispose of them in a situation where the Matched Delivery Seller has failed to perform), but will compensate the Matched Delivery Buyer for the value of the Matched Delivery Buyer Contract through the cash settlement process. Pursuant to subsection (b), ICC may, in addition to its other default remedies, terminate the Matched Delivery Seller Contract, in which case the Matched Delivery Seller will owe ICC an amount equal to the cash settlement amount ICC paid the Matched Delivery Buyer, together with other losses and expenses incurred by ICC as a result of the failure. Rule 2205(c) provides that, consistent with the terms of the ISDA Definitions applicable to a protection buyer generally, any failure by ICC to deliver any deliverable obligations to the Matched Delivery Seller (including as a result of a failure by the Matched Delivery Buyer to make a delivery) will not constitute a default by ICC, and the Matched Delivery Seller's sole remedy

[4] ICC notes that a substantially similar approach to physical settlement is used in the ICE Clear Europe Limited CDS clearing service.

will be as set forth in the Matched Delivery Seller Contract (which may include, for example, buy-in remedies of the Matched Delivery Seller). ICC will not have any obligation to purchase or acquire deliverable obligations (other than in settlement of the Matched Delivery Buyer Contract) in order to settle the Matched Delivery Seller Contract. This is consistent with the clearinghouse's guarantee of finance performance, but not actual delivery. In the event of a delivery failure by a Matched Delivery Buyer, such party will be liable to ICC for any costs incurred by ICC in settling the corresponding Matched Delivery Seller Contract (in addition to ICC's other remedies for a default).

Rule 2206 covers certain other, non-default scenarios in which physical settlement fails to occur. Under Rule 2206(a) and (b), if physical settlement of the Matched Buyer Delivery Contract does not occur because the deliverable obligation is in less than the relevant minimum denomination or the Matched Delivery Seller is not a permitted transferee of the obligation, the failure will be treated as an illegality or impossibility outside of the parties' control, which will result in cash settlement [5] under the ISDA Definitions. In this and other scenarios where a cash settlement fallback applies, the same cash settlement amount will apply to both the Matched Delivery Buyer Contract and Matched Delivery Seller Contract under Rule 2206(c). Similarly, in the case of a buy-in, the same buy-in price will apply to both contracts. Rule 2206(d) provides for cash settlement of both the Matched Delivery Buyer Contract and Matched Delivery Seller Contract in certain cases where delivery does not occur between the Matched Delivery Buyer and the customer for which it is acting. Rule 2206(e) specifies the date of any cash settlement and provides for notice of the relevant amount owed.

Rule 2207(a) provides for certain standard representations and related provisions for physical settlement in the ISDA Definitions to apply as between the Matched Delivery Buyer and Matched Delivery Seller, and clarifies ICC's authority to designate a Participant to make or receive physical settlement on its behalf as provided in Rules 2203 and 2204 for purposes of Section 9.2(c)(iv) of the 2003 Definitions or Section 11.2(c)(iv) of the 2014 Definitions, even though the Participant is not its Affiliate. Rule 2207(b) clarifies certain procedures for obtaining price quotations for the relevant deliverable obligations in the event that a cash settlement fallback applies.

Rule 2208 allows the Matched Delivery Buyer and Matched Delivery Seller to settle their rights and obligations as to physical settlement through an alternative arrangement agreed between them (referred to as a ''CADP''), in lieu of settlement pursuant to Chapter 22 of the Rules. If they so agree, ICC will have no obligation in respect of such alternative arrangement.

Rule 2209(a) and (c) provide that margin (including physical settlement margin) will continue to be called and held through settlement. Rule 2209(b) provides that ICC will apply physical settlement margin to satisfy the Matched Delivery Seller's obligation to pay the physical settlement amount, and call such seller for any shortfall.

ICC also proposes to adopt Delivery Procedures that further specify certain operational and other details for the physical settlement process. Paragraph 1 provides certain definitions used in the Delivery Procedures. Paragraph 3.2 sets out certain requirements for providing notices in connection with physical settlement. Paragraphs 3.3(a)–(e) establish the procedures and timetable for ICC to allocate Matched Delivery Pairs and notify Participants accordingly. Paragraph 3.3(g) addresses additional procedures concerning delivery of notices by Participants in connection with physical settlement, including as to relevant notice deadlines, requirements for providing copies of notices to the clearinghouse, treatment of late notices and procedures for disputes involving notices. Paragraph 4 of the Delivery Procedures specifies certain deadlines in connection with the physical settlement of Non-DVP Obligations under Rule 2204. Paragraph 5 specifies the deadline for notices that parties have elected a CADP.

ICC also proposes to adopt a set of Physical Settlement and Notices Terms (''Notices Terms'') with respect to physical settlement. The Notices Terms are intended to set forth in a uniform way certain matters between a Participant and its customer in connection with physical settlement, including delivery of physical settlement notices and delivery and receipt of deliverable obligations as between the Participant and its customer. The Notices Terms also address the operation of certain cash settlement and other fallbacks as between the Participant and its customer. The Notices Terms do not bind ICC and do not form part of the ICC Rules or ICC Procedures. The Notices Terms are published for the convenience and use of Participants and their customers, and are designed to be incorporated by reference in customer clearing documentation. However, a Participant and its customer may agree to vary the Notices Terms as between them.

ICC also proposes to make certain changes to its Risk Management Framework to accommodate the changes relating to physical settlement that are being made to the Rules and procedures as set forth herein. As revised, the Risk Management Framework reflects the clearinghouse's obligations in respect of physical settlement as provided in the amended Rules and procedures. It sets out the steps in the physical settlement process to be taken by the clearinghouse if physical settlement applies, including the matching of Participants into Matched Delivery Pairs, consistent with the Rules and procedures. The revisions also address the calculation, collection and use of margin (including physical settlement margin) where physical settlement applies.

Section 17A(b)(3)(F) of the Act [6] requires, among other things, that the rules of a clearing agency be designed to promote the prompt and accurate clearance and settlement of securities transactions, and to the extent applicable, derivative agreements, contracts and transactions and to comply with the provisions of the Act and the rules and regulations thereunder. ICC believes that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to ICC, in particular, Section 17(A)(b)(3)(F) [7] and Rule 17Ad–22,[8] because the proposed rule change will assure the prompt and accurate clearance and settlement of securities transactions and derivatives agreements, contracts, and transactions. Specifically, ICC believes that the proposed amendments will enhance the clearance and settlement of CDS transactions in circumstances where physical settlement applies. Although physical settlement applies only rarely, and as a fallback to the normal procedure for auction cash settlement, ICC and its Participants believe that the amendments will benefit the CDS market generally by making the physical settlement process more robust and providing greater certainty around the

[5] Cash settlement in this context is different from the auction cash settlement that normally applies to CDS contracts under the ISDA Definitions, and is based on price quotations obtained by the relevant party to the contract for the obligation or obligations that cannot be delivered.

[6] 15 U.S.C. 78q–1(b)(3)(F).

[7] *Id.*

[8] 17 CFR 240.17Ad–22.

physical settlement process. ICC proposes to extend its clearing guarantee to the financial performance of physical settlement, which eliminates the existing gap in coverage where contracts go to physical settlement and avoids exposing Participants to the direct credit of other Participants in the case of physical settlement. At the same time, ICC has designed the revised procedures so that it is not itself required to make or take delivery of underlying deliverable obligations. In the ordinary course, payments and deliveries (and related notices) will be made directly between the matched buying and selling Participants. In the case of a settlement failure, the clearinghouse's obligations will be settled in cash, avoiding the need for the clearinghouse to obtain or dispose of deliverable obligations. In ICC's view, this allows it to appropriately limit and manage its risks with respect to physical settlement of cleared CDS contracts. As a result, ICC believes that the amendments will promote the accurate clearing and settlement of CDS contracts, and are therefore consistent with the requirements of Section 17A(b)(3)(F) of the Act.[9]

In addition, the amendments are consistent with the requirements of Rule 17Ad–22.[10] In particular, Rule 17Ad–22(d)(15) [11] requires that ICC ''state to its participants the clearing agency's obligations with respect to physical deliveries and identify and manage the risks from these obligations.'' As discussed above, revised chapter 22 of the Rules clearly states ICC's obligations with respect to physical settlement of CDS Contracts. The revised Rules establish the clearinghouse's responsibility for financial performance of physically settled contracts, while establishing the procedures for settlement in the ordinary course to take place directly between the buying Participant and the selling Participant. The Rules also establish the procedures to be followed in the case of a settlement failure and the responsibilities of the relevant Participants and ICC with respect thereto, and provide a mechanism for ICC to effect settlement in cash without having to acquire or dispose of the underlying deliverable obligations. In ICC's view, these arrangements permit it to appropriately manage the risks to the clearinghouse from the physical settlement obligations it would undertake under the proposed amendments, and are therefore consistent with the requirements of Rule 17Ad–22(d)(15).[12]

In terms of financial resources, ICC will continue to collect initial and mark-to-market margin for CDS Contracts through the completion of physical settlement, and does not propose to change its margin methodology with respect thereto in connection with these amendments. In addition, ICC will collect physical settlement margin to cover the specific obligations of Participants to the clearinghouse with respect to physical settlement. In ICC's view, its financial resources will as a result be sufficient to support its clearing operations, including under the amended physical settlement procedures, in a manner consistent with the requirements of Rule 17Ad–22(d)(2).[13]

In terms of default management, the amendments provide additional procedures for addressing settlement failures in the physical settlement process, in a manner that provides financial protection to non-defaulting Participants while avoiding the need for the clearinghouse to make or take physical delivery. ICC believes that these additional provisions, together with its existing default management rules and procedures, will permit it to take timely action to contain losses and liquidity pressures and continue meeting its obligations in the case of a default, including in connection with physical settlement, within the meaning of Rule 17Ad–22(d)(11).[14]

ICC also believes that its operational systems and capabilities are sufficient to support the changes to physical settlement. As discussed above, ICC proposes to adopt Delivery Procedures that would specify certain key operational aspects of the physical settlement process. These procedures, as well as related systems and arrangements, address relevant sources of operational risk in the physical settlement process and are designed to minimize such risks, within the meaning of Rule 17Ad–22(d)(4).[15]

*B. Self-Regulatory Organization's Statement on Burden on Competition*

ICC does not believe the proposed amendments would have any impact, or impose any burden, on competition not necessary or appropriate in furtherance of the purpose of the Act. The amendments will apply uniformly across all Participants. Although physical settlement is expected to be a remote circumstance, the amendments are intended to extend the benefit of the clearing guarantee to that process in the event it occurs, and therefore would generally be expected to benefit all market participants. Although ICC may collect additional physical settlement margin in connection with physical settlement, such margin is, in ICC's view, necessary to protect the operation of the clearinghouse and will affect all Participants with positions that go to physical settlement. In other respects, ICC does not anticipate that these enhancements will materially affect the cost of clearing for Participants or other market participants. In addition, ICC is not otherwise proposing to change its standards for access to the clearinghouse or the terms and conditions of cleared contracts (which already provide for physical settlement in these limited circumstances, but without the benefit of the clearinghouse guarantee). As a result, ICC does not believe the amendments will adversely affect the ability of Participants or other market participants to continue to clear CDS contracts. ICC also does not believe the enhancements will limit the availability of clearing in CDS products for Participants or their customers or otherwise limit market participants' choices for selecting clearing services in CDS. Therefore, ICC does not believe the proposed rule change imposes any burden on competition that is not appropriate in furtherance of the purpose of the Act.

*C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others*

Written comments relating to the proposed rule change have not been solicited or received. ICC will notify the Commission of any written comments received by ICC.

## III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period up to 90 days (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve or disapprove the proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

[9] 15 U.S.C. 78q–1(b)(3)(F).

[10] 17 CFR 240.17Ad–22.

[11] 17 CFR 240.17Ad–22(d)(15).

[12] *Id.*

[13] 17 CFR 240.17Ad–22(d)(2).

[14] 17 CFR 240.17Ad–22(d)(11).

[15] 17 CFR 240.17Ad–22(d)(4).

## IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

*Electronic Comments*

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–ICC–2015–004 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–ICC–2015–004. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filings will also be available for inspection and copying at the principal office of ICE Clear Credit and on ICE Clear Credit's Web site at *https://www.theice.com/clear-credit/regulation.*

All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–ICC–2015–004 and should be submitted on or before April 17, 2015.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[16]

**Brent J. Fields,**

*Secretary.*

[FR Doc. 2015–06992 Filed 3–26–15; 8:45 am]

**BILLING CODE 8011–01–P**

[16] 17 CFR 200.30–3(a)(12).

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## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–74565; File No. SR–BATS–2015–22]**

## Self-Regulatory Organizations; BATS Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Adopt New Rule 21.17, Exchange Sharing of User Designated Risk Settings

March 23, 2015.

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 March 13, 2015, BATS Exchange, Inc. (the ''Exchange'' or ''BATS'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Exchange has designated this proposal as a ''non-controversial'' proposed rule change pursuant to section 19(b)(3)(A) of the Act[3] and Rule 19b–4(f)(6)(iii) thereunder,[4] which renders it 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

The Exchange filed a proposal to authorize the BATS Options Market (''BATS Options'') to share a User's[5] risk settings with the Clearing Member[6] that clears transactions on behalf of the User.

The text of the proposed rule change is available at the Exchange's Web site at *www.batstrading.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

### II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

*A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change*

1. Purpose

The Exchange is proposing to adopt new Rule 21.17, Exchange Sharing of User Designated Risk Settings, in order to authorize the Exchange to share any of a User's risk settings with the Clearing Member that clears transactions on behalf of the User.

Under BATS Rule 17.2(b), Options Members[7] must be Clearing Members or establish a clearing arrangement with a Clearing Member. Rule 21.13(a) provides that every Clearing Member is responsible for the clearance of BATS Options Transactions[8] of such Clearing Member and of each User that gives up such Clearing Member's name pursuant to a letter of authorization, letter of guarantee, or other authorization given by such Clearing Member to such User, which authorization must be submitted to the Exchange. Further, no Options Member may make any transactions on the Exchange unless a letter of guarantee providing that the issuing Clearing Member accepts financial responsibilities for all BATS Options Transactions made by the Options Member (a ''Letter of Guarantee'') has been issued for such Options Member by a Clearing Member and filed with the Exchange.

Thus, while not all Options Members are Clearing Members, all Options

[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)(6)(iii).

[5] A User is defined as ''any Options member or Sponsored Participant who is authorized to obtain access to the System pursuant to Rule 11.3 (Access).'' *See* Exchange Rule 16.1(a)(63).

[6] A Clearing Member is defined as ''an Options Member that is self-clearing or an Options Member that clears BATS Options Transactions for other Members of BATS Options.'' *See* Exchange Rule 16.1(a)(15).

[7] An Options Member is defined as ''a firm, or organization that is registered with the Exchange pursuant to Chapter XVII of these Rules for purposes of participating in options trading on BATS Options as an 'Options Order Entry Firm' or 'Options Market Maker.' '' *See* Exchange Rule 16.1(a)(38).

[8] A BATS Options Transactions is defined as ''a transaction involving an options contract that is effected on or through BATS Options or its facilities or systems.'' *See* Exchange Rule 16.1(a)(11).

Members require a Clearing Member's consent to clear transactions on their behalf (or on behalf of any Sponsored Participants [9] for which the Options Member is a Sponsoring Member [10]) in order to conduct business on the Exchange. Each Options Member that transacts through a Clearing Member on the Exchange executes a Letter of Guarantee which codifies the relationship between the Options Member and the Clearing Member and provides the Exchange with notice of which Clearing Members have relationships with which Options Members. The Clearing Member that guarantees the Options Member's transactions on the Exchange has a financial interest in understanding the risk tolerance of the Options Member. The proposal would provide the Exchange with authority to directly provide Clearing Members with information that may otherwise be available to such Clearing Members by virtue of their relationship with the respective Users.

At this time, the risk settings covered by this proposal are set forth in Rule 21.16, entitled Risk Monitor Mechanism.[11] The Exchange may adopt additional rules providing for Options Member designated risk settings other than those provided in Rule 21.16 that could be shared with an Options Member's Clearing Member under the proposal and the Exchange would announce these additional risk settings by issuing a Trade Desk Notice.

2. Statutory Basis

The Exchange believes that its proposal is consistent with the requirements of the Act and the rules and regulations thereunder that are applicable to a national securities exchange, and, in particular, with the requirements of section 6(b) of the Act.[12] In particular, the proposal is consistent with section 6(b)(5) of the Act [13] because 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, to remove impediments to, and perfect the mechanism of, a free and open market and a national market system and, in general, to protect investors and the public interest.

The proposed rule change will allow the Exchange to directly provide an Options Member's designated risk settings to the Clearing Member that clears trades on behalf of the Options Member. Because a Clearing Member that executes a clearing Letter of Guarantee on behalf of an Options Member guarantees all transactions of that Options Member, and therefore bears the risk associated with those transactions, it is appropriate for the Clearing Member to have knowledge of what risk settings the Options Member may utilize within the Trading System.[14] The proposal will permit Clearing Members who have a financial interest in the risk settings of Options Members with whom the Clearing Participant has entered into a Letter of Guarantee to better monitor and manage the potential risks assumed by Clearing Members, thereby providing Clearing Members with greater control and flexibility over setting their own risk tolerance and exposure and aiding Clearing Members in complying with the Act. To the extent a Clearing Member might reasonably require an Options Member to provide access to its risk setting as a prerequisite to continuing to clear trades on the Options Member's behalf, the Exchange's proposal to share those risk settings directly reduces the administrative burden on Options Members and ensures that Clearing Members are receiving information that is up to date and conforms to the settings active in the Trading System.

*B. Self-Regulatory Organization's Statement on Burden on Competition*

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The proposed rule change is not designed to address any competitive issues and does not pose an undue burden on non-Clearing Members because, unlike Clearing Members, non-Clearing Members do not guarantee the execution of an Options Member's transactions on the Exchange. The proposal is structured to offer the same enhancement to all Clearing Members, regardless of size, and would not impose a competitive burden on any Options Member. Any Options Member that does not wish to share its designated risk settings with its Clearing Member could avoid sharing such settings by becoming a Clearing Member.

*C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others*

The Exchange has not solicited, and does not intend to solicit, comments on this proposed rule change. The Exchange has not received any written comments from members or other interested parties.

**III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action**

The foregoing rule change has been filed by the Exchange as a ''non-controversial'' rule change pursuant to section 19(b)(3)(A)(i) of the Act [15] and subparagraph (f)(6) of Rule 19b–4 thereunder.[16] Consequently, 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 [17] and subparagraph (f)(6) of Rule 19b–4 thereunder.[18]

A proposed rule change filed under Rule 19b–4(f)(6) [19] normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b–4(f)(6)(iii),[20] the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so the Exchange may allow Clearing Members to immediately monitor and manage the potential risks assumed by Options Members. The

[9] A Sponsored Participant is defined as ''a person which has entered into a sponsorship arrangement with a Sponsoring Member pursuant to Rule 11.3. *See* Exchange Rule 1.5(x).

[10] A Sponsoring Member is defined as ''a broker-dealer that has been issued a membership by the Exchange who has been designated by a Sponsored Participant to execute, clear and settle transactions resulting from the System. The Sponsoring Member shall be either (i) a clearing firm with membership in a clearing agency registered with the Commission that maintains facilities through which transactions may be cleared or (ii) a correspondent firm with a clearing arrangement with any such clearing firm.'' *See* Exchange Rule 1.5(y).

[11] *See* Exchange Rule 21.16.

[12] 15 U.S.C. 78f(b).

[13] 15 U.S.C. 78f(b)(5).

[14] Trading System is defined as ''the automated trading system used by BATS Options for the trading of options contracts.'' *See* Exchange Rule 16.1(a)(59).

[15] 15 U.S.C. 78s(b)(3)(A)(i).

[16] 17 CFR 240.19b–4(f)(6).

[17] 15 U.S.C. 78s(b)(3)(A).

[18] 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.

[19] 17 CFR 240.19b–4(f)(6).

[20] 17 CFR 240.19b–4(f)(6)(iii).

Exchange notes that this functionality is already available on other exchanges. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest because it will allow the Exchange's Clearing Members to monitor and manage potential risks in a timely manner. Therefore, the Commission hereby waives the 30-day operative delay and designates the proposed rule change to be operative upon filing with the Commission.[21]

At any time within 60 days of the filing of the proposed rule change, the Commission may summarily temporarily suspend such rule change if it appears to the Commission that such action is: (1) Necessary or appropriate in the public interest; (2) for the protection of investors; or (3) 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 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 SR–BATS–2015–22 on the subject line.

*Paper Comments*

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–BATS–2015–22. 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 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–BATS–2015–22 and should be submitted on or before April 17, 2015.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[22]

**Brent J. Fields,**

*Secretary.*

[FR Doc. 2015–06994 Filed 3–26–15; 8:45 am]

**BILLING CODE 8011–01–P**

[21] For purposes only of waiving the operative delay for this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

[22] 17 CFR 200.30–3(a)(12).

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## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–74562; File No. SR–NYSEArca–2015–15]**

## Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing of Proposed Rule Change Relating to Listing and Trading of Shares of Principal EDGE Active Income ETF Under NYSE Arca Equities Rule 8.600

March 23, 2015.

Pursuant to section 19(b)(1)[1] of the Securities Exchange Act of 1934 (the ''Act'')[2] and Rule 19b–4 thereunder,[3] notice is hereby given that, on March 12, 2015, 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.

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

### I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to list and trade shares of the following under NYSE Arca Equities Rule 8.600 (''Managed Fund Shares''): Principal EDGE Active Income ETF. 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 list and trade shares (''Shares'') of the following under NYSE Arca Equities Rule 8.600, which governs the listing and trading of Managed Fund Shares[4] on the Exchange:[5] Principal EDGE Active Income ETF (the ''Fund'').

[4] A Managed Fund Share is a security that represents an interest in an investment company registered under the Investment Company Act of 1940 (15 U.S.C. 80a–1) (''1940 Act'') organized as an open-end investment company or similar entity that invests in a portfolio of securities selected by its investment adviser consistent with its investment objectives and policies. In contrast, an open-end investment company that issues Investment Company Units, listed and traded on the Exchange under NYSE Arca Equities Rule 5.2(j)(3), seeks to provide investment results that correspond generally to the price and yield performance of a specific foreign or domestic stock index, fixed income securities index or combination thereof.

[5] The Commission has previously approved listing and trading on the Exchange of actively managed funds under Rule 8.600. *See, e.g.,* Securities Exchange Act Release Nos. 57801 (May 8, 2008), 73 FR 27878 (May 14, 2008) (SR–NYSEArca–2008–31) (order approving Exchange listing and trading of twelve actively-managed funds of the WisdomTree Trust); 66321 (February 3, 2012), 77 FR 6850 (February 9, 2012) (SR–NYSEArca–2011–95) (order approving listing and trading of PIMCO Total Return Exchange Traded Fund); 66670 (March 28, 2012), 77 FR 20087 (April 3, 2012) (SR–NYSEArca–2012–09) (order approving

Continued

The Fund is a series of the Principal Exchange-Traded Funds (''Trust''), a statutory trust organized under the laws of the State of Delaware and registered with the Commission as an open-end management investment company.[6] The investment manager for the Fund will be Principal Management Corporation (the ''Adviser'' or ''PMC''). Principal Global Investors, LLC and Edge Asset Management, LLC will each serve as a sub-adviser and portfolio manager. Principal Global Investors, LLC and Edge Asset Management, LLC are each referred to as a ''Sub-Adviser'' and collectively as the ''Sub-Advisers''. Commentary .06 to Rule 8.600 provides that, if the investment adviser to the investment company issuing Managed Fund Shares is affiliated with a broker-dealer, such investment adviser shall erect a ''fire wall'' between the investment adviser and the broker-dealer with respect to access to information concerning the composition and/or changes to such investment company portfolio.[7] In addition, Commentary .06 further requires that personnel who make decisions on the open-end fund's portfolio composition must be subject to procedures designed to prevent the use and dissemination of material nonpublic information regarding the open-end fund's portfolio. The Adviser and Sub-Advisers are not registered as broker-dealers but are affiliated with three broker-dealers and have implemented and will maintain a fire wall with respect to each such broker-dealer affiliate regarding access to information concerning the composition and/or changes to the portfolios. In the event (a) the Adviser or Sub-Advisers become registered broker-dealers or newly affiliated with one or more broker-dealers, or (b) any new adviser or sub-adviser is a registered broker-dealer or becomes affiliated with a broker-dealer, it will implement a fire wall with respect to its relevant personnel or its broker-dealer affiliate regarding access to information concerning the composition and/or changes to the portfolios, and will be subject to procedures designed to prevent the use and dissemination of material non-public information regarding such portfolios.

Principal EDGE Active Income ETF

Principal Investments

According to the Registration Statement, the Fund will seek to provide current income.

The Fund will invest in a manner designed to provide shareholders with regular cash flow from their investment in the Fund. With regard to each investment category, the Fund will carry out its investment strategy by investing in the securities listed in each investment category below and/or through the purchase of shares issued by U.S. exchange-traded funds (''ETFs'')[8] or other investment companies, including shares in unit investment trusts and open-end investment companies, that invest a majority of their assets in the securities listed in the Principal Investment categories below. The Fund under normal market circumstances[9] will invest a majority of its net assets in the following financial instruments listed in (1) and (2), below:

1. Investment Grade and Non-Investment Grade U.S. and Non-U.S. Fixed Income Securities

Under normal market circumstances, at least 20% but no more than 90% of the Fund's net assets will be invested in investment grade and non-investment grade fixed income securities[10] which will consist of the following: U.S. Treasuries; agency securities;[11] asset-backed securities;[12] residential mortgage-backed securities;[13] commercial mortgage-backed securities;[14] zero-coupon securities; variable and floating rate instruments including inverse floaters;[15] covered securities;[16] sinking fund securities;[17] equipment trust certificates;[18] sovereign bonds;[19] convertible bonds;[20] pay-in-kind securities;[21] step-coupon

listing and trading of PIMCO Global Advantage Inflation-Linked Bond Strategy Fund).

[6] The Trust is registered under the 1940 Act. On February 6, 2015, the Trust filed with the Commission a registration statement on Form N–1A under the Securities Act of 1933 (15 U.S.C. 77a) (''Securities Act'') and the 1940 Act relating to the Fund (File Nos. 333–201935 and 811–23029) (the ''Registration Statement''). The description of the operation of the Trust and the Fund herein is based, in part, on the Registration Statement. In addition, the Commission has issued an order granting certain exemptive relief to the Adviser (as defined herein) under the 1940 Act. *See* Investment Company Act Release No. (30742) [sic] (File No. 812–14136) (''Exemptive Order''). The Fund will be offered in reliance upon the Exemptive Order issued to the Adviser.

[7] An investment adviser to an open-end fund is required to be registered under the Investment Advisers Act of 1940 (the ''Advisers Act''). As a result, the Adviser and Sub-Advisers and their related personnel are subject to the provisions of Rule 204A–1 under the Advisers Act relating to codes of ethics. This Rule requires investment advisers to adopt a code of ethics that reflects the fiduciary nature of the relationship to clients as well as compliance with other applicable securities laws. Accordingly, procedures designed to prevent the communication and misuse of non-public information by an investment adviser must be consistent with Rule 204A–1 under the Advisers Act. In addition, Rule 206(4)–7 under the Advisers Act makes it unlawful for an investment adviser to provide investment advice to clients unless such investment adviser has (i) adopted and implemented written policies and procedures reasonably designed to prevent violation, by the investment adviser and its supervised persons, of the Advisers Act and the Commission rules adopted thereunder; (ii) implemented, at a minimum, an annual review regarding the adequacy of the policies and procedures established pursuant to subparagraph (i) above and the effectiveness of their implementation; and (iii) designated an individual (who is a supervised person) responsible for administering the policies and procedures adopted under subparagraph (i) above.

[8] For purposes of this filing, ETFs consist of Investment Company Units (as described in NYSE Arca Equities Rule 5.2(j)(3)), Portfolio Depositary Receipts (as described in NYSE Arca Equities Rule 8.100; Managed Fund Shares (as described in NYSE Arca Equities Rule 8.600); and closed-end funds. All ETFs will be listed and traded in the U.S. on a national securities exchange. While the Fund may invest in inverse ETFs, the Fund will not invest in leveraged (*e.g.,* 2X, −2X, 3X or −3X) ETFs.

[9] With respect to the Fund, the term ''under normal market circumstances'' includes, but is not limited to, the absence of extreme volatility or trading halts in the equity and fixed income markets or the financial markets generally; events or circumstances causing a disruption in market liquidity or orderly markets; operational issues causing dissemination of inaccurate market information; or force majeure type events such as systems failure, natural or man-made disaster, act of God, armed conflict, act of terrorism, riot or labor disruption or any similar intervening circumstance.

[10] The Fund will limit its investments in non-investment grade fixed income securities to 75% or less of the Fund's net assets.

[11] Agency securities are debt instruments issued by U.S. government-sponsored entities and other federally related entities such as the Federal National Mortgage Association (FNMA), Federal Home Loan Bank and the Federal Home Loan Bank (FHLB).

[12] Asset-backed securities are debt instruments secured by a loan, lease or receivables against assets.

[13] Residential mortgage-backed securities are debt instruments secured by a residential mortgage or a collection of mortgages.

[14] Commercial mortgage-backed securities are debt instruments secured by a loan on a commercial property.

[15] Inverse floaters are bonds or other types of debt instruments whose coupon rate has an inverse relationship to a benchmark rate.

[16] Covered securities are secured debt instruments generally issued by credit institutions and backed by a pool of assets, usually mortgages or public sector loans.

[17] Sinking fund securities are bonds or other types of debt instruments that are subject to periodic payments by the issuer to a trustee. The trustee uses the payments to retire part of the bond issuance by purchasing the bonds in the open market.

[18] Equipment trust certificates are debt instruments secured by equipment or other physical assets, with the title of the equipment or other physical assets held in trust for the holders of the debt instruments.

[19] Sovereign bonds are debt instruments issued by national governments.

[20] Convertible bonds are debt instruments that can be converted into common stock of the issuing company. Convertible bonds may trade over-the-counter (''OTC'') or on an exchange.

[21] Pay-in-kind securities are debt instruments that pay investors in the form of additional securities rather than cash.

securities;[22] stripped securities;[23] inflation-indexed bonds; inflation protected debt securities; bank loans; municipal bonds; and corporate bonds issued by U.S., supranational and non-U.S. issuers (including issuers located in emerging markets) and denominated in U.S. dollars.[24] ''Investment grade'' securities are rated BBB- or higher by S&P or Baa3 or higher by Moody's Investors Service, Inc. (''Moody's'') or, if unrated, of comparable quality in the opinion of the Sub-Advisers.[25] ''Non-investment grade'' securities are rated Ba1 or lower by Moody's and BB+ or lower by Standard & Poor's Rating Services (''S&P''). If the security has been rated by only one of those agencies, that rating will determine whether the security is below investment grade. If the security has not been rated by either of those agencies, the Sub-Advisers will determine whether the security is of a quality comparable to those rated below investment grade.

2. Equity Securities Including U.S. and Non-U.S. Issues

Under normal market circumstances, at least 20% but no more than 90% of the Fund's net assets will be invested in a diversified portfolio of equity securities issued by companies located in the U.S. and/or foreign countries, including emerging markets, which trade on a U.S. or foreign exchange. The Fund may carry out its investment in foreign securities by purchasing American Depositary Receipts (''ADRs''), European Depositary Receipts (''EDRs'') and Global Depositary Receipts (''GDRs'', together with EDRs and ADRs, ''Depositary Receipts'').[26] The equity securities will be common stocks and preferred stocks as well as master limited partnerships (''MLPs'') and real estate investment trusts (''REITs'').

The Fund may engage in short sales.[27]

Non-Principal Investments

While the Fund, under normal market circumstances, will invest a majority of its assets in the securities and financial instruments described above, the Fund may invest in other securities and financial instruments, as described below. With regard to each non-principal investment category, the Fund may carry out its investment strategy by investing in the securities listed in each investment category below and/or through the purchase of shares issued by ETFs or other investment companies that invest a majority of their assets in the securities listed in the investment categories below.

The Fund may invest in the following money market instruments: Commercial paper issued by U.S. and foreign corporations; bank obligations; certificates of deposit; time deposits and bankers' acceptances of U.S. commercial banks and overseas branches of U.S. commercial banks and foreign banks; and short-term corporate debt, all of which have, at the time of purchase, 397 days or less remaining to maturity issued by U.S. and foreign issuers.

A portion of the Fund's assets may be invested in cross currency positions of the currencies of developed and emerging markets through spot foreign exchange currency contracts, forward foreign exchange currency contracts, and foreign exchange currency options that trade on U.S. exchanges.

The Fund may invest in the following derivative instruments: Futures contracts (consisting of futures contracts based on equity or fixed income securities and/or equity or fixed income indices, commodities, interest rates and currencies); swap agreements on any of the following asset classes: Equity, fixed income, currency and interest rates (such swaps may be based on the price return or total return of the referenced asset); credit default swaps (consisting of credit default swaps in which the referenced asset is a single fixed income security or a group of fixed income securities); options (consisting of long and short positions in call options and put options on indices based on equities, fixed income securities, interest rates, currencies or commodities, individual securities or currencies, swaptions and options on futures contracts); and forward contracts (consisting of forward contracts based on equity or fixed income securities and/or equity or fixed income indices, currencies, interest rates, swap forwards and non-deliverable forwards).

Futures contracts and options on futures contracts in which the Fund may invest will be traded on U.S. exchanges regulated by the Commodity Futures Trading Commission (''CFTC''),[28] all of which will be members of the ISG or exchanges with which the Exchange has in place a CSSA. All other options contracts will be listed on a U.S. national securities exchange or a non-U.S. securities exchange that is a member of ISG or a party to a CSSA with the Exchange.

The Fund may use repurchase agreements, reverse repurchase

[22] Step coupon securities are debt instruments that pay interest at predetermined rates which increase or decrease over time.

[23] Stripped Securities are securities composed of the separate income of principal components of a debt security. For example, stripped mortgage securities are created when the interest and principal components of a mortgage security are separated and sold as individual securities.

[24] Under normal market circumstances, the Fund will generally seek to invest in corporate bond issuances that have at least $100,000,000 par amount outstanding in developed countries and at least $200,000,000 par amount outstanding in emerging market countries.

[25] In determining whether a security is of ''comparable quality'', the Sub-Advisers will consider, for example, whether the issuer of the security has issued other rated securities; whether the obligations under the security are guaranteed by another entity and the rating of such guarantor (if any); whether and (if applicable) how the security is collateralized; other forms of credit enhancement (if any); the security's maturity date; liquidity features (if any); relevant cash flow(s); valuation features; other structural analysis; macroeconomic analysis and sector or industry analysis.

[26] ADRs are receipts issued by an American bank or trust company evidencing ownership of underlying securities issued by a foreign issuer, and are designed for use in U.S. Securities markets. EDRs are receipts issued by European banks evidencing ownership of underlying securities traded outside of the bank's home country. GDRs are receipts issued by foreign banks evidencing ownership of underlying securities traded outside of the bank's home country. Depositary Receipts may be issued by sponsored or unsponsored programs. In sponsored programs, an issuer has made arrangements to have its securities traded in the form of Depositary Receipts. In unsponsored programs, the issuer may not be directly involved in the creation of the program. Although regulatory requirements with respect to sponsored and unsponsored programs are generally similar, in some cases it may be easier to obtain financial information from an issuer that has participated in the creation of a sponsored program. Accordingly, there may be less information available regarding issuers of securities of underlying unsponsored programs, and there may not be a correlation between the availability of such information and the market value of the Depositary Receipts. The Fund may invest in sponsored or unsponsored ADRs; however, not more than 10% of the net assets of the Fund will be invested in non-exchange-listed ADRs. Not more than 10% of the net assets of the Fund in the aggregate invested in exchange-traded equity securities shall consist of equity securities whose principal market is not a member of the Intermarket Surveillance Group (''ISG'') or party to a comprehensive surveillance sharing agreement (''CSSA'') with the Exchange. *See* note 47, *infra.*

[27] The Fund may make short sales of securities: (i) To offset potential declines in long positions in similar securities, (ii) to increase the flexibility of the Fund; (iii) for investment return; and (iv) as part of a risk arbitrage strategy.

[28] The Fund has claimed an exclusion from the definition of a ''commodity pool operator'' under the Commodity Exchange Act (''CEA'') (7 U.S.C. 1) and is not subject to registration or regulation as a commodity pool operator under the CEA. The CFTC recently amended Rule 4.5 (''Exclusion for certain otherwise regulated persons from the definition of the term ''commodity pool operator''). Rule 4.5 provides that a mutual fund does not meet the definition of ''commodity pool operator'' if its use of futures contracts, options on futures contracts and swaps is sufficiently limited that the fund can fall within one of two exclusions set out in Rule 4.5. The Fund intends to limit its use of futures contracts, options on futures contracts and swaps to the degree necessary to fall within one of the two exclusions. If the Fund is unable to do so, it may incur expenses that are necessary to comply with the CEA and rules the CFTC has adopted under it.

agreements, and mortgage dollar rolls for temporary or emergency purposes or to earn additional income on portfolio securities, such as Treasury bills or notes. In a reverse repurchase agreement, the Fund sells a portfolio security to another party, such as a bank or broker-dealer, in return for cash and agrees to repurchase the instrument at a particular price and time. While a reverse repurchase agreement is outstanding, the Fund will maintain cash or appropriate liquid assets to cover its obligation under the agreement. The Fund will enter into reverse repurchase agreements only with parties that the Sub-Advisers deems creditworthy.

The Fund may invest in restricted securities (Rule 144A securities), which are subject to legal restrictions on their sale. Restricted securities generally can be sold in privately negotiated transactions, pursuant to an exemption from registration under the Securities Act, or in a registered public offering.

Other Restrictions

The Fund will limit its investment in non-government sponsored residential mortgage-backed securities, commercial mortgage-backed securities and asset-backed securities (including equipment trust certificates) as well as bank loans and illiquid restricted securities, in the aggregate, to 20% or less of the Fund's net assets.

The Fund may hold up to an aggregate amount of 15% of its net assets in illiquid assets (calculated at the time of investment), including Rule 144A securities deemed illiquid by the Adviser, consistent with Commission guidance. The Fund will monitor its portfolio liquidity on an ongoing basis to determine whether, in light of current circumstances, an adequate level of liquidity is being maintained, and will consider taking appropriate steps in order to maintain adequate liquidity if, through a change in values, net assets, or other circumstances, more than 15% of the Fund's net assets are held in illiquid assets. Illiquid assets include securities subject to contractual or other restrictions on resale and other instruments that lack readily available markets as determined in accordance with Commission staff guidance.[29]

The Fund will be classified as a ''diversified'' investment company under the 1940 Act.[30]

The Fund intends to qualify for and to elect treatment as a separate regulated investment company (''RIC'') under subchapter M of the Internal Revenue Code.[31] Furthermore, the Fund may not concentrate investments in a particular industry or group of industries, as concentration is defined under the 1940 Act, the rules or regulations thereunder or any exemption therefrom, as such statute, rules or regulations may be amended or interpreted from time to time.[32]

The Fund's investments will be consistent with its investment objective and will not be used to enhance leverage.

Net Asset Value

According to the Registration Statement, the Fund's net asset value per Share (''NAV'') will be the value of a single Share. The NAV of Shares of the Fund will be computed by adding the value of the Fund's investments, cash, and other assets, subtracting its liabilities, and dividing the result by the number of Shares outstanding.

According to the Registration Statement, the Fund's Board of Trustees has delegated day-to-day valuation oversight responsibilities to PMC. PMC has established a Valuation Committee (''Valuation Committee'') to fulfill these oversight responsibilities.

Generally, the Fund will value its portfolio securities and assets as follows:

In computing the Fund's NAV, the Fund's fixed income securities (including defaulted debt,[33] and restricted securities) (collectively, ''OTC-Traded Securities'') will be valued based on price quotations obtained from a third-party pricing service or from a broker-dealer who makes markets in such securities. Any such third-party pricing service may use a variety of methodologies to value some or all such securities to determine the market price. For example, the prices of securities with characteristics similar to those held by the Fund may be used to assist with the pricing process. In addition, the pricing service may use proprietary pricing models. The Fund's OTC-Traded Securities will generally be valued at bid prices.

Debt securities with remaining maturities of sixty days or less for which market quotations and information furnished by a third party pricing service are not readily available will be valued at amortized cost, which approximates current value.

Exchange traded equity securities, including ETFs, certain Depositary Receipts, exchange-traded REITs, exchange-traded preferred stock, and exchange-traded convertible bonds, will be valued at market value, which will generally be determined using the last reported official closing or last trading price on the exchange or market on which the security is primarily traded at the time of valuation or, if no sale has occurred, at the last quoted bid price on the primary market or exchange on which they are traded. Unsponsored ADRs will be valued at the last reported sale price from the OTC Bulletin Board or OTC Link LLC on the valuation date.

Investment company securities (other than ETFs) will be valued at NAV.

Exchange-traded futures contracts will be valued at the settlement or closing price determined by the applicable exchange.

Exchange-traded option contracts, including options on futures, will be valued at their most recent sale price. If no such sales are reported, these contracts will be valued at their most recent bid price.

Except as discussed below, non-exchange-traded derivatives, including swaps and swaptions, will normally be valued on the basis of quotes obtained from a third party broker-dealer who makes markets in such securities or on the basis of quotes obtained from an independent third-party pricing service. The Fund's OTC-traded derivative instruments will generally be valued at bid prices. Certain OTC-traded

[29] The Commission has stated that long-standing Commission guidelines have required open-end funds to hold no more than 15% of their net assets in illiquid securities and other illiquid assets. *See* Investment Company Act Release No. 28193 (March 11, 2008), 73 FR 14618 (March 18, 2008), footnote 34. *See also,* Investment Company Act Release No. 5847 (October 21, 1969), 35 FR 19989 (December 31, 1970) (Statement Regarding ''Restricted Securities''); Investment Company Act Release No. 18612 (March 12, 1992), 57 FR 9828 (March 20, 1992) (Revisions of Guidelines to Form N–1A). A fund's portfolio security is illiquid if it cannot be disposed of in the ordinary course of business within seven days at approximately the value ascribed to it by the fund. *See* Investment Company Act Release No. 14983 (March 12, 1986), 51 FR 9773 (March 21, 1986) (adopting amendments to Rule 2a–7 under the 1940 Act); Investment Company Act Release No. 17452 (April 23, 1990), 55 FR 17933 (April 30, 1990) (adopting Rule 144A under the Securities Act).

[30] The diversification standard is set forth in section 5(b)(1) of the 1940 Act.

[31] 26 U.S.C. 851 *et seq.*

[32] The Commission has defined concentration as investing more than 25% of an investment company's total assets in an industry or group of industries, with certain exceptions such as with respect to investments in obligations issued or guaranteed by the U.S. Government or its agencies and instrumentalities, or tax-exempt obligations of state or municipal governments and their political subdivisions. *See, e.g.,* Investment Company Act Release No. 9011 (October 30, 1975), 40 FR 54241 (November 21, 1975).

[33] According to PMC, when a bond defaults and the issuer enters into bankruptcy, a market often continues to exist for the bond (normally at a steep discount to its face value). Buyers typically value the defaulted bond based on expected restructuring outcomes or liquidation distributions. Market quotations provided by broker-dealers or pricing services reflect these market indicators.

derivative instruments, such as interest rate swaps and credit default swaps, will be valued at the mean price.

Prices described above will be obtained from pricing services that have been approved by the Fund's Board of Trustees. A number of independent third party pricing services are available and the Fund may use more than one of these services. The Fund may also discontinue the use of any pricing service at any time. PMC will engage in oversight activities with respect to the Fund's pricing services, which includes, among other things, testing the prices provided by pricing services prior to calculation of the Fund's NAV, conducting periodic due diligence meetings, and periodically reviewing the methodologies and inputs used by these services.

Foreign securities and instruments will be valued in their local currency following the methodologies described above. Typically, foreign securities, instruments and currencies will be translated to U.S. dollars, based on foreign currency exchange rate quotations supplied by a pricing service as of the close of the New York Stock Exchange (''NYSE''), which will use a proprietary model to determine the exchange rate.

Forward foreign currency exchange contracts will be valued at an interpolated rate based on days to maturity between the closest preceding and subsequent settlement period. Such interpolated rates are derived from foreign currency exchange rate quotations reported by an independent third-party pricing service.

Other portfolio securities and assets for which market quotations, official closing prices, or information furnished by a pricing service are not readily available or, in the opinion of the Valuation Committee, are deemed unreliable will be fair valued in good faith by the Valuation Committee in accordance with applicable fair value pricing policies. For example, if, in the opinion of the Valuation Committee, a security's value has been materially affected by events occurring before the Fund's pricing time but after the close of the exchange or market on which the security is principally traded, that security will be fair valued in good faith by the Valuation Committee in accordance with applicable fair value pricing policies.

In fair valuing a security, the Valuation Committee may consider factors including price movements in futures contracts and ADRs, market and trading trends, the bid/ask quotes of brokers, and off-exchange institutional trading.

Creation and Redemption of Shares

According to the Registration Statement, the Fund will issue and redeem Shares on a continuous basis at NAV per Share in aggregations of a specified number of Shares called ''Creation Units.'' Creation Units generally will be issued in exchange for portfolio securities and/or cash. Shares are not individually redeemable, but are redeemable only in Creation Unit aggregations, and in exchange for portfolio securities and/or cash. A Creation Unit of the Fund will consist of a block of 50,000 Shares. The size of a Creation Unit is subject to change. Shareholders who are not ''Authorized Participants'' (as defined below) will not be able to purchase or redeem Shares directly with or from the Fund.

All orders to purchase Creation Units must be placed with a Distributor by or through a party (the ''Authorized Participant'') that has entered into a participant agreement with the Distributor (''Participant Agreement'') with respect to the creation and redemption of Creation Units. An Authorized Participant is either: (a) A broker or dealer registered under the Act or other participant in the Continuous Net Settlement System of the National Securities Clearing Corporation (''NSCC''), a clearing agency registered with the Commission and affiliated with the Depository Trust Company (''DTC''); or (b) a participant in the DTC (such participant, a ''DTC Participant'').

Shares of the Fund will be purchased and redeemed in Creation Units and generally on an ''in- kind'' basis. Except where the purchase or redemption will include cash under the limited circumstances specified below, purchasers will be required to purchase Creation Units by making an in-kind deposit of specified instruments (''Deposit Instruments''), and shareholders redeeming their Shares will receive an in-kind transfer of specified instruments (''Redemption Instruments''). On any given business day, the names and quantities of the instruments that constitute the Deposit Instruments and the names and quantities of the instruments that constitute the Redemption Instruments will be identical, and these instruments may be referred to, in the case of either a purchase or a redemption, as the ''Creation Basket''. In addition, the Creation Basket will correspond pro rata to the positions in the Fund's portfolio (including cash positions),[34] except: (a) In the case of bonds, for minor differences when it is impossible to break up bonds beyond certain minimum sizes needed for transfer and settlement; (b) for minor differences when rounding is necessary to eliminate fractional shares or lots that are not tradeable round lots;[35] or (c) To-Be-Announced (''TBA'') transactions,[36] short positions and other positions that cannot be transferred in kind[37] will be excluded from the Creation Basket.[38] If there is a difference between the NAV attributable to a Creation Unit and the aggregate market value of the Creation Basket exchanged for the Creation Unit, the party conveying instruments with the lower value will pay to the other an amount in cash equal to that difference (the ''Balancing Amount'').

Purchases and redemptions of Creation Units may be made in whole or in part on a cash basis, rather than in kind, solely under specified circumstances.[39] The Adviser represents that, to the extent the Trust effects the creation and redemption of Shares in cash, such transactions will be effected in the same manner for all Authorized Participants.

An investor purchasing or redeeming a Creation Unit from the Fund may be charged a Transaction Fee to protect existing shareholders of the Fund from the dilutive costs associated with the purchase and redemption of Creation Units.[40]

[34] The portfolio used for this purpose will be the same portfolio used to calculate the Fund's NAV for that business day.

[35] A tradeable round lot for a security will be the standard unit of trading in that particular type of security in its primary market.

[36] A TBA Transaction is a method of trading mortgage-backed securities. In a TBA Transaction, the buyer and seller agree upon general trade parameters such as agency, settlement date, par amount and price. The actual pools delivered generally are determined two days prior to the settlement date.

[37] This includes instruments that can be transferred in kind only with the consent of the counterparty to the extent the Fund does not intend to seek such consents.

[38] Because these instruments will be excluded from the Creation Basket, their value will be reflected in the determination of the Balancing Amount (defined below).

[39] In determining whether the Fund will sell or redeem Creation Units entirely on a cash or in-kind basis (whether for a given day or a given order), the key consideration will be the benefit that would accrue to the Fund and its investors. Purchases of Creation Units either on an all cash basis or in-kind are expected to be neutral to the Fund from a tax perspective. In contrast, cash redemptions typically require selling portfolio positions, which may result in adverse tax consequences for the remaining Fund shareholders that would not occur with an in-kind redemption. As a result, tax considerations may warrant in-kind redemptions.

[40] Where the Fund permits an in-kind purchaser or redeemer to deposit or receive cash in lieu of one or more Deposit or Redemption Instruments, the purchaser or redeemer may be assessed a higher Transaction Fee to offset the transaction cost to the Fund of buying or selling those particular Deposit or Redemption Instruments.

The Fund will make available, prior to the opening of trading on the NYSE (currently 9:30 a.m. Eastern Time), through the NSCC the names and quantities of the instruments comprising the Creation Basket, as well as the estimated Balancing Amount (if any), for that day. The published Creation Basket will apply with respect to purchases or redemptions until a new Creation Basket is announced on the following business day, and there will be no intra-day changes to the Creation Basket, except to correct errors in the published Creation Basket.

Availability of Information

The Funds' [sic] Web site (*www.principalfunds.com*), which will be publicly available prior to the public offering of Shares, will include a form of the prospectus for the Fund that may be downloaded. The Fund's Web site will include additional quantitative information updated on a daily basis, including, for the Fund, (1) daily trading volume, the prior business day's reported closing price, NAV and mid-point of the bid/ask spread at the time of calculation of such NAV (the ''Bid/Ask Price''),[41] and a calculation of the premium and discount of the Bid/Ask Price against the NAV, and (2) data in chart format displaying the frequency distribution of discounts and premiums of the daily Bid/Ask Price against the NAV, within appropriate ranges, for each of the four previous calendar quarters. On each business day, before commencement of trading in Shares in the Core Trading Session on the Exchange, the Adviser will disclose on the Fund's Web site the Disclosed Portfolio for the Fund as defined in NYSE Arca Equities Rule 8.600(c)(2) that will form the basis for the Fund's calculation of NAV at the end of the business day.[42]

The Fund's portfolio holdings will be disclosed on its Web site daily after the close of trading on the Exchange and prior to the opening of trading on the Exchange the following day.

The Fund's disclosure of derivative positions in the Disclosed Portfolio will include information that market participants can use to value these positions intraday. On a daily basis, the Fund will disclose on the Fund's Web site the following information regarding each portfolio holding, as applicable to the type of holding: Ticker symbol, CUSIP number or other identifier, if any; a description of the holding (including the type of holding, such as the type of swap); the identity of the security, commodity, index or other asset or instrument underlying the holding, if any; for options, the option strike price; quantity held (as measured by, for example, par value, notional value or number of shares, contracts or units); maturity date, if any; coupon rate, if any; effective date, if any; market value of the holding; and the percentage weighting of the holding in the Fund's portfolio. The Web site information will be publicly available at no charge.

Investors can also obtain the Trust's Statement of Additional Information (''SAI''), the Fund's Shareholder Reports, and its Form N–CSR and Form N–SAR, filed twice a year. The Trust's SAI and Shareholder Reports are available free upon request from the Trust, and those documents and the Form N–CSR and Form N–SAR may be viewed on-screen or downloaded from the Commission's Web site at *www.sec.gov.*

Quotation and last sale information for the portfolio holdings of the Fund that are U.S. exchange listed, including ETFs and U.S. exchange-traded ADRs and exchange-traded REITs, exchange-traded preferred stock, and exchange-traded convertible securities, and exchange-traded MLPs will be available via the Consolidated Tape Association (''CTA'') high speed line. Quotation and last sale information for such U.S. exchange-listed securities, as well as futures will be available from the exchange on which they are listed. Quotation and last sale information for exchange-listed options cleared via the Options Clearing Corporation will be available via the Options Price Reporting Authority.

Quotation information for OTC-Traded Securities, OTC-traded derivative instruments (including swaps, swaptions, forwards and currency-related derivatives), investment company securities (excluding ETFs), Rule 144A securities, U.S. Treasuries, agency securities, asset-backed securities, residential mortgage-backed securities, commercial mortgage-backed securities, zero-coupon securities, variable and floating rate instruments including inverse floaters, covered securities, sinking fund securities, equipment trust certificates, sovereign bonds, convertible bonds, pay-in-kind securities, step-coupon securities, stripped securities, inflation-indexed bonds, inflation protected debt securities, bank loans, municipal bonds, corporate bonds, and money market instruments may be obtained from brokers and dealers who make markets in such securities or through nationally recognized pricing services through subscription agreements. The U.S. dollar value of foreign securities, instruments and currencies can be derived by using foreign currency exchange rate quotations obtained from nationally recognized pricing services.

In addition, the Portfolio Indicative Value (''PIV''), as defined in NYSE Arca Equities Rule 8.600(c)(3), will be widely disseminated by one or more major market data vendors at least every 15 seconds during the Core Trading Session.[43] The dissemination of the PIV, together with the Disclosed Portfolio, will allow investors to determine the approximate value of the underlying portfolio of the Fund on a daily basis and will provide a close estimate of that value throughout the trading day.

Trading Halts

With respect to trading halts, the Exchange may consider all relevant factors in exercising its discretion to halt or suspend trading in the Shares of the Fund.[44] Trading in Shares of the Fund will be halted if the circuit breaker parameters in NYSE Arca Equities Rule 7.12 have been reached. Trading also may be halted because of market conditions or for reasons that, in the view of the Exchange, make trading in the Shares of the Fund inadvisable. These may include: (1) The extent to which trading is not occurring in the securities and/or the financial instruments comprising the Disclosed Portfolio of the Fund; or (2) whether other unusual conditions or circumstances detrimental to the maintenance of a fair and orderly market are present. Trading in the Shares will be subject to NYSE Arca Equities Rule 8.600(d)(2)(D), which sets forth circumstances under which Shares of the Fund may be halted.

Trading Rules

The Exchange deems the Shares to be equity securities, thus rendering trading in the Shares subject to the Exchange's existing rules governing the trading of equity securities. Shares will trade on the NYSE Arca Marketplace from 4:00 a.m. to 8:00 p.m. Eastern Time in

[41] The Bid/Ask Price of the Fund's Shares will be determined using the mid-point of the highest bid and the lowest offer on the Exchange as of the time of calculation of the Fund's NAV. The records relating to Bid/Ask Prices will be retained by each Fund and its service providers.

[42] Under accounting procedures to be followed by the Fund, trades made on the prior business day (''T'') will be booked and reflected in NAV on the current business day (''T+1''). Accordingly, the Fund will be able to disclose at the beginning of the business day the portfolio that will form the basis for the NAV calculation at the end of the business day.

[43] Currently, it is the Exchange's understanding that several major market data vendors display and/or make widely available PIVs taken from the CTA or other data feeds.

[44] *See* NYSE Arca Equities Rule 7.12.

accordance with NYSE Arca Equities Rule 7.34 (Opening, Core, and Late Trading Sessions). The Exchange has appropriate rules to facilitate transactions in the Shares during all trading sessions. As provided in NYSE Arca Equities Rule 7.6, Commentary .03, the minimum price variation (''MPV'') for quoting and entry of orders in equity securities traded on the NYSE Arca Marketplace is $0.01, with the exception of securities that are priced less than $1.00 for which the MPV for order entry is $0.0001.

The Shares of the Fund will conform to the initial and continued listing criteria under NYSE Arca Equities Rule 8.600. The Exchange represents that, for initial and/or continued listing, the Fund will be in compliance with Rule 10A–3 [45] under the Act, as provided by NYSE Arca Equities Rule 5.3. A minimum of 100,000 Shares of the Fund will be outstanding at the commencement of trading on the Exchange. The Exchange will obtain a representation from the issuer of the Shares of the Fund that the NAV and the Disclosed Portfolio will be made available to all market participants at the same time.

Surveillance

The Exchange represents that trading in the Shares of the Fund will be subject to the existing trading surveillances, administered by the Financial Industry Regulatory Authority (''FINRA'') on behalf of the Exchange, which are designed to detect violations of Exchange rules and applicable federal securities laws.[46] The Exchange represents that these procedures are adequate to properly monitor Exchange trading of the Shares in all trading sessions and to deter and detect violations of Exchange rules and federal securities laws applicable to trading on the Exchange.

The surveillances referred to above generally focus on detecting securities trading outside their normal patterns, which could be indicative of manipulative or other violative activity. When such situations are detected, surveillance analysis follows and investigations are opened, where appropriate, to review the behavior of all relevant parties for all relevant trading violations.

FINRA, on behalf of the Exchange, will communicate as needed regarding trading in the Shares, ETFs, other exchange-traded equity securities (including exchange-listed Depositary Receipts), options, futures, and options on futures with other markets and other entities that are members of the ISG, and FINRA, on behalf of the Exchange, may obtain trading information regarding trading in such financial instruments, as applicable, from such markets and other entities. In addition, the Exchange may obtain information regarding trading in such financial instruments, as applicable, from markets and other entities that are members of ISG or with which the Exchange has in place a comprehensive surveillance sharing agreement.[47] FINRA, on behalf of the Exchange, is able to access, as needed, trade information for certain fixed income securities held by the Fund reported to FINRA's Trade Reporting and Compliance Engine (''TRACE'').

Not more than 10% of the net assets of the Fund in the aggregate invested in exchange-traded equity securities shall consist of equity securities whose principal market is not a member of the ISG or party to a CSSA with the Exchange.

In addition, the Exchange also has a general policy prohibiting the distribution of material, non-public information by its employees.

Information Bulletin

Prior to the commencement of trading, the Exchange will inform its Equity Trading Permit (''ETP'') Holders in an Information Bulletin (''Bulletin'') of the special characteristics and risks associated with trading the Shares of the Fund. Specifically, the Bulletin will discuss the following: (1) The procedures for purchases and redemptions of Shares in Creation Units (and that Shares are not individually redeemable); (2) NYSE Arca Equities Rule 9.2(a), which imposes a duty of due diligence on its ETP Holders to learn the essential facts relating to every customer prior to trading the Shares; (3) the risks involved in trading the Shares during the Opening and Late Trading Sessions when an updated PIV will not be calculated or publicly disseminated; (4) how information regarding the PIV and the Disclosed Portfolio is disseminated; (5) the requirement that ETP Holders deliver a prospectus to investors purchasing newly issued Shares prior to or concurrently with the confirmation of a transaction; and (6) trading information.

In addition, the Bulletin will reference that the Fund is subject to various fees and expenses described in the Registration Statement. The Bulletin will discuss any exemptive, no-action, and interpretive relief granted by the Commission from any rules under the Act. The Bulletin will also disclose that the NAV for the Shares of the Fund will be calculated after 4:00 p.m. Eastern Time each trading day.

2. Statutory Basis

The basis under the Act for this proposed rule change is the requirement under section 6(b)(5) [48] 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 of a free and open market and, in general, to protect investors and the public interest.

The Exchange believes that the proposed rule change is designed to prevent fraudulent and manipulative acts and practices in that the Shares will be listed and traded on the Exchange pursuant to the initial and continued listing criteria in NYSE Arca Equities Rule 8.600. The Adviser and Sub-Advisers are not registered as broker-dealers but are affiliated with three broker-dealers and have implemented and will maintain a fire wall with respect to each such broker-dealer affiliate regarding access to information concerning the composition and/or changes to the portfolios. The Exchange has in place surveillance procedures that are adequate to properly monitor trading in the Shares of the Fund in all trading sessions and to deter and detect violations of Exchange rules and federal securities laws applicable to trading on the Exchange. FINRA, on behalf of the Exchange, will communicate as needed regarding trading in the Shares, ETFs, other exchange-traded equity securities (including exchange-listed Depositary Receipts), options, futures, and options on futures with other markets and other entities that are members of the ISG, and FINRA, on behalf of the Exchange, may obtain trading information regarding trading in such financial instruments, as applicable, from such markets and other entities. In addition, the Exchange may obtain information regarding trading in such financial instruments, as applicable, from markets and other entities that are members of ISG or with which the Exchange has in place a comprehensive surveillance sharing agreement. FINRA, on behalf of the Exchange, is able to access, as needed,

[45] 17 CFR 240 10A–3.

[46] FINRA surveils trading on the Exchange pursuant to a regulatory services agreement. The Exchange is responsible for FINRA's performance under this regulatory services agreement.

[47] For a list of the current members of ISG, see *www.isgportal.org*. The Exchange notes that not all components of the Disclosed Portfolio for the Fund may trade on markets that are members of ISG or with which the Exchange has in place a comprehensive surveillance sharing agreement.

[48] 15 U.S.C. 78f(b)(5).

trade information for certain fixed income securities held by the Fund reported to FINRA's TRACE. Not more than 10% of the net assets of the Fund in the aggregate invested in exchange-traded equity securities shall consist of equity securities whose principal market is not a member of the ISG or party to a CSSA with the Exchange. While the Fund may invest in inverse ETFs, the Fund will not invest in leveraged (*e.g.,* 2X, -2X, 3X or -3X) ETFs. The Fund's investments will be consistent with its investment objective and will not be used to enhance leverage. The Fund will limit its investment in non-government sponsored residential mortgage-backed securities, commercial mortgage-backed securities and asset-backed securities, in the aggregate, to 20% or less of the Fund's net assets. The PIV, as defined in NYSE Arca Equities Rule 8.600(c)(3), will be widely disseminated by one or more major market data vendors at least every 15 seconds during the Core Trading Session. The Fund may hold up to an aggregate amount of 15% of its net assets in illiquid assets (calculated at the time of investment), including Rule 144A securities deemed illiquid by the Adviser, consistent with Commission guidance.

The Shares of the Fund will conform to the initial and continued listing criteria under NYSE Arca Equities Rule 8.600. The Exchange represents that, for initial and/or continued listing, the Fund will be in compliance with Rule 10A–3 under the Act, as provided by NYSE Arca Equities Rule 5.3. A minimum of 100,000 Shares of the Fund will be outstanding at the commencement of trading on the Exchange. The Exchange will obtain a representation from the issuer of the Shares of the Fund that the NAV per Share will be calculated daily and that the NAV and the Disclosed Portfolio will be made available to all market participants at the same time. In addition, a large amount of information is publicly available regarding the Fund and the respective Shares, thereby promoting market transparency. The Fund's portfolio holdings will be disclosed on its Web site daily after the close of trading on the Exchange and prior to the opening of trading on the Exchange the following day. On a daily basis, the Fund will disclose on its Web site the following information regarding each portfolio holding, as applicable to the type of holding: Ticker symbol, CUSIP number or other identifier, if any; a description of the holding (including the type of holding); the identity of the security, commodity, index or other asset or instrument underlying the holding, if any; quantity held (as measured by, for example, par value, notional value or number of shares, contracts or units); maturity date, if any; coupon rate, if any; effective date, if any; market value of the holding; and the percentage weighting of the holding in the Fund's portfolio. The Web site information will be publicly available at no charge.

Investors can also obtain the Trust's Statement of Additional Information (''SAI''), the Fund's Shareholder Reports, and its Form N–CSR and Form N–SAR, filed twice a year. The Trust's SAI and Shareholder Reports are available free upon request from the Trust, and those documents and the Form N–CSR and Form N–SAR may be viewed on-screen or downloaded from the Commission's Web site at *www.sec.gov.* Quotation and last sale information for the portfolio holdings of the Fund that are U.S. exchange listed, including ETFs and U.S. exchange-traded ADRs and exchange-traded REITs, exchange-traded preferred stock, exchange-traded convertible securities, and exchange-traded MLPs will be available via the CTA high speed line. Quotation and last sale information for such U.S. exchange-listed securities, as well as futures will be available from the exchange on which they are listed. Quotation and last sale information for exchange-listed options cleared via the Options Clearing Corporation will be available via the Options Price Reporting Authority.

The Web site for the Fund will include a form of the prospectus for the Fund and additional data relating to NAV and other applicable quantitative information. Moreover, prior to the commencement of trading, the Exchange will inform its ETP Holders in an Information Bulletin of the special characteristics and risks associated with trading the Shares of the Funds [sic]. Trading in Shares of the Fund will be halted if the circuit breaker parameters in NYSE Arca Equities Rule 7.12 have been reached or because of market conditions or for reasons that, in the view of the Exchange, make trading in the Shares inadvisable, and trading in the Shares will be subject to NYSE Arca Equities Rule 8.600(d)(2)(D), which sets forth circumstances under which Shares of the Fund may be halted. In addition, as noted above, investors will have ready access to information regarding the Fund's holdings, the PIV, the Disclosed Portfolio, and quotation and last sale information for the Shares. The Fund's investments will be consistent with the Fund's investment objective and will not be used to enhance leverage.

The proposed rule change is designed to perfect the mechanism of a free and open market and, in general, to protect investors and the public interest in that it will facilitate the listing and trading of an additional type of actively-managed exchange-traded product that will enhance competition among market participants, to the benefit of investors and the marketplace. As noted above, the Exchange has in place surveillance procedures relating to trading in the Shares of the Fund and may obtain information via ISG from other exchanges that are members of ISG or with which the Exchange has entered into a comprehensive surveillance sharing agreement. In addition, as noted above, investors will have ready access to information regarding each Fund's holdings, the PIV, the Disclosed Portfolio for the Fund, and quotation and last sale information for the Shares of the Fund.

*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 purpose of the Act. The Exchange notes that the proposed rule change will facilitate the listing and trading of an additional type of actively-managed exchange-traded product that holds fixed income and equity securities and that will enhance competition among market participants, to the benefit of investors and the marketplace.

*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**

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period up to 90 days (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) by order approve or disapprove the proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

## IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

*Electronic Comments*

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–NYSEArca–2015–15 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–2015–15. 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 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–2015–15 and should be submitted on or before April 17, 2015.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[49]

**Brent J. Fields,**

*Secretary.*

[FR Doc. 2015–06991 Filed 3–26–15; 8:45 am]

BILLING CODE 8011–01–P

[49] 17 CFR 200.30–3(a)(12).

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## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–74561; File No. SR–MSRB–2015–01]**

## Self-Regulatory Organizations; Municipal Securities Rulemaking Board; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Consisting of Amendments to MSRB Rule A–16, on Examination Fees

March 23, 2015.

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 March 17, 2015, the Municipal Securities Rulemaking Board (the ''MSRB'' or ''Board'') filed with the Securities and Exchange Commission (the ''SEC'' or ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the MSRB. 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 MSRB filed with the Commission a proposed rule change consisting of amendments to MSRB Rule A–16, on examination fees (''proposed rule change''). The MSRB designated the proposed rule change as ''establishing or changing a due, fee or other charge'' under Section 19(b)(3)(A)(ii) of the Act[3] and Rule 19b–4(f)(2)[4] thereunder, which renders the proposal effective upon filing with the Commission. The implementation date of the proposed rule change is April 1, 2015.

The text of the proposed rule change is available on the MSRB's Web site at *http://www.msrb.org/Rules-and-Interpretations/SEC-Filings/2015-Filings.aspx,* at the MSRB's principal office, and at the Commission's Public Reference Room.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A)(ii).

[4] 17 CFR 240.19b–4(f)(2).

### 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 MSRB 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 MSRB 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 purpose of the proposed rule change is to establish a test development fee for the MSRB's new municipal advisor representative qualification examination (''Series 50 examination'') and to better align the MSRB's existing test development fees (which have not been adjusted since 2009) with the costs of developing, implementing and maintaining the tests (hereinafter, the ''program costs''). Under the proposed rule change, the MSRB will institute a test development fee of $150 for the Series 50 examination and change the test development fee for each of the three existing MSRB-owned examinations from $60 to $150. The development fee of $150 will, on April 1, 2015, be assessed on brokers, dealers and municipal securities dealers (''dealers'') and municipal advisors based on the number of their associated persons that take an MSRB-owned professional qualification examination.

Any person associated with a dealer who is engaged in or supervises municipal securities activities and any person associated with a municipal advisor who is engaged in or supervises municipal advisory activities must be qualified in accordance with MSRB Rule G–3.[5] As a prerequisite to qualification, each individual must pass the applicable examination to demonstrate a basic competence in the subject matter related to the professional qualification classification. The

[5] The SEC recently approved MSRB rule amendments, effective April 27, 2015, that establish professional qualification standards for municipal advisors. The amendments to MSRB Rule G–3 establish two professional qualification classifications for municipal advisors—municipal advisor representative and municipal advisor principal. *See* Exchange Act Release No. 74384 (Feb. 26, 2015), 80 FR 11706 (Mar. 4, 2015), File No. SR–MSRB–2014–08 (Nov. 18, 2014).

examinations seek to measure accurately and reliably the degree to which each candidate possesses the knowledge, skills and abilities necessary to perform the relevant job function. The examinations measure a candidate's knowledge of business activities, as well as the regulatory requirements, including MSRB rules, rule interpretations and other federal law applicable to a particular classification.

Generally, the MSRB recognizes two types of professional qualification examinations: MSRB-owned examinations and examinations owned by the Financial Industry Regulatory Authority (''FINRA''). There are three existing MSRB-owned examinations and one in development. The Municipal Fund Securities Limited Principal Qualification Examination (''Series 51 examination''), Municipal Securities Representative Qualification Examination (''Series 52 examination''), and Municipal Securities Principal Qualification Examination (''Series 53 examination'') are developed, implemented, maintained, and owned by the MSRB. The Series 50 examination, which is under development for municipal advisor representatives, is also owned by the MSRB. Each of the existing MSRB-owned examinations is administered by FINRA, and it is expected that FINRA also will administer the Series 50 examination.

MSRB-owned professional qualification examinations are developed by the MSRB in conjunction with industry-wide advisory committees and retained test design experts in accordance with established national standards. The test development fee assessed under Rule A–16 is intended to partially offset the program costs. Pursuant to the proposed rule change, the MSRB will change the test development fee from $60 to $150 for the Series 51 examination, Series 52 examination and Series 53 examination. This is the first time the MSRB has adjusted its examination development fees since 2009 when the fees were first established under MSRB Rule A–16.[6]

The MSRB is amending Rule A–16 to better align the fees with the current program costs because the MSRB's current examination fees, as a percentage of the program costs, have decreased significantly since the fees were established in 2009. The examination development fees have not previously been, and are not intended to fully offset the program costs, but to help defray a portion of the cost of developing and implementing the examinations, as well as the costs associated with monitoring the examinations for effectiveness and updating the examinations' content and questions. To address the growing disparity between the examination fees collected and the program costs, the MSRB is changing the examination fee to $150 for each MSRB-owned examination. The MSRB believes this fee adjustment is reasonable and appropriate.

The proposed rule change also amends Rule A–16 to clarify that the examination fee is assessed to dealers and municipal advisors, rather than their associated persons who take the professional qualification tests. In addition to the MSRB's examination fee, FINRA assesses an administrative fee for each examination that it administers. These fees are assessed by FINRA at the time a broker, dealer, municipal securities dealer or municipal advisor enrolls an associated person to take an examination and then FINRA remits the aggregate MSRB examination fees to the MSRB periodically.

2. Statutory Basis

The MSRB believes that the proposed rule change is consistent with the requirements of Section 15B(b)(2)(J) of the Act,[7] which requires, in pertinent part, that the MSRB promulgate rules to require dealers and municipal advisors to pay such reasonable fees and charges as may be necessary or appropriate to defray the costs and expenses of operating and administering the MSRB. The proposed rule change provides for reasonable fees to partially defray the program costs.

*B. Self-Regulatory Organization's Statement on Burden on Competition*

Section 15B(b)(2)(C) of the Act[8] requires that MSRB rules not be designed to impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. In addition, Section 15B(b)(2)(L)(iv) of the Act requires that MSRB rules not impose a regulatory burden on small municipal advisors that is not necessary or appropriate in the public interest and for the protection of investors, municipal entities, and obligated persons provided that there is robust protection of investors against fraud.[9]

In considering these standards, the MSRB was guided by the Board's Policy on the Use of Economic Analysis. The MSRB 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 MSRB considered as alternatives whether to maintain the current fee, or to propose an increase that was lower or higher than the proposed increase. Since the current examination fees were instituted, the costs relating to the development, implementation and maintenance of the examinations have increased. The examination fees have, as noted, remained unchanged since 2009 and the proposed rule change is designed to better align the fees with the current program costs. The revenue from such fees will still fall well-short of the actual program costs. Finally, the examination fees are equitable to each dealer and municipal advisor without regard to the nature of that entity's business and are assessed only as to those individuals who are associated with the entity who enroll to take an MSRB-owned qualification examination.

To evaluate the impact of the adjustment in the MSRB test development fees for the Series 51, 52, and 53 examinations and the establishment of a development fee of $150 for the Series 50 examination, the MSRB considered the fees charged to take other professional qualification examinations in the financial services field. When including the administrative fee assessed by FINRA, the total fee that will be charged to take any MSRB-owned examination is comparable to the total fee charged to take other FINRA-administered professional qualification examinations, which currently range from $70–$335.[10] As another example, in the financial services field, the fee to take the Chartered Financial Analyst Level I examination is $630.

In addition, the MSRB considered the fees charged to take professional qualification examinations in other fields. The average state bar examination fee as of 2013 was approximately $490.[11] Note that nearly

[6] *See* Exchange Act Release No. 61023 (Nov. 18, 2009), 74 FR 61402 (Nov. 24, 2009), File No. SR–MSRB–2009–16 (Nov. 5, 2009).

[7] 15 U.S.C. 78*o*–4(b)(2)(J).

[8] 15 U.S.C. 78*o*–4(b)(2)(C).

[9] 15 U.S.C. 78*o*–4(b)(2)(L)(iv).

[10] *See* FINRA Administered Qualification Examinations *www.finra.org/industry/compliance/registration/qualificationsexams/qualifications/p011096*. Effective April 1, 2015, the total fee charged to take other FINRA-administered professional qualification examinations will range from $75–$350. *See* File No. SR–FINRA–2015–006.

[11] *See* American Bar Association Bar Exam Directory, *www.americanbar.org/publications/student_lawyer/2012-13/nov/2012_2013_bar_exam_directory.html*. The cost of examinations varies substantially from state to state, as does whether the fee includes other professional certification costs (*e.g.,* moral character reviews).

50 percent of the attorneys who were in private practice that year, were sole practitioners and an additional 14 percent work in firms made up of five or fewer attorneys.[12] As another example, the Project Management Professional examination fee is $250. The MSRB is not aware of evidence that the fees associated with other examinations represent a significant burden on smaller firms or that they negatively impact the competitiveness of the associated professional services markets.

While the MSRB recognizes that examination fees do represent an initial barrier to entry in markets where they are required, the MSRB also recognizes that professionals wishing to engage in municipal securities activities and/or municipal advisory activities face other costs associated with complying with applicable laws and regulations. The fees for professional qualification examinations, which are one-time fees for those who pass, typically represent a relatively small share of all legal and compliance costs associated with a government-regulated activity. The MSRB anticipates that potential market entrants that are actually deterred by a professional examination fee would find it difficult to bear the costs to fully comply with the other regulatory and legal requirements associated with the market in which they wish to offer services.

With regard to the impact on small municipal advisors, the MSRB notes that because the total fee assessed to a firm is based on the number of individuals associated with that firm who enroll to take an MSRB-owned qualification examination, the total costs assessed will bear a reasonable relationship to the size of the firm, with smaller firms likely to be assessed lower fee totals. Nonetheless, larger, more diversified firms may have a larger overall revenue base than smaller firms and may be more able to pass expenses on to clients than smaller firms. On net, the MSRB believes that the burdens associated with the proposed rule change on small municipal advisors are limited and that, as the SEC concluded in its final rule on the permanent registration of municipal advisors, the market would be likely to remain competitive despite the potential exit of some municipal advisors (including small entity municipal advisors), consolidation of municipal advisors, or lack of new entrants into the market.[13] The MSRB also believes that its professional qualification examinations promote compliance with applicable laws and regulations are necessary for the protection of investors, municipal entities, and obligated persons.

Therefore, the MSRB believes the proposed rule change does not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

*C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others*

Written comments were neither solicited nor received on the proposed rule change.

**III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action**

The forgoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act [14] and paragraph (f) of Rule 19b–4 [15] 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–MSRB–2015–01 on the subject line.

*Paper Comments*

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549.

All submissions should refer to File Number SR–MSRB–2015–01. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*).Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the MSRB. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–MSRB–2015–01 and should be submitted on or before April 17, 2015.

For the Commission, pursuant to delegated authority.[16]

**Brent J. Fields,**

*Secretary.*

[FR Doc. 2015–06990 Filed 3–26–15; 8:45 am]

**BILLING CODE 8011–01–P**

[12] *See* American Bar Association Bar Lawyer Demographics, *http://www.americanbar.org/content/dam/aba/administrative/market_research/lawyer_demographics_2013.authcheckdam.pdf.*

[13] *See* Registration of Municipal Advisors, Exchange Act Release No. 70462 (Sept. 20, 2013), 78 FR 67467 (Nov. 12, 2013).

[14] 15 U.S.C. 78s(b)(3)(A).

[15] 17 CFR 240.19b–4(f).

[16] 17 CFR 200.30–3(a)(12).

## SECURITIES AND EXCHANGE COMMISSION

**[Investment Company Act Release No. 31509; File No. 812–14373]**

## Griffin Institutional Access Real Estate Fund and Griffin Capital Advisor, LLC; Notice of Application

March 23, 2015.

**AGENCY:** Securities and Exchange Commission (''Commission'').

**ACTION:** Notice of an application under section 6(c) of the Investment Company Act of 1940 (the ''Act'') for an exemption from sections 18(c) and 18(i) of the Act, under sections 6(c) and 23(c)(3) of the Act for an exemption from rule 23c–3 under the Act, and for an order pursuant to section 17(d) of the Act and rule 17d–1 under the Act.

**SUMMARY:** *Summary of Application:* Applicants request an order to permit

certain registered closed-end management investment companies to issue multiple classes of shares and to impose asset-based distribution fees and early withdrawal charges (''EWCs'').

**APPLICANTS:** Griffin Institutional Access Real Estate Fund (the ''Fund'') and Griffin Capital Advisor, LLC (the ''Adviser'').

**DATES:** Filing Dates: The application was filed on October 16, 2014, and amended on March 3, 2015.

**HEARING OR NOTIFICATION OF HEARING:** An order granting the requested relief will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Commission's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on April 17, 2015, and should be accompanied by proof of service on the applicants, in the form of an affidavit, or, for lawyers, a certificate of service. Pursuant to rule 0–5 under the Act, hearing requests should state the nature of the writer's interest, any facts bearing upon the desirability of a hearing on the matter, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Commission's Secretary.

**ADDRESSES:** Secretary, U.S. Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090; Applicants: Griffin Institutional Access Real Estate Fund and Griffin Capital Advisor, LLC, c/o Terrence Davis, Esq., Baker, Donelson, Bearman, Caldwell & Berkowitz, PC, 920 Massachusetts Avenue NW., Suite 900, Washington, DC 20001.

**FOR FURTHER INFORMATION CONTACT:** Laura Solomon, Senior Counsel, at (202) 551–6915, or Daniele Marchesani, Branch Chief, at (202) 551–6821 (Division of Investment Management, Chief Counsel's Office).

**SUPPLEMENTARY INFORMATION:** The following is a summary of the application. The complete application may be obtained via the Commission's Web site by searching for the file number, or for an applicant using the Company name box, at *http://www.sec.gov/search/search.htm* or by calling (202) 551–8090.

## Applicants' Representations

1. The Fund is a recently formed Delaware statutory trust that is registered under the Act as a non-diversified, closed-end management investment company. The Fund's investment objective is to generate a return comprised of both current income and capital appreciation with moderate volatility and low correlation to the broader markets. Applicants represent that the Fund pursues its investment objective by strategically investing across private institutional real estate investment funds as well as a diversified set of public real estate securities.

2. The Adviser is a Delaware limited liability company and is registered as an investment adviser under the Investment Advisers Act of 1940. The Adviser serves as investment adviser to the Fund.

3. The Applicants seek an order to permit the Fund to issue multiple classes of shares, each having its own fee and expense structure, and to impose asset-based distribution fees and EWCs.

4. Applicants request that the order also apply to any continuously offered registered closed-end management investment company that has been previously organized or that may be organized in the future for which the Adviser or any entity controlling, controlled by, or under common control with the Adviser, or any successor in interest to any such entity,[1] acts as investment adviser and which operates as an interval fund pursuant to rule 23c–3 under the Act or provides periodic liquidity with respect to its shares pursuant to rule 13e–4 under the Securities Exchange Act of 1934 (''Exchange Act'') (each, a ''Future Fund'' and together with the Fund, the ''Funds'').[2]

5. The Fund is currently making a continuous public offering of its common shares. Applicants state that additional offerings by any Fund relying on the order may be on a private placement or public offering basis. Shares of the Funds will not be listed on any securities exchange, nor quoted on any quotation medium. The Funds do not expect there to be a secondary trading market for their shares.

6. If the requested relief is granted, the Fund intends to redesignate its common shares as ''Class A Shares'' and to continuously offer two additional classes of shares (''Class I Shares'' and ''Class C Shares''). Because of the different distribution fees, services and any other class expenses that may be attributable to the Class A Shares, Class I and Class C Shares, the net income attributable to, and the dividends payable on, each class of shares may differ from each other.

7. Applicants state that, from time to time, the Fund may create additional classes of shares, the terms of which may differ from the Class A, Class I and Class C Shares in the following respects: (i) The amount of fees permitted by different distribution plans or different service fee arrangements; (ii) voting rights with respect to a distribution plan of a class; (iii) different class designations; (iv) the impact of any class expenses directly attributable to a particular class of shares allocated on a class basis as described in the application; (v) any differences in dividends and net asset value resulting from differences in fees under a distribution plan or in class expenses; (vi) any EWC or other sales load structure; and (vii) exchange or conversion privileges of the classes as permitted under the Act.

8. Applicants state that the Fund has adopted a fundamental policy to repurchase a specified percentage of its shares (no less than 5%) at net asset value on a quarterly basis. Such repurchase offers will be conducted pursuant to rule 23c–3 under the Act. Each of the other Funds will likewise adopt fundamental investment policies in compliance with rule 23c–3 and make quarterly repurchase offers to its shareholders or provide periodic liquidity with respect to its shares pursuant to rule 13e–4 under the Exchange Act.[3] Any repurchase offers made by the Funds will be made to all holders of shares of each such Fund.

9. Applicants represent that any asset-based service and distribution fees for each class of shares will comply with the provisions of NASD Rule 2830(d) (''NASD Sales Charge Rule'').[4] Applicants also represent that each Fund will disclose in its prospectus the fees, expenses and other characteristics of each class of shares offered for sale by the prospectus, as is required for open-end multiple class funds under Form N–1A. As is required for open-end funds, each Fund will disclose its expenses in shareholder reports, and disclose any arrangements that result in

[1] A successor in interest is limited to an entity that results from a reorganization into another jurisdiction or a change in the type of business organization.

[2] Any Fund relying on this relief in the future will do so in a manner consistent with the terms and conditions of the application. Applicants represent that each entity presently intending to rely on the requested relief is listed as an applicant.

[3] Applicants submit that rule 23c–3 and Regulation M under the Exchange Act permit an interval fund to make repurchase offers to repurchase its shares while engaging in a continuous offering of its shares pursuant to Rule 415 under the Securities Act of 1933.

[4] Any reference to the NASD Sales Charge Rule includes any successor or replacement rule that may be adopted by the Financial Industry Regulatory Authority (''FINRA'').

breakpoints in or elimination of sales loads in its prospectus.[5] In addition, applicants will comply with applicable enhanced fee disclosure requirements for fund of funds, including registered funds of hedge funds.[6]

10. Each of the Funds will comply with any requirements that the Commission or FINRA may adopt regarding disclosure at the point of sale and in transaction confirmations about the costs and conflicts of interest arising out of the distribution of open-end investment company shares, and regarding prospectus disclosure of sales loads and revenue sharing arrangements, as if those requirements applied to the Fund. In addition, each Fund will contractually require that any distributor of the Fund's shares comply with such requirements in connection with the distribution of such Fund's shares.

11. Each Fund will allocate all expenses incurred by it among the various classes of shares based on the net assets of the Fund attributable to each class, except that the net asset value and expenses of each class will reflect distribution fees, service fees, and any other incremental expenses of that class. Expenses of the Fund allocated to a particular class of shares will be borne on a pro rata basis by each outstanding share of that class. Applicants state that each Fund will comply with the provisions of rule 18f–3 under the Act as if it were an open-end investment company.

12. Applicants state that each Fund may impose an EWC on shares submitted for repurchase that have been held less than a specified period and may waive the EWC for certain categories of shareholders or transactions to be established from time to time. Applicants state that each of the Funds will apply the EWC (and any waivers or scheduled variations of the EWC) uniformly to all shareholders in a given class and consistently with the requirements of rule 22d–1 under the Act as if the Funds were open-end investment companies.

13. Each Fund operating as an interval fund pursuant to rule 23c–3 under the Act may offer its shareholders an exchange feature under which the shareholders of the Fund may, in connection with the Fund's periodic repurchase offers, exchange their shares of the Fund for shares of the same class of (i) registered open-end investment companies or (ii) other registered closed-end investment companies that comply with rule 23c–3 under the Act and continuously offer their shares at net asset value, that are in the Fund's group of investment companies (collectively, ''Other Funds''). Shares of a Fund operating pursuant to rule 23c–3 that are exchanged for shares of Other Funds will be included as part of the amount of the repurchase offer amount for such Fund as specified in rule 23c–3 under the Act. Any exchange option will comply with rule 11a–3 under the Act, as if the Fund were an open-end investment company subject to rule 11a–3. In complying with rule 11a–3, each Fund will treat an EWC as if it were a contingent deferred sales load (''CDSL'').

## Applicants' Legal Analysis

### *Multiple Classes of Shares*

1. Section 18(c) of the Act provides, in relevant part, that a closed-end investment company may not issue or sell any senior security if, immediately thereafter, the company has outstanding more than one class of senior security. Applicants state that the creation of multiple classes of shares of the Funds may be prohibited by section 18(c), as a class may have priority over another class as to payment of dividends because shareholders of different classes would pay different fees and expenses.

2. Section 18(i) of the Act provides that each share of stock issued by a registered management investment company will be a voting stock and have equal voting rights with every other outstanding voting stock. Applicants state that multiple classes of shares of the Funds may violate section 18(i) of the Act because each class would be entitled to exclusive voting rights with respect to matters solely related to that class.

3. Section 6(c) of the Act provides that the Commission may exempt any person, security or transaction or any class or classes of persons, securities or transactions from any provision of the Act, or from any rule or regulation under the Act, if and to the extent such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Applicants request an exemption under section 6(c) from sections 18(c) and 18(i) to permit the Funds to issue multiple classes of shares.

4. Applicants submit that the proposed allocation of expenses and voting rights among multiple classes is equitable and will not discriminate against any group or class of shareholders. Applicants submit that the proposed arrangements would permit a Fund to facilitate the distribution of its shares and provide investors with a broader choice of shareholder services. Applicants assert that the proposed closed-end investment company multiple class structure does not raise the concerns underlying section 18 of the Act to any greater degree than open-end investment companies' multiple class structures that are permitted by rule 18f–3 under the Act. Applicants state that each Fund will comply with the provisions of rule 18f–3 as if it were an open-end investment company.

### *Early Withdrawal Charges*

1. Section 23(c) of the Act provides, in relevant part, that no registered closed-end investment company shall purchase securities of which it is the issuer, except: (a) On a securities exchange or other open market; (b) pursuant to tenders, after reasonable opportunity to submit tenders given to all holders of securities of the class to be purchased; or (c) under other circumstances as the Commission may permit by rules and regulations or orders for the protection of investors.

2. Rule 23c–3 under the Act permits a registered closed-end investment company (an ''interval fund'') to make repurchase offers of between five and twenty-five percent of its outstanding shares at net asset value at periodic intervals pursuant to a fundamental policy of the interval fund. Rule 23c–3(b)(1) under the Act provides that an interval fund may deduct from repurchase proceeds only a repurchase fee, not to exceed two percent of the proceeds, that is paid to the interval fund and is reasonably intended to compensate the fund for expenses directly related to the repurchase.

3. Section 23(c)(3) provides that the Commission may issue an order that would permit a closed-end investment company to repurchase its shares in circumstances in which the repurchase is made in a manner or on a basis that does not unfairly discriminate against any holders of the class or classes of securities to be purchased.

4. Applicants request relief under section 6(c), discussed above, and

[5] *See* Shareholder Reports and Quarterly Portfolio Disclosure of Registered Management Investment Companies, Investment Company Act Release No. 26372 (Feb. 27, 2004) (adopting release) (requiring open-end investment companies to disclose fund expenses in shareholder reports); and Disclosure of Breakpoint Discounts by Mutual Funds, Investment Company Act Release No. 26464 (June 7, 2004) (adopting release) (requiring open-end investment companies to provide prospectus disclosure of certain sales load information).

[6] Fund of Funds Investments, Investment Company Act Rel. Nos. 26198 (Oct. 1, 2003) (proposing release) and 27399 (Jun. 20, 2006) (adopting release). See also Rules 12d1–1, *et seq.* of the Act.

section 23(c)(3) from rule 23c–3 to the extent necessary for the Funds to impose EWCs on shares of the Funds submitted for repurchase that have been held for less than a specified period.

5. Applicants state that the EWCs they intend to impose are functionally similar to CDSLs imposed by open-end investment companies under rule 6c–10 under the Act. Rule 6c–10 permits open-end investment companies to impose CDSLs, subject to certain conditions. Applicants note that rule 6c–10 is grounded in policy considerations supporting the employment of CDSLs where there are adequate safeguards for the investor and state that the same policy considerations support imposition of EWCs in the interval fund context. In addition, applicants state that EWCs may be necessary for the distributor to recover distribution costs. Applicants represent that any EWC imposed by the Funds will comply with rule 6c–10 under the Act as if the rule were applicable to closed-end investment companies. The Funds will disclose EWCs in accordance with the requirements of Form N–1A concerning CDSLs.

*Asset-Based Distribution Fees*

1. Section 17(d) of the Act and rule 17d–1 under the Act prohibit an affiliated person of a registered investment company or an affiliated person of such person, acting as principal, from participating in or effecting any transaction in connection with any joint enterprise or joint arrangement in which the investment company participates unless the Commission issues an order permitting the transaction. In reviewing applications submitted under section 17(d) and rule 17d-1, the Commission considers whether the participation of the investment company in a joint enterprise or joint arrangement is consistent with the provisions, policies and purposes of the Act, and the extent to which the participation is on a basis different from or less advantageous than that of other participants.

2. Rule 17d–3 under the Act provides an exemption from section 17(d) and rule 17d–1 to permit open-end investment companies to enter into distribution arrangements pursuant to rule 12b–1 under the Act. Applicants request an order under section 17(d) and rule 17d–1 under the Act to the extent necessary to permit the Fund to impose asset-based distribution fees. Applicants have agreed to comply with rules 12b–1 and 17d–3 as if those rules applied to closed-end investment companies, which they believe will resolve any concerns that might arise in connection with a Fund financing the distribution of its shares through asset-based distribution fees.

For the reasons stated above, applicants submit that the exemptions requested under section 6(c) are necessary and appropriate in the public interest and are consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Applicants further submit that the relief requested pursuant to section 23(c)(3) will be consistent with the protection of investors and will insure that applicants do not unfairly discriminate against any holders of the class of securities to be purchased. Finally, applicants state that the Funds' imposition of asset-based distribution fees is consistent with the provisions, policies and purposes of the Act and does not involve participation on a basis different from or less advantageous than that of other participants.

**Applicants' Condition**

Applicants agree that any order granting the requested relief will be subject to the following condition:

Each Fund relying on the order will comply with the provisions of rules 6c–10, 12b–1, 17d–3, 18f–3, 22d–1, and, where applicable, 11a–3 under the Act, as amended from time to time, as if those rules applied to closed-end management investment companies, and will comply with the NASD Sales Charge Rule, as amended from time to time, as if that rule applied to all closed-end management investment companies.

For the Commission, by the Division of Investment Management, under delegated authority.

**Brent J. Fields,**

*Secretary.*

[FR Doc. 2015–06989 Filed 3–26–15; 8:45 am]

**BILLING CODE 8011–01–P**

## SMALL BUSINESS ADMINISTRATION

### Reporting and Recordkeeping Requirements Under OMB Review

**AGENCY:** Small Business Administration.

**ACTION:** 30-day notice.

**SUMMARY:** The Small Business Administration (SBA) is publishing this notice to comply with requirements of the Paperwork Reduction Act (PRA) (44 U.S.C. chapter 35), which requires agencies to submit proposed reporting and recordkeeping requirements to OMB for review and approval, and to publish a notice in the **Federal Register** notifying the public that the agency has made such a submission. This notice also allows an additional 30 days for public comments.

**DATES:** Submit comments on or before April 27, 2015.

**ADDRESSES:** Comments should refer to the information collection by name and/or OMB Control Number and should be sent to: *Agency Clearance Officer,* Curtis Rich, Small Business Administration, 409 3rd Street SW., 5th Floor, Washington, DC 20416; and *SBA Desk Officer,* Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Washington, DC 20503.

**FOR FURTHER INFORMATION CONTACT:** Curtis Rich, Agency Clearance Officer, (202) 205–7030, *curtis.rich@sba.gov.*

*Copies:* A copy of the Form OMB 83–1, supporting statement, and other documents submitted to OMB for review may be obtained from the Agency Clearance Officer.

**SUPPLEMENTARY INFORMATION:** The Small Business Administration needs to understand if the SBA-funded Women's Business Center program is generating positive outcomes for their clients. The data from this collection will include client attitudes and stated changes in business practices and performance. The data will be used to monitor and report on the performance or outcomes of business clients that received business assistance from the centers.

*Solicitation of Public Comments:*

Comments may be submitted on (a) whether the collection of information is necessary for the agency to properly perform its functions; (b) whether the burden estimates are accurate; (c) whether there are ways to minimize the burden, including through the use of automated techniques or other forms of information technology; and (d) whether there are ways to enhance the quality, utility, and clarity of the information.

*Summary of Information Collections:*

*Title:* Women's Business Center Program Participants.

*Description of Respondents:* Women's Business Center Program Participants.

*Form Number:* N/A.

*Estimated Annual Respondents:* 1145.

*Estimated Annual Responses:* 1145.

*Estimated Annual Hour Burden:* 1496.

**Curtis B. Rich,**

*Management Analyst.*

[FR Doc. 2015–06979 Filed 3–26–15; 8:45 am]

**BILLING CODE 8025–01–P**

## SMALL BUSINESS ADMINSTRATION

### Announcement of Open Federal Advisory Committee Meetings

**AGENCY:** U.S. Small Business Administration (SBA).

**ACTION:** Notice of open Federal Advisory Committee meetings.

**SUMMARY:** The SBA is issuing this notice to announce the location, date, time and agenda for the 3rd quarter meetings of the National Small Business Development Center (SBDC) Advisory Board.

**DATES:** The meetings for the 3rd quarter will be held on the following dates:

Tuesday, April 21, 2015 at 1:00 p.m. EST

Tuesday, May 19, 2015 at 1:00 p.m. EST

Tuesday, June 16, 2015 at 1:00 p.m. EST

**ADDRESSES:** These meetings will be held via conference call.

**FOR FUTHER INFORMATION CONTACT:** These meetings are open to the public however advance notice of attendance is requested. Anyone wishing to be a listening participant must contact Alanna Falcone by mail, fax, or email at Alanna Falcone, U.S. Small Business Administration, Financial Program Analyst, 409 Third Street SW., Washington, DC 20416; Phone: 202–619–1612; Fax: 202–481–0134; email: *alanna.falcone@sba.gov.*

Additionally, if you need accommodations because of a disability or require additional information, please contact Alanna Falcone at the information above.

**SUPPLEMENTARY INFORMATION:** Pursuant to section 10(a) of the Federal Advisory Committee Act (5 U.S.C. Appendix 2), SBA announces the meetings of the National SBDC Advisory Board. This Board provides advice and counsel to the SBA Administrator and Associate Administrator for Small Business Development Centers.

The purpose of these meetings is to discuss following issues pertaining to the SBDC Advisory Board:

- SBA Update
- Annual Meetings
- Board Assignments
- Member Roundtable

**Authority:** 15 U.S.C. 648(i).

Dated: March 19, 2015.

**Miguel J. L'Heureaux,**

*Committee Management Officer.*

[FR Doc. 2015–06977 Filed 3–26–15; 8:45 am]

BILLING CODE 8025–01–P

## SMALL BUSINESS ADMINISTRATION

### National Regulatory Fairness Hearing; Region III Regulatory Fairness Board

**AGENCY:** U.S. Small Business Administration (SBA)

**ACTION:** Notice of open hearing of the Regional Small Business Regulatory Fairness Board.

**SUMMARY:** The SBA, Office of the National Ombudsman is issuing this notice to announce the location, date and time of the National Regulatory Fairness Hearing. This hearing is open to the public.

**DATES:** The hearing will be held on Monday, April 27, 2015 from 1:30 p.m. to 5:00 p.m. (EDT).

**ADDRESSES:** The meeting will be at 901 E Street NW., in the Americas Room, Washington, DC 20004. Persons attending the hearing must enter the building at the 9th Street NW., entrance between E and F Streets NW., with a valid photo identification.

**SUPPLEMENTARY INFORMATION:** Pursuant to the Small Business Regulatory Enforcement Fairness Act (Pub. L. 104–121), Sec. 222, SBA announces the hearing for Small Business Owners, Business Organizations, Trade Associations, Chambers of Commerce and related organizations serving small business concerns to report experiences regarding unfair or excessive Federal regulatory enforcement issues affecting small businesses.

**FOR FURTHER INFORMATION CONTACT:** The hearing is open to the public; however, advance notice of attendance is requested. Anyone wishing to attend and/or make a presentation to the Region III Regulatory Fairness Board must contact José Méndez by April 20, 2015 in writing, by fax or email at *ombudsman-events@sba.gov* in order to be placed on the agenda. For further information, please contact José Méndez, Case Management Specialist, Office of the National Ombudsman, 409 3rd Street SW., Suite 7125, Washington, DC 20416, by phone (202) 205–6178 and fax (202) 481–5719. Additionally, if you need accommodations because of a disability, translation services, or require additional information, please contact José Méndez as well.

For more information on the Office of the National Ombudsman, see our Web site at *www.sba.gov/ombudsman.*

Dated: March 24, 2015

**Miguel J. L'Heureux,**

*SBA Committee Management Officer.*

[FR Doc. 2015–07062 Filed 3–26–15; 8:45 am]

BILLING CODE 8025–01–P

## DEPARTMENT OF STATE

**[Public Notice 9071]**

### Culturally Significant Objects Imported for Exhibition; Determinations: ''China: Through the Looking Glass''

**SUMMARY:** Notice is hereby given of the following determinations: Pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985; 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978, the Foreign Affairs Reform and Restructuring Act of 1998 (112 Stat. 2681, *et seq.;* 22 U.S.C. 6501 note, *et seq.*), Delegation of Authority No. 234 of October 1, 1999, and Delegation of Authority No. 236–3 of August 28, 2000 (and, as appropriate, Delegation of Authority No. 257 of April 15, 2003), I hereby determine that the objects to be included in the exhibition ''China: Through the Looking Glass,'' imported from abroad for temporary exhibition within the United States, are of cultural significance. The objects are imported pursuant to loan agreements with the foreign owners or custodians. I also determine that the exhibition or display of the exhibit objects at the Metropolitan Museum of Art, New York, New York, from on or about May 7, 2015, until on or about August 16, 2015, and at possible additional exhibitions or venues yet to be determined, is in the national interest. I have ordered that Public Notice of these Determinations be published in the **Federal Register**.

**FOR FURTHER INFORMATION CONTACT:** For further information, including a list of the imported objects, contact the Office of the Legal Adviser, U.S. Department of State, SA–5, L/PD, Fifth Floor (Suite 5H03), Washington, DC 20522–0505, telephone (202–632–6471), or email at *section2459@state.gov.*

Dated: March 20, 2015.

**Kelly Keiderling,**

*Principal Deputy Assistant Secretary, Bureau of Educational and Cultural Affairs, Department of State.*

[FR Doc. 2015–07074 Filed 3–26–15; 8:45 am]

BILLING CODE 4710–05–P

## DEPARTMENT OF STATE

**[Public Notice 9072]**

### In the Matter of the Designation of Aliaskhab Kebekov, Also Known as Aliaskhab Alibulatovich Kebekov, Also Known as Sheikh Ali Abu Muhammad ad-Dagestani, Also Known as Sheikh Abu Muhammad, Also Known as Abu Muhammad Ali ad-Dagestani, Also Known as Abu Mukhammad Aliaskhab, Also Known as Magomed Kebekov, Also Known as Ali Abu Muhammad al Dagestani, Also Known as Ali Abu Muhammed al-Dagestani, Also Known as Ali Abu-Mukhammad, Also Known as Ali Abu Mukhammad, Also Known as Ali Abu Muhammad, Also Known as Abu-Muhammad al-Qawqazi, Also Known as Abu Mukhammad Kebekov; as a Specially Designated Global Terrorist Pursuant to Section 1(b) of Executive Order 13224, as Amended

Acting under the authority of and in accordance with section 1(b) of Executive Order 13224 of September 23, 2001, as amended by Executive Order 13268 of July 2, 2002, and Executive Order 13284 of January 23, 2003, I hereby determine that the individual known as Aliaskhab Kebekov, also known as Aliaskhab Alibulatovich Kebekov, also known as Sheikh Ali Abu Muhammad ad-Dagestani, also known as Sheikh Abu Muhammad, also known as Abu Muhammad Ali ad-Dagestani, also known as Abu Mukhammad Aliaskhab, also known as Magomed Kebekov, also known as Ali Abu Muhammad al Dagestani, also known as Ali Abu Muhammed al-Dagestani, also known as Ali Abu-Mukhammad, also known as Ali Abu Mukhammad, also known as Ali Abu Muhammad, also known as Abu-Muhammad al-Qawqazi, also known as Abu Mukhammad Kebekov committed, or poses a significant risk of committing, acts of terrorism that threaten the security of U.S. nationals or the national security, foreign policy, or economy of the United States.

Consistent with the determination in section 10 of Executive Order 13224 that ''prior notice to persons determined to be subject to the Order who might have a constitutional presence in the United States would render ineffectual the blocking and other measures authorized in the Order because of the ability to transfer funds instantaneously,'' I determine that no prior notice needs to be provided to any person subject to this determination who might have a constitutional presence in the United States, because to do so would render ineffectual the measures authorized in the Order.

This notice shall be published in the **Federal Register**.

Dated: March 18, 2015.

**John F. Kerry,**

*Secretary of State.*

[FR Doc. 2015–07083 Filed 3–26–15; 8:45 am]

**BILLING CODE 4710–AD–P**

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## DEPARTMENT OF STATE

**[Public Notice 9067]**

### Culturally Significant Objects Imported for Exhibition Determinations: ''Discovering the Impressionists: Paul Durand-Ruel and the New Painting'' Exhibition

**SUMMARY:** Notice is hereby given of the following determinations: Pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985; 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978, the Foreign Affairs Reform and Restructuring Act of 1998 (112 Stat. 2681, *et seq.;* 22 U.S.C. 6501 note, *et seq.*), Delegation of Authority No. 234 of October 1, 1999, Delegation of Authority No. 236–3 of August 28, 2000 (and, as appropriate, Delegation of Authority No. 257 of April 15, 2003), I hereby determine that the objects to be included in the exhibition ''Discovering the Impressionists: Paul Durand-Ruel and the New Painting,'' imported from abroad for temporary exhibition within the United States, are of cultural significance. The objects are imported pursuant to loan agreements with the foreign owners or custodians. I also determine that the exhibition or display of the exhibit objects at the Philadelphia Museum of Art, Philadelphia, PA, from on or about June 18, 2015, until on or about September 13, 2015, and at possible additional exhibitions or venues yet to be determined, is in the national interest. I have ordered that Public Notice of these Determinations be published in the **Federal Register**.

**FOR FURTHER INFORMATION CONTACT:** For further information, including the list of the exhibit objects, contact Julie Simpson, Attorney-Adviser, Office of the Legal Adviser, U.S. Department of State (telephone: 202–632–6467). The mailing address is U.S. Department of State, SA–5, L/PD, Fifth Floor (Suite 5H03), Washington, DC 20522–0505.

Dated: March 16, 2015.

**Kelly Keiderling,**

*Principal Deputy Assistant Secretary, Bureau of Educational and Cultural Affairs, Department of State.*

[FR Doc. 2015–07079 Filed 3–26–15; 8:45 am]

**BILLING CODE 4710–05–P**

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## DEPARTMENT OF STATE

**[Public Notice 9069]**

### Culturally Significant Objects Imported for Exhibition Determinations: ''Yoko Ono: One Woman Show 1960–1971''

**SUMMARY:** Notice is hereby given of the following determinations: Pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985; 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978, the Foreign Affairs Reform and Restructuring Act of 1998 (112 Stat. 2681, *et seq.;* 22 U.S.C. 6501 note, *et seq.*), Delegation of Authority No. 234 of October 1, 1999, and Delegation of Authority No. 236–3 of August 28, 2000 (and, as appropriate, Delegation of Authority No. 257 of April 15, 2003), I hereby determine that the objects to be included in the exhibition ''Yoko Ono: One Woman Show 1960–1971'', imported from abroad for temporary exhibition within the United States, are of cultural significance. The objects are imported pursuant to loan agreements with the foreign owners or custodians. I also determine that the exhibition or display of the exhibit objects at the Museum of Modern Art, New York, New York, from on or about May 17, 2015, until on or about September 7, 2015, and at possible additional exhibitions or venues yet to be determined, is in the national interest. I have ordered that Public Notice of these Determinations be published in the **Federal Register**.

**FOR FURTHER INFORMATION CONTACT:** For further information, including a list of the imported objects, contact the Office of the Legal Adviser, U.S. Department of State, SA–5, L/PD, Fifth Floor (Suite 5H03), Washington, DC 20522–0505, telephone (202–632–6471), or email at *section2459@state.gov.*

Dated: March 18, 2015.

**Kelly Keiderling,**

*Principal Deputy Assistant Secretary, Bureau of Educational and Cultural Affairs, Department of State.*

[FR Doc. 2015–07077 Filed 3–26–15; 8:45 am]

**BILLING CODE 4710–05–P**

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## DEPARTMENT OF STATE

**[Public Notice 9066]**

### Culturally Significant Objects Imported for Exhibition Determinations: ''Pleasure and Piety: The Art of Joachim Wtewael'' Exhibition

**SUMMARY:** Notice is hereby given of the following determinations: Pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985; 22 U.S.C. 2459), Executive Order 12047 of March

27, 1978, the Foreign Affairs Reform and Restructuring Act of 1998 (112 Stat. 2681, *et seq.;* 22 U.S.C. 6501 note, *et seq.*), Delegation of Authority No. 234 of October 1, 1999, Delegation of Authority No. 236–3 of August 28, 2000 (and, as appropriate, Delegation of Authority No. 257 of April 15, 2003), I hereby determine that the objects to be included in the exhibition ''Pleasure and Piety: The Art of Joachim Wtewael,'' imported from abroad for temporary exhibition within the United States, are of cultural significance. The objects are imported pursuant to loan agreements with the foreign owners or custodians. I also determine that the exhibition or display of the exhibit objects at the National Gallery of Art, Washington, DC, from on or about June 28, 2015, until on or about October 4, 2015, at the Museum of Fine Arts, Houston, Houston, Texas, from on or about November 1, 2015, until on or about January 31, 2016, and at possible additional exhibitions or venues yet to be determined, is in the national interest. I have ordered that Public Notice of these Determinations be published in the **Federal Register**.

**FOR FURTHER INFORMATION CONTACT:** For further information, including lists of the exhibit objects, contact the Office of Public Diplomacy and Public Affairs in the Office of the Legal Adviser, U.S. Department of State (telephone: 202–632–6471; email: *section2459@state.gov*). The mailing address is U.S. Department of State, L/PD, SA–5, Suite 5H03, Washington, DC 20522–0505.

Dated: March 10, 2015.

**Kelly Keiderling,**

*Principal Deputy Assistant Secretary, Bureau of Educational and Cultural Affairs, Department of State.*

[FR Doc. 2015–07078 Filed 3–26–15; 8:45 am]

**BILLING CODE 4710–05–P**

## OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

**[Dispute No. WT/DS489]**

## WTO Dispute Settlement Proceeding Regarding Certain Measures Providing Export-Contingent Subsidies to Enterprises in Several Industrial Sectors in China

**AGENCY:** Office of the United States Trade Representative.

**ACTION:** Notice; request for comments.

**SUMMARY:** The Office of the United States Trade Representative (''USTR'') is providing notice that on February 11, 2015, the United States requested consultations with the Government of the People's Republic of China (''China'') under the *Marrakesh Agreement Establishing the World Trade Organization* (''WTO Agreement'') concerning certain measures providing export-contingent subsidies to enterprises in several industrial sectors in China. That request may be found at *www.wto.org,* contained in a document designated as WT/DS489/1. USTR invites written comments from the public concerning the issues raised in this dispute.

**DATES:** Although USTR will accept any comments received during the course of the dispute settlement proceedings, comments should be submitted on or before April 15, 2015 to assure timely consideration by USTR.

**ADDRESSES:** Public comments should be submitted electronically at *www.regulations.gov,* docket number USTR–2015–0004. If you are unable to provide submissions at *www.regulations.gov,* please contact Sandy McKinzy at (202) 395–9483 to arrange for an alternative method of transmission.

If (as explained below) the comment contains confidential information, then the comment should be submitted by fax only to Sandy McKinzy at (202) 395–3640.

**FOR FURTHER INFORMATION CONTACT:** Arthur Tsao, Assistant General Counsel, Office of the United States Trade Representative, (202) 395–3150.

**SUPPLEMENTARY INFORMATION:** USTR is providing notice that consultations have been requested pursuant to the WTO *Understanding on Rules and Procedures Governing the Settlement of Disputes* (''DSU''). If such consultations should fail to resolve the matter and a dispute settlement panel is established pursuant to the DSU, such a panel, which would hold its meetings in Geneva, Switzerland, would be expected to issue a report on its findings and recommendations pursuant to Article 12 of the DSU.

### Major Issues Raised by the United States

On February 11, 2015, the United States requested consultations with China concerning certain measures providing export-contingent subsidies to enterprises in several industrial sectors in China. It appears that China provides export-contingent subsidies through a program establishing ''Foreign Trade Transformation and Upgrading Demonstration Bases'' (''Demonstration Bases'') and ''Common Service Platforms''. Demonstration Bases are industrial clusters of enterprises in several Chinese industries, including the textiles, agriculture, medical products, light industry, special chemical engineering, new materials, and hardware and building materials industries. Common Service Platforms are service suppliers designated by China to provide services to enterprises in Demonstration Bases. China designates an industrial cluster of enterprises in a particular industry as a Demonstration Base and then provides export-contingent subsidies to the enterprises located in the Demonstration Base. These subsidies include the provision of discounted or free services through Common Service Platforms or the provision of cash grants. In addition, it appears that China provides certain other export-contingent subsidies to Chinese manufacturers, producers, and farmers.

The Demonstration Base/Common Service Platform program and the export subsidies at issue are reflected in legal instruments that include, but are not limited to, the instruments set out in the consultations request.

Because the Demonstration Base/Common Service Platform program and the export subsidies at issue provide subsidies contingent upon export performance to enterprises located in China, the measures appear to be inconsistent with Article 3.1(a) of the SCM Agreement, and China appears to have acted inconsistently with Article 3.2 of the SCM Agreement.

### Public Comment: Requirements for Submissions

Interested persons are invited to submit written comments concerning the issues raised in this dispute. Persons may submit public comments electronically to *www.regulations.gov,* docket number USTR–2015–0004. If you are unable to provide submissions by *www.regulations.gov,* please contact Sandy McKinzy at (202) 395–9483 to arrange for an alternative method of transmission.

To submit comments via *www.regulations.gov,* enter docket number USTR–2015–0004 on the home page and click ''search.'' The site will provide a search-results page listing all documents associated with this docket. Find a reference to this notice by selecting ''Notice'' under ''Document Type'' on the left side of the search-results page, and click on the link entitled ''Submit a Comment'' (For further information on using the *www.regulations.gov* Web site, please consult the resources provided on the Web site by clicking on ''How to Use This Site'' on the left side of the home page).

The *www.regulations.gov* Web site allows users to provide comments by filling in a ''Type Comments'' field, or by attaching a document using an ''Upload File'' field. It is expected that most comments will be provided in an attached document. If a document is attached, it is sufficient to type ''See attached'' in the ''Type Comments'' field.

A person requesting that information, contained in a comment that he submitted, 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. Confidential business information must be clearly designated as such and the submission must be marked ''BUSINESS CONFIDENTIAL'' at the top and bottom of the cover page and each succeeding page. Any comment containing business confidential information must be submitted by fax to Sandy McKinzy at (202) 395–3640. A non-confidential summary of the confidential information must be submitted at *www.regulations.gov.* The non-confidential summary will be placed in the docket and will be open to public inspection.

USTR may determine that information or advice contained in a comment submitted, other than business confidential information, is confidential in accordance with section 135(g)(2) of the Trade Act of 1974 (19 U.S.C. § 2155(g)(2)). If the submitter believes that information or advice may qualify as such, the submitter—

(1) Must clearly so designate the information or advice;

(2) Must clearly mark the material as ''SUBMITTED IN CONFIDENCE'' at the top and bottom of the cover page and each succeeding page; and

(3) Must provide a non-confidential summary of the information or advice.

Any comment containing confidential information must be submitted by fax. A non-confidential summary of the confidential information must be submitted at *www.regulations.gov.* The non-confidential summary will be placed in the docket and will be open to public inspection.

Pursuant to section 127(e) of the Uruguay Round Agreements Act (19 U.S.C. 3537(e)), USTR will maintain a docket on this dispute settlement proceeding, docket number USTR–2015–0004, accessible to the public at *www.regulations.gov.* The public file will include non-confidential comments received by USTR from the public regarding the dispute. If a dispute settlement panel is convened, or in the event of an appeal from such a panel, the following documents will be made available to the public at *www.ustr.gov*: The United States' submissions, any non-confidential submissions received from other participants in the dispute, and any non-confidential summaries of submissions received from other participants in the dispute. In the event that a dispute settlement panel is convened, or in the event of an appeal from such a panel, the report of the panel, and, if applicable, the report of the Appellate Body, will also be available on the Web site of the World Trade Organization at *www.wto.org.* Comments open to public inspection may be viewed at *www.regulations.gov.*

**Annelies Winborne,**

*Deputy Assistant United States Trade Representative for Monitoring and Enforcement.*

[FR Doc. 2015–07011 Filed 3–26–15; 8:45 am]

**BILLING CODE 3290–F5–P**

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

### Noise Exposure Map: Alexandria International Airport, Alexandria, Louisiana

**AGENCY:** Federal Aviation Administration, DOT.

**ACTION:** Notice.

**SUMMARY:** The Federal Aviation Administration (FAA) announces its determination that the noise exposure maps submitted by the England Economic and Industrial Development District for Alexandria International Airport under the provisions of 49 U.S.C. 47503 et. seq (Aviation Safety and Noise Abatement Act) and 14 CFR part 150 are in compliance with applicable requirements.

**DATES:** *Effective:* The effective date of the FAA's determination on the noise exposure maps is March 20, 2015.

**FOR FURTHER INFORMATION CONTACT:** DOT/FAA Southwest Region, Tim Tandy, Environmental Protection Specialist, Louisiana/New Mexico Airports District Office, ASW–640D, 2601 Meacham Boulevard, Fort Worth, Texas 76137. Telephone (817) 222–5644.

**SUPPLEMENTARY INFORMATION:** This notice announces that the FAA finds that the noise exposure maps submitted for Alexandria International Airport are in compliance with applicable requirements of Part 150, effective March 20, 2015. Under 49 U.S.C. 47503 of the Aviation Safety and Noise Abatement Act (hereinafter referred to as ''the Act''), an airport operator may submit to the FAA noise exposure maps which meet applicable regulations and which depict non-compatible land uses as of the date of submission of such maps, a description of projected aircraft operations, and the ways in which such operations will affect such maps. The Act requires such maps to be developed in consultation with interested and affected parties in the local community, government agencies, and persons using the airport. An airport operator who has submitted noise exposure maps that are found by FAA to be in compliance with the requirements of Federal Aviation Regulations (FAR) Part 150, promulgated pursuant to the Act, may submit a noise compatibility program for FAA approval which sets forth the measures the operator has taken or proposes to take to reduce existing non-compatible uses and prevent the introduction of additional non-compatible uses.

The FAA has completed its review of the noise exposure maps and accompanying documentation submitted by the England Economic and Industrial Development District. The documentation that constitutes the ''noise exposure maps'' as defined in section 150.7 of Part 150 includes: Figure 3.3, 2013 Existing Conditions North Flow Flight Tracks; Figure 3.4, 2013 Existing Conditions South Flow Flight Tracks; Figure 4.1, 2013 Existing Condition Noise Exposure Map; Figure 5.1, 2019 Future Condition North Flow Flight Tracks; Figure 5.2, 2019 Future Condition South Flow Flight Tracks; Figure 6.1, 2019 Future Condition Noise Exposure Map; Figure J.1., Existing & Future North Flow Flight Tracks; Figure J.2, Existing & Future South Flow Flight Tracks; Figure J.3, 2013 Existing Condition Noise Exposure Map; 2019 Future Condition Noise Exposure Map; Table 3.1, Historical Annual Operations from ATADS; Table 3.2, Historical Annual Operations from TFMSC; Table 3.3, Total Operations from NOP; Table 3.4, Total Number of Operations for 2013; Table 3.5, Calculated Scaling Factor by Operational Category; Table 3.6, 2013 Runway and Helipad Utilization Rate; Table 4.1, 2013 Existing Condition Noise Exposure Estimates; Table 5.1, Total Number of Operations for 2019; Table 5.2, 2019 Runway and Helipad Utilization Rate; Table 6.1, 2019 Future Condition Noise Exposure Estimates. The FAA has determined that these noise exposure maps and accompanying documentation are in compliance with applicable

requirements. This determination is effective on March 20, 2015.

FAA's determination on an airport operator's noise exposure maps is limited to a finding that the maps were developed in accordance with the procedures contained in appendix A of FAR Part 150. Such determination does not constitute approval of the applicant's data, information or plans, or a commitment to approve a noise compatibility program or to fund the implementation of that program. If questions arise concerning the precise relationship of specific properties to noise exposure contours depicted on a noise exposure map submitted under section 47503 of the Act, it should be noted that the FAA is not involved in any way in determining the relative locations of specific properties with regard to the depicted noise contours, or in interpreting the noise exposure maps to resolve questions concerning, for example, which properties should be covered by the provisions of section 47506 of the Act. These functions are inseparable from the ultimate land use control and planning responsibilities of local government. These local responsibilities are not changed in any way under Part 150 or through FAA's review of noise exposure maps. Therefore, the responsibility for the detailed overlaying of noise exposure contours onto the map depicting properties on the surface rests exclusively with the airport operator that submitted those maps, or with those public agencies and planning agencies with which consultation is required under section 47503 of the Act. The FAA has relied on the certification by the airport operator, under section 150.21 of FAR Part 150, that the statutorily required consultation has been accomplished.

Copies of the full noise exposure map documentation and of the FAA's evaluation of the maps are available for examination at the following locations: Federal Aviation Administration, 2601 Meacham Boulevard, Fort Worth, Texas; Alexandria International Airport, Scott Gammel, Manager, 1611 Arnold Drive, Alexandria, LA 71303. Questions may be directed to the individual named above under the heading **FOR FURTHER INFORMATION CONTACT.**

Issued in Fort Worth, Texas, March 20, 2015.

**Ignacio Flores,**

*Manager, Airports Division.*

[FR Doc. 2015–07085 Filed 3–26–15; 8:45 am]

**BILLING CODE 4910–13–P**

## DEPARTMENT OF TRANSPORTATION

### Federal Motor Carrier Safety Administration

**[Docket No. FMCSA–2014–0213]**

### Qualification of Drivers; Exemption Applications; Epilepsy and Seizure Disorders

**AGENCY:** Federal Motor Carrier Safety Administration (FMCSA), DOT.

**ACTION:** Notice of final disposition.

**SUMMARY:** FMCSA announces its decision to grant requests from 4 individuals for exemptions from the regulatory requirement that interstate commercial motor vehicle (CMV) drivers have ''no established medical history or clinical diagnosis of epilepsy or any other condition which is likely to cause loss of consciousness or any loss of ability to control a CMV.'' The regulation and the associated advisory criteria published in the Code of Federal Regulations as the ''Instructions for Performing and Recording Physical Examinations'' have resulted in numerous drivers being prohibited from operating CMVs in interstate commerce based on the fact that they have had one or more seizures and are taking anti-seizure medication, rather than an individual analysis of their circumstances by a qualified medical examiner. The Agency concluded that granting exemptions for these CMV drivers will provide a level of safety that is equivalent to or greater than the level of safety maintained without the exemptions. FMCSA grants exemptions that will allow these 4 individuals to operate CMVs in interstate commerce for a 2-year period. The exemptions preempt State laws and regulations and may be renewed.

**DATES:** The exemptions are effective March 27, 2015. The exemptions expire on March 27, 2017.

**FOR FURTHER INFORMATION CONTACT:** Charles A. Horan, III, Director, Office of Carrier, Driver and Vehicle Safety, (202) 366–4001, *fmcsamedical@dot.gov,* FMCSA, Department of Transportation, 1200 New Jersey Avenue SE., Room W64–224, Washington, DC 20590–0001. Office hours are 8:30 a.m. to 5 p.m., e.t., Monday through Friday, except Federal holidays.

**SUPPLEMENTARY INFORMATION:**

### A. Electronic Access

You may see all the comments online through the Federal Document Management System (FDMS) at: *http://www.regulations.gov.*

*Docket:* For access to the docket to read background documents or comments, go to *http://www.regulations.gov* and/or Room W12–140 on the ground level of the West Building, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., e.t., Monday through Friday, except Federal holidays.

*Privacy Act:* In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, including any personal information the commenter provides, to *www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *www.dot.gov/privacy.*

### B. Background

Under 49 U.S.C. 31136(e) and 31315(b), FMCSA may grant an exemption from the safety regulations for a 2-year period if it finds ''such exemption would likely achieve a level of safety that is equivalent to or greater than the level that would be achieved absent such exemption.'' The statute also allows the Agency to renew exemptions at the end of the 2-year period.

FMCSA grants 4 individuals an exemption from the regulatory requirement in § 391.41(b)(8), to allow these individuals who take anti-seizure medication to operate CMVs in interstate commerce for a 2-year period. The Agency's decision on these exemption applications is based on an individualized assessment of each applicant's medical information, including the root cause of the respective seizure(s), the length of time elapsed since the individual's last seizure, and each individual's treatment regimen. In addition, the Agency reviewed each applicant's driving record found in the Commercial Driver's License Information System (CDLIS) [1] for commercial driver's license (CDL) holders, and interstate and intrastate inspections recorded in Motor Carrier Management Information System (MCMIS).[2] For non-CDL holders, the Agency reviewed the driving records from the State licensing agency. The Agency acknowledges the potential consequences of a driver experiencing a

[1] *Commercial Driver License Information System* (CDLIS) is an information system that allows the exchange of commercial driver licensing information among all the States. CDLIS includes the databases of fifty-one licensing jurisdictions and the CDLIS Central Site, all connected by a telecommunications network.

[2] *Motor Carrier Management Information System* (MCMIS) is an information system that captures data from field offices through SAFETYNET, CAPRI, and other sources. It is a source for FMCSA inspection, crash, compliance review, safety audit, and registration data.

seizure while operating a CMV. However, the Agency believes the drivers covered by the exemptions granted here have demonstrated that they are unlikely to have a seizure and their medical condition does not pose a risk to public safety.

In reaching the decision to grant these exemption requests, the Agency considered both current medical literature and information and the 2007 recommendations of the Agency's Medical Expert Panel (MEP). The Agency previously gathered evidence for potential changes to the regulation at 49 CFR 391.41(b)(8) by conducting a comprehensive review of scientific literature that was compiled into the ''*Evidence Report on Seizure Disorders and Commercial Vehicle Driving*'' (*Evidence Report*) [CD–ROM HD TL230.3 .E95 2007]. The Agency then convened a panel of medical experts in the field of neurology (the MEP) on May 14–15, 2007, to review 49 CFR 391.41(b)(8) and the advisory criteria regarding individuals who have experienced a seizure, and the 2007 *Evidence Report.* The *Evidence Report* and the MEP recommendations are published on-line at *http://www.fmcsa.dot.gov/rules-regulations/topics/mep/mep-reports.htm,* under Seizure Disorders, and are in the docket for this notice.

*MEP Criteria for Evaluation*

On October 15, 2007, the MEP issued the following recommended criteria for evaluating whether an individual with epilepsy or a seizure disorder should be allowed to operate a CMV.[3] The MEP recommendations are included in previously published dockets.

*Epilepsy diagnosis.* If there is an *epilepsy diagnosis,* the applicant should be seizure-free for *8 years, on or off medication.* If the individual is taking anti-seizure medication(s), the plan for medication should be stable for *2 years.* Stable means no changes in medication, dosage, or frequency of medication administration. Recertification for drivers with an epilepsy diagnosis should be performed every year.

*Single unprovoked seizure.* If there is a *single unprovoked seizure* (*i.e.,* there is no known trigger for the seizure), the individual should be seizure-free for *4 years, on or off medication.* If the individual is taking anti-seizure medication(s), the plan for medication should be stable for *2 years.* Stable means no changes in medication, dosage, or frequency of medication administration. Recertification for drivers with a single unprovoked seizure should be performed every 2 years.

*Single provoked seizure.* If there is a *single provoked seizure* (*i.e.,* there is a known reason for the seizure), the Agency should consider specific criteria that fall into the following two categories: Low-risk factors for recurrence and moderate-to-high risk factors for recurrence.

- *Examples of low-risk factors for recurrence* include seizures that were caused by a medication; by non-penetrating head injury with loss of consciousness less than or equal to 30 minutes; by a brief loss of consciousness not likely to recur while driving; by metabolic derangement not likely to recur; and by alcohol or illicit drug withdrawal.
- *Examples of moderate-to-high-risk factors for recurrence* include seizures caused by non-penetrating head injury with loss of consciousness or amnesia greater than 30 minutes, or penetrating head injury; intracerebral hemorrhage associated with a stroke or trauma; infections; intracranial hemorrhage; post-operative complications from brain surgery with significant brain hemorrhage; brain tumor; or stroke.

The MEP report indicates individuals with moderate to high-risk conditions should not be certified. Drivers with a history of a single provoked seizure with low risk factors for recurrence should be recertified every year.

*Medical Review Board Recommendations and Agency Decision*

FMCSA presented the MEP's findings and the *Evidence Report* to the Medical Review Board (MRB) for consideration. The MRB reviewed and considered the 2007 ''Seizure Disorders and Commercial Driver Safety'' evidence report and the 2007 MEP recommendations. The MRB recommended maintaining the current advisory criteria, which provide that ''drivers with a history of epilepsy/seizures off anti-seizure medication and seizure-free for 10 years may be qualified to drive a CMV in interstate commerce. Interstate drivers with a history of a single unprovoked seizure may be qualified to drive a CMV in interstate commerce if seizure-free and off anti-seizure medication for a 5 year period or more'' [Advisory criteria to 49 CFR 391.43(f)].

The Agency acknowledges the MRB's position on the issue but believes relevant current medical evidence supports a less conservative approach. The medical advisory criteria for epilepsy and other seizure or loss of consciousness episodes was based on the 1988 ''Conference on Neurological Disorders and Commercial Drivers'' (NITS Accession No. PB89–158950/AS). A copy of the report can be found in the docket referenced in this notice.

The MRB's recommendation treats all drivers who have experienced a seizure the same, regardless of individual medical conditions and circumstances. In addition, the recommendation to continue prohibiting drivers who are taking anti-seizure medication from operating a CMV in interstate commerce does not consider a driver's actual seizure history and time since the last seizure. The Agency has decided to use the 2007 MEP recommendations as the basis for evaluating applications for an exemption from the seizure regulation on an individual, case-by-case basis.

**C. Exemptions**

Following individualized assessments of the exemption applications, including a review of detailed follow-up information requested from each applicant, FMCSA is granting exemptions from 49 CFR 391.41(b)(8) to 4 individuals. Under current FMCSA regulations, all of the 4 drivers receiving exemptions from 49 CFR 391.41(b)(8) would have been considered physically qualified to drive a CMV in interstate commerce except that they presently take or have recently stopped taking anti-seizure medication. For these 4 drivers, the primary obstacle to medical qualification was the FMCSA Advisory Criteria for Medical Examiners, based on the 1988 ''Conference on Neurological Disorders and Commercial Drivers,'' stating that a driver should be off anti-seizure medication in order to drive in interstate commerce. In fact, the Advisory Criteria have little if anything to do with the actual risk of a seizure and more to do with assumptions about individuals who are taking anti-seizure medication.

In addition to evaluating the medical status of each applicant, FMCSA evaluated the crash and violation data for the 4 drivers, some of whom currently drive a CMV in intrastate commerce. The CDLIS and MCMIS were searched for crash and violation data on the 4 applicants. For non-CDL holders, the Agency reviewed the driving records from the State licensing agency.

These exemptions are contingent on the driver maintaining a stable treatment regimen and remaining seizure-free during the 2-year exemption period. The exempted drivers must submit annual reports from their treating physicians attesting to the stability of treatment and that the driver

[3] Engel, J., Fisher, R.S., Krauss, G.L., Krumholz, A., and Quigg, M.S., ''Expert Panel Recommendations: Seizure Disorders and Commercial Motor Vehicle Driver Safety,'' FMCSA, October 15, 2007.

has remained seizure-free. The driver must undergo an annual medical examination by a medical examiner, as defined by 49 CFR 390.5, following the FCMSA's regulations for the physical qualifications for CMV drivers.

FMCSA published a notice of receipt of application and requested public comment during a 30-day public comment period in a **Federal Register** notice for each of the applicants. A short summary of the applicants' qualifications and a discussion of the comments received, if any, follows this section. For applicants who were denied an exemption, a notice will be published at a later date.

**D. Comments**

*Docket # FMCSA–2014–0213*

On August 12, 2014, FMCSA published a notice of receipt of exemption applications and requested public comment on six individuals (79 FR 47174; Docket number FMCSA–2014–19076). The comment period ended on September 11, 2014. No commenters responded to this **Federal Register** notice. Of the six applicants, two were denied. The Agency has determined that the following four applicants should be granted an exemption.

Lee H. Anderson

Mr. Anderson is a 41 year-old driver in Massachusetts. He has a history of seizures and has remained seizure free since 2002. He takes anti-seizure medication with the dosage and frequency remaining the same since that time. If granted an exemption, he would like to drive a CMV. His physician states he is supportive of Mr. Anderson receiving an exemption.

Gary A. Combs, Jr.

Mr. Combs is a 38 year-old driver in Kentucky. He has a history of one seizure in 2006 due to a brain tumor which was removed in 2006 and has remained seizure free since that time. He does not take anti-seizure medication. If granted an exemption, he would like to drive a CMV. His physician states he is supportive of Mr. Combs receiving an exemption.

Roland K. Mezger

Mr. Mezger is a 41 year-old driver in Pennsylvania. He has a history of juvenile epilepsy and has remained seizure free since 1997. He takes anti-seizure medication with the dosage and frequency remaining the same since that time. If granted the exemption, he would like to drive a CMV. His physician states he is supportive of Mr. Mezger receiving an exemption.

Robert Thomas, Jr.

Mr. Thomas is a 47 year-old driver in North Carolina. He has a history of seizures and has remained seizure free since 1999. He takes anti-seizure medication with the dosage and frequency remaining the same since that time. If granted the exemption, he would like to drive a CMV. His physician states that he is supportive of Mr. Thomas receiving an exemption.

**E. Basis for Exemption**

Under 49 U.S.C. 31136(e) and 31315(b), FMCSA may grant an exemption from the epilepsy/seizure standard in 49 CFR 391.41(b)(8) if the exemption is likely to achieve an equivalent or greater level of safety than would be achieved without the exemption. Without the exemption, applicants will continue to be restricted to intrastate driving. With the exemption, applicants can drive in interstate commerce. Thus, the Agency's analysis focuses on whether an equal or greater level of safety is likely to be achieved by permitting each of these drivers to drive in interstate commerce as opposed to restricting the driver to driving in intrastate commerce.

**Conclusion**

The Agency is granting exemptions from the epilepsy standard, 49 CFR 391.41(b)(8), to 4 individuals based on a thorough evaluation of each driver's safety experience, and medical condition. Safety analysis of information relating to these 4 applicants meets the burden of showing that granting the exemptions would achieve a level of safety that is equivalent to or greater than the level that would be achieved without the exemption. By granting the exemptions, the interstate CMV industry will gain 4 highly trained and experienced drivers. In accordance with 49 U.S.C. 31315(b)(1), each exemption will be valid for 2 years, with annual recertification required unless revoked earlier by FMCSA. The exemption will be revoked if the following occurs: (1) The person fails to comply with the terms and conditions of the exemption; (2) the exemption has resulted in a lower level of safety than was maintained prior to being granted; or (3) continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136 and 31315.

FMCSA exempts the following 4 drivers for a period of 2 years with annual medical certification required: Lee Anderson (MA); Gary Combs, Jr. (KY); Roland Mezger (PA); and Robert Thomas, Jr. (NC) from the prohibition of CMV operations by persons with a clinical diagnosis of epilepsy or seizures. If the exemption is still in effect at the end of the 2-year period, the person may apply to FMCSA for a renewal under procedures in effect at that time.

Issued on: March 20, 2015.

**Larry W. Minor,**

*Associate Administrator for Policy.*

[FR Doc. 2015–07053 Filed 3–26–15; 8:45 am]

BILLING CODE 4910–EX–P

## DEPARTMENT OF TRANSPORTATION

### Federal Motor Carrier Safety Administration

**[Docket No. FMCSA–2014–0215]**

### Qualification of Drivers; Exemption Applications; Epilepsy and Seizure Disorders

**AGENCY:** Federal Motor Carrier Safety Administration (FMCSA), DOT.

**ACTION:** Notice of final disposition.

**SUMMARY:** FMCSA announces its decision to grant requests from 8 individuals for exemptions from the regulatory requirement that interstate commercial motor vehicle (CMV) drivers have ''no established medical history or clinical diagnosis of epilepsy or any other condition which is likely to cause loss of consciousness or any loss of ability to control a CMV.'' The regulation and the associated advisory criteria published in the Code of Federal Regulations as the ''Instructions for Performing and Recording Physical Examinations'' have resulted in numerous drivers being prohibited from operating CMVs in interstate commerce based on the fact that they have had one or more seizures and are taking anti-seizure medication, rather than an individual analysis of their circumstances by a qualified medical examiner. The Agency concluded that granting exemptions for these CMV drivers will provide a level of safety that is equivalent to or greater than the level of safety maintained without the exemptions. FMCSA grants exemptions that will allow these 8 individuals to operate CMVs in interstate commerce for a 2-year period. The exemptions preempt State laws and regulations and may be renewed.

**DATES:** The exemptions are effective March 27, 2015. The exemptions expire on March 27, 2017.

**FOR FURTHER INFORMATION CONTACT:** Charles A. Horan, III, Director, Office of Carrier, Driver and Vehicle Safety, (202) 366–4001, *fmcsamedical@dot.gov,*

FMCSA, Department of Transportation, 1200 New Jersey Avenue SE., Room W64–224, Washington, DC 20590–0001. Office hours are 8:30 a.m. to 5 p.m., E.T., Monday through Friday, except Federal holidays.

**SUPPLEMENTARY INFORMATION:**

**A. Electronic Access**

You may see all the comments online through the Federal Document Management System (FDMS) at: *http://www.regulations.gov.*

*Docket:* For access to the docket to read background documents or comments, go to *http://www.regulations.gov* and/or Room W12–140 on the ground level of the West Building, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., e.t., Monday through Friday, except Federal holidays.

*Privacy Act:* In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, including any personal information the commenter provides, to *www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *www.dot.gov/privacy.*

**B. Background**

Under 49 U.S.C. 31136(e) and 31315(b), FMCSA may grant an exemption from the safety regulations for a 2-year period if it finds ''such exemption would likely achieve a level of safety that is equivalent to or greater than the level that would be achieved absent such exemption.'' The statute also allows the Agency to renew exemptions at the end of the 2-year period.

FMCSA grants 8 individuals an exemption from the regulatory requirement in § 391.41(b)(8), to allow these individuals who take anti-seizure medication to operate CMVs in interstate commerce for a 2-year period. The Agency's decision on these exemption applications is based on an individualized assessment of each applicant's medical information, including the root cause of the respective seizure(s), the length of time elapsed since the individual's last seizure, and each individual's treatment regimen. In addition, the Agency reviewed each applicant's driving record found in the Commercial Driver's License Information System (CDLIS) [1] for commercial driver's license (CDL) holders, and interstate and intrastate inspections recorded in Motor Carrier Management Information System (MCMIS).[2] For non-CDL holders, the Agency reviewed the driving records from the State licensing agency. The Agency acknowledges the potential consequences of a driver experiencing a seizure while operating a CMV. However, the Agency believes the drivers covered by the exemptions granted here have demonstrated that they are unlikely to have a seizure and their medical condition does not pose a risk to public safety.

In reaching the decision to grant these exemption requests, the Agency considered both current medical literature and information and the 2007 recommendations of the Agency's Medical Expert Panel (MEP). The Agency previously gathered evidence for potential changes to the regulation at 49 CFR 391.41(b)(8) by conducting a comprehensive review of scientific literature that was compiled into the ''*Evidence Report on Seizure Disorders and Commercial Vehicle Driving''* (*Evidence Report*) [CD–ROM HD TL230.3 .E95 2007]. The Agency then convened a panel of medical experts in the field of neurology (the MEP) on May 14–15, 2007, to review 49 CFR 391.41(b)(8) and the advisory criteria regarding individuals who have experienced a seizure, and the 2007 *Evidence Report.* The *Evidence Report* and the MEP recommendations are published on-line at *http://www.fmcsa.dot.gov/rules-regulations/topics/mep/mep-reports.htm,* under Seizure Disorders, and are in the docket for this notice.

*MEP Criteria for Evaluation*

On October 15, 2007, the MEP issued the following recommended criteria for evaluating whether an individual with epilepsy or a seizure disorder should be allowed to operate a CMV.[3] The MEP recommendations are included in previously published dockets.

*Epilepsy diagnosis.* If there is an *epilepsy diagnosis,* the applicant should be seizure-free for *8 years, on or off medication.* If the individual is taking anti-seizure medication(s), the plan for medication should be stable for *2 years.* Stable means no changes in medication, dosage, or frequency of medication administration. Recertification for drivers with an epilepsy diagnosis should be performed every year.

*Single unprovoked seizure.* If there is a *single unprovoked seizure* (*i.e.,* there is no known trigger for the seizure), the individual should be seizure-free for *4 years, on or off medication.* If the individual is taking anti-seizure medication(s), the plan for medication should be stable for *2 years.* Stable means no changes in medication, dosage, or frequency of medication administration. Recertification for drivers with a single unprovoked seizure should be performed every 2 years.

*Single provoked seizure.* If there is a *single provoked seizure* (*i.e.,* there is a known reason for the seizure), the Agency should consider specific criteria that fall into the following two categories: Low-risk factors for recurrence and moderate-to-high risk factors for recurrence.

- *Examples of low-risk factors for recurrence* include seizures that were caused by a medication; by non-penetrating head injury with loss of consciousness less than or equal to 30 minutes; by a brief loss of consciousness not likely to recur while driving; by metabolic derangement not likely to recur; and by alcohol or illicit drug withdrawal.
- *Examples of moderate-to-high-risk factors for recurrence* include seizures caused by non-penetrating head injury with loss of consciousness or amnesia greater than 30 minutes, or penetrating head injury; intracerebral hemorrhage associated with a stroke or trauma; infections; intracranial hemorrhage; post-operative complications from brain surgery with significant brain hemorrhage; brain tumor; or stroke.

The MEP report indicates individuals with moderate to high-risk conditions should not be certified. Drivers with a history of a single provoked seizure with low risk factors for recurrence should be recertified every year.

*Medical Review Board Recommendations and Agency Decision*

FMCSA presented the MEP's findings and the *Evidence Report* to the Medical Review Board (MRB) for consideration. The MRB reviewed and considered the 2007 ''Seizure Disorders and Commercial Driver Safety'' evidence report and the 2007 MEP recommendations. The MRB recommended maintaining the current advisory criteria, which provide that

[1] *Commercial Driver's License Information System* (CDLIS) is an information system that allows the exchange of commercial driver licensing information among all the States. CDLIS includes the databases of fifty-one licensing jurisdictions and the CDLIS Central Site, all connected by a telecommunications network.

[2] *Motor Carrier Management Information System* (MCMIS) is an information system that captures data from field offices through SAFETYNET, CAPRI, and other sources. It is a source for FMCSA inspection, crash, compliance review, safety audit, and registration data.

[3] Engel, J., Fisher, R.S., Krauss, G.L., Krumholz, A., and Quigg, M.S., ''Expert Panel Recommendations: Seizure Disorders and Commercial Motor Vehicle Driver Safety,'' FMCSA, October 15, 2007.

''drivers with a history of epilepsy/seizures off anti-seizure medication and seizure-free for 10 years may be qualified to drive a CMV in interstate commerce. Interstate drivers with a history of a single unprovoked seizure may be qualified to drive a CMV in interstate commerce if seizure-free and off anti-seizure medication for a 5 year period or more'' [Advisory criteria to 49 CFR 391.43(f)].

The Agency acknowledges the MRB's position on the issue but believes relevant current medical evidence supports a less conservative approach. The medical advisory criteria for epilepsy and other seizure or loss of consciousness episodes was based on the 1988 ''Conference on Neurological Disorders and Commercial Drivers'' (NITS Accession No. PB89–158950/AS). A copy of the report can be found in the docket referenced in this notice.

The MRB's recommendation treats all drivers who have experienced a seizure the same, regardless of individual medical conditions and circumstances. In addition, the recommendation to continue prohibiting drivers who are taking anti-seizure medication from operating a CMV in interstate commerce does not consider a driver's actual seizure history and time since the last seizure. The Agency has decided to use the 2007 MEP recommendations as the basis for evaluating applications for an exemption from the seizure regulation on an individual, case-by-case basis.

**C. Exemptions**

Following individualized assessments of the exemption applications, including a review of detailed follow-up information requested from each applicant, FMCSA is granting exemptions from 49 CFR 391.41(b)(8) to 8 individuals. Under current FMCSA regulations, all of the 8 drivers receiving exemptions from 49 CFR 391.41(b)(8) would have been considered physically qualified to drive a CMV in interstate commerce except that they presently take or have recently stopped taking anti-seizure medication. For these 8 drivers, the primary obstacle to medical qualification was the FMCSA Advisory Criteria for Medical Examiners, based on the 1988 ''Conference on Neurological Disorders and Commercial Drivers,'' stating that a driver should be off anti-seizure medication in order to drive in interstate commerce. In fact, the Advisory Criteria have little if anything to do with the actual risk of a seizure and more to do with assumptions about individuals who are taking anti-seizure medication.

In addition to evaluating the medical status of each applicant, FMCSA evaluated the crash and violation data for the 8 drivers, some of whom currently drive a CMV in intrastate commerce. The CDLIS and MCMIS were searched for crash and violation data on the 8 applicants. For non-CDL holders, the Agency reviewed the driving records from the State licensing agency.

These exemptions are contingent on the driver maintaining a stable treatment regimen and remaining seizure-free during the 2-year exemption period. The exempted drivers must submit annual reports from their treating physicians attesting to the stability of treatment and that the driver has remained seizure-free. The driver must undergo an annual medical examination by a medical examiner, as defined by 49 CFR 390.5, following the FCMSA's regulations for the physical qualifications for CMV drivers.

FMCSA published a notice of receipt of application and requested public comment during a 30-day public comment period in a **Federal Register** notice for each of the applicants. A short summary of the applicants' qualifications and a discussion of the comments received, if any, follows this section. For applicants who were denied an exemption, a notice will be published at a later date.

**D. Comments**

*Docket # FMCSA–2014–0215*

On September 9, 2014, FMCSA published a notice of receipt of exemption applications and requested public comment on 12 individuals (79 FR 53512; Docket number FMCSA–2014–21421). The comment period ended on October 9, 2014. No commenters responded to this **Federal Register** notice. Of the 12 applicants, four were denied. The Agency has determined that the following eight applicants should be granted an exemption.

Thomas Avery, Jr.

Mr. Avery is a 45 year-old class B CDL holder in New York. He has a history of seizure and has remained seizure free since 1998. He takes anti-seizure medication with the dosage and frequency remaining the same since that time. If granted an exemption, he would like to drive a CMV. His physician states he is supportive of Mr. Avery receiving an exemption.

Michael G. Berthiaume

Mr. Berthiaume is a 54 year-old driver in Minnesota. He has a history of seizure and has remained seizure free since 2006. He takes anti-seizure medication with the dosage and frequency remaining the same since November 2013. If granted an exemption, he would like to drive a CMV. His physician states he is supportive of Mr. Berthiaume receiving an exemption.

Leo Kurt Clemens

Mr. Clemens is a 59 year-old class B CDL holder in Pennsylvania. He has a history of seizure and has remained seizure free for more than 25 years. He takes anti-seizure medication with the dosage and frequency remaining the same for 3 years. If granted the exemption, he would like to drive a CMV. His physician states that he is supportive of Mr. Clemens receiving an exemption.

Danny Lee Crafton

Mr. Crafton is a 65 year-old class A CDL holder in Idaho. He has a history of seizure and has remained seizure free since 1974. He takes anti-seizure medication with the dosage and frequency remaining the same since 2001. If granted the exemption, he would like to drive a CMV. His physician states that he is supportive of Mr. Crafton receiving an exemption.

Kenneth D. Peachey

Mr. Peachey is a 72 year-old class A CDL holder in Pennsylvania. He has a history of seizure and has remained seizure free since 1984. He takes anti-seizure medication with the dosage and frequency remaining the same since that time. If granted the exemption, he would like to drive a CMV. His physician states that he is supportive of Mr. Peachey receiving an exemption.

Philip Neil Stewart

Mr. Stewart is a 43 year-old class A CDL holder in California. He has a history of a seizure disorder and has remained seizure free for 30 years. He takes anti-seizure medication with the dosage and frequency remaining the same for 15 years. If granted the exemption, he would like to drive a CMV. His physician states that he is supportive of Mr. Stewart receiving an exemption.

Keith T. White

Mr. White is a 59 year-old class A CDL holder in Pennsylvania. He has a history of seizure and has remained seizure free since 1994. He takes anti-seizure medication with the dosage and frequency remaining the same since 2004. If granted the exemption, he would like to drive a CMV. His physician states that he is supportive of Mr. White receiving an exemption.

Alan T. Von Lintel

Mr. Von Lintel is a 60 year-old driver in Kansas. He has a history of a seizure disorder and has remained seizure free since 2004. He takes anti-seizure medication with the dosage and frequency remaining the same since July 2012. If granted the exemption, he would like to drive a CMV. His physician states that he is supportive of Mr. Von Lintel receiving an exemption.

*E. Basis for Exemption*

Under 49 U.S.C. 31136(e) and 31315(b), FMCSA may grant an exemption from the epilepsy/seizure standard in 49 CFR 391.41(b)(8) if the exemption is likely to achieve an equivalent or greater level of safety than would be achieved without the exemption. Without the exemption, applicants will continue to be restricted to intrastate driving. With the exemption, applicants can drive in interstate commerce. Thus, the Agency's analysis focuses on whether an equal or greater level of safety is likely to be achieved by permitting each of these drivers to drive in interstate commerce as opposed to restricting the driver to driving in intrastate commerce.

**Conclusion**

The Agency is granting exemptions from the epilepsy standard, 49 CFR 391.41(b)(8), to 8 individuals based on a thorough evaluation of each driver's safety experience, and medical condition. Safety analysis of information relating to these 8 applicants meets the burden of showing that granting the exemptions would achieve a level of safety that is equivalent to or greater than the level that would be achieved without the exemption. By granting the exemptions, the interstate CMV industry will gain 8 highly trained and experienced drivers. In accordance with 49 U.S.C. 31315(b)(1), each exemption will be valid for 2 years, with annual recertification required unless revoked earlier by FMCSA. The exemption will be revoked if the following occurs: (1) The person fails to comply with the terms and conditions of the exemption; (2) the exemption has resulted in a lower level of safety than was maintained prior to being granted; or (3) continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136 and 31315.

FMCSA exempts the following 8 drivers for a period of 2 years with annual medical certification required: Thomas Avery (NY); Michael Berthiaume (MN); Leo Clemens (PA); Danny Grafton (ID); Kenneth Peachey (PA); Philip Stewart (CA); Keith White (PA); and Alan Von Lintel (KS) from the prohibition of CMV operations by persons with a clinical diagnosis of epilepsy or seizures. If the exemption is still in effect at the end of the 2-year period, the person may apply to FMCSA for a renewal under procedures in effect at that time.

Issued on: March 19, 2015.

**Larry W. Minor,**

*Associate Administrator for Policy.*

[FR Doc. 2015–07051 Filed 3–26–15; 8:45 am]

BILLING CODE 4910–EX–P

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## DEPARTMENT OF TRANSPORTATION

### Federal Motor Carrier Safety Administration

**[Docket No. FMCSA–2000–7006; FMCSA–2000–7918; FMCSA–2002–12844; FMCSA–2003–14223; FMCSA–2005–20027; FMCSA–2006–25246; FMCSA–2006–26066; FMCSA–2008–0398; FMCSA–2010–0187; FMCSA–2010–0287; FMCSA–2010–0372; FMCSA–2011–0010; FMCSA–2013–0022]**

### Qualification of Drivers; Exemption Applications; Vision

**AGENCY:** Federal Motor Carrier Safety Administration (FMCSA), DOT.

**ACTION:** Notice of renewal of exemptions; request for comments.

**SUMMARY:** FMCSA announces its decision to renew the exemptions from the vision requirement in the Federal Motor Carrier Safety Regulations for 22 individuals. FMCSA has statutory authority to exempt individuals from the vision requirement if the exemptions granted will not compromise safety. The Agency has concluded that granting these exemption renewals will provide a level of safety that is equivalent to or greater than the level of safety maintained without the exemptions for these commercial motor vehicle (CMV) drivers.

**DATES:** This decision is effective April 21, 2015. Comments must be received on or before April 27, 2015.

**ADDRESSES:** You may submit comments bearing the Federal Docket Management System (FDMS) numbers: Docket No. [Docket No. FMCSA–2000–7006; FMCSA–2000–7918; FMCSA–2002–12844; FMCSA–2003–14223; FMCSA–2005–20027; FMCSA–2006–25246; FMCSA–2006–26066; FMCSA–2008–0398; FMCSA–2010–0187; FMCSA–2010–0287; FMCSA–2010–0372; FMCSA–2011–0010; FMCSA–2013–0022], using any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Follow the on-line instructions for submitting comments.
- *Mail:* Docket Management Facility; U.S. Department of Transportation, 1200 New Jersey Avenue SE., West Building Ground Floor, Room W12–140, Washington, DC 20590–0001.
- *Hand Delivery or Courier:* West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.
- *Fax:* 1–202–493–2251.

*Instructions:* Each submission must include the Agency name and the docket number for this notice. Note that DOT posts all comments received without change to *http://www.regulations.gov,* including any personal information included in a comment. Please see the Privacy Act heading below.

*Docket:* For access to the docket to read background documents or comments, go to *http://www.regulations.gov* at any time or Room W12–140 on the ground level of the West Building, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Federal Docket Management System (FDMS) is available 24 hours each day, 365 days each year. If you want acknowledgment that we received your comments, please include a self-addressed, stamped envelope or postcard or print the acknowledgement page that appears after submitting comments on-line.

*Privacy Act:* In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, including any personal information the commenter provides, to *www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *www.dot.gov/privacy.*

**FOR FURTHER INFORMATION CONTACT:** Charles A. Horan, III, Director, Carrier, Driver and Vehicle Safety Standards, 202–366–4001, *fmcsamedical@dot.gov,* FMCSA, Department of Transportation, 1200 New Jersey Avenue SE., Room W64–224, Washington, DC 20590–0001. Office hours are from 8:30 a.m. to 5 p.m. Monday through Friday, except Federal holidays.

**SUPPLEMENTARY INFORMATION:**

**I. Background**

Under 49 U.S.C. 31136(e) and 31315, FMCSA may renew an exemption from

the vision requirements in 49 CFR 391.41(b)(10), which applies to drivers of CMVs in interstate commerce, for a two-year period if it finds ''such exemption would likely achieve a level of safety that is equivalent to or greater than the level that would be achieved absent such exemption.'' The procedures for requesting an exemption (including renewals) are set out in 49 CFR part 381.

## II. Exemption Decision

This notice addresses 22 individuals who have requested renewal of their exemptions in accordance with FMCSA procedures. FMCSA has evaluated these 22 applications for renewal on their merits and decided to extend each exemption for a renewable two-year period. They are:

Roger B. Anders (MD)
John D. Bolding, Jr. (OK)
David B. Bowman (PA)
Benny J. Burke (AL)
Michael P. Curtin (IL)
Elias Gomez, Jr. (TX)
James G. Etheridge (TX)
Michael E. Herrera, Jr. (NM)
Michael R. Holmes (SD)
Mark C. Jeffrey (MT)
James R. Petre (MD)
Gary W. Pope (AK)
Zeljko Popovac (VT)
Jerald W. Rehnke (MN)
Wayne G. Resch (WI)
James R. Rieck (CA)
Raymond E. Royer (SD)
Richie J. Schwendy (IL)
Bill J. Thierolf (NE)
Janusz Tyrpien (FL)
James H. Wallace, Sr. (FL)
Charles F. Wotring (OH)

The exemptions are extended subject to the following conditions: (1) That each individual has a physical examination every year (a) by an ophthalmologist or optometrist who attests that the vision in the better eye continues to meet the requirements in 49 CFR 391.41(b)(10), and (b) by a medical examiner who attests that the individual is otherwise physically qualified under 49 CFR 391.41; (2) that each individual provides a copy of the ophthalmologist's or optometrist's report to the medical examiner at the time of the annual medical examination; and (3) that each individual provide a copy of the annual medical certification to the employer for retention in the driver's qualification file and retains a copy of the certification on his/her person while driving for presentation to a duly authorized Federal, State, or local enforcement official. Each exemption will be valid for two years unless rescinded earlier by FMCSA. The exemption will be rescinded if: (1) The person fails to comply with the terms and conditions of the exemption; (2) the exemption has resulted in a lower level of safety than was maintained before it was granted; or (3) continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136(e) and 31315.

## III. Basis for Renewing Exemptions

Under 49 U.S.C. 31315(b)(1), an exemption may be granted for no longer than two years from its approval date and may be renewed upon application for additional two year periods. In accordance with 49 U.S.C. 31136(e) and 31315, each of the 22 applicants has satisfied the entry conditions for obtaining an exemption from the vision requirements (57 FR 57266; 65 FR 57230; 65 FR 66286; 66 FR 13825; 67 FR 68719; 68 FR 2629; 68 FR 10300; 68 FR 10301; 68 FR 13360; 68 FR 19596; 69 FR 62741; 70 FR 12265; 70 FR 14747; 70 FR 16886; 70 FR 16887; 70 FR 2701; 70 FR 7546; 71 FR 62147; 71 FR 63379; 72 FR 180; 72 FR 1050; 72 FR 7111; 72 FR 9397; 72 FR 11425; 72 FR 11426; 72 FR 18726; 73 FR 20245; 73 FR 75806; 73 FR 78422; 74 FR 7097; 74 FR 8302; 74 FR 11991; 74 FR 15584; 75 FR 47883; 75 FR 63257; 75 FR 69737; 76 FR 1499; 76 FR 7894; 76 FR 8809; 76 FR 9856; 76 FR 11215; 76 FR 12216; 76 FR 15361; 76 FR 17483; 76 FR 20076; 76 FR 20078; 77 FR 60010; 78 FR 12815; 78 FR 16761; 78 FR 16762; 78 FR 18667; 78 FR 22602). Each of these 22 applicants has requested renewal of the exemption and has submitted evidence showing that the vision in the better eye continues to meet the requirement specified at 49 CFR 391.41(b)(10) and that the vision impairment is stable. In addition, a review of each record of safety while driving with the respective vision deficiencies over the past two years indicates each applicant continues to meet the vision exemption requirements.

These factors provide an adequate basis for predicting each driver's ability to continue to drive safely in interstate commerce. Therefore, FMCSA concludes that extending the exemption for each renewal applicant for a period of two years is likely to achieve a level of safety equal to that existing without the exemption.

## IV. Public Participation and Request for Comments

FMCSA encourages you to participate by submitting comments and related materials.

*Submitting Comments*

If you submit a comment, please include the docket number for this notice (FMCSA–2000–7006; FMCSA–2000–7918; FMCSA–2002–12844; FMCSA–2003–14223; FMCSA–2005–20027; FMCSA–2006–25246; FMCSA–2006–26066; FMCSA–2008–0398; FMCSA–2010–0187; FMCSA–2010–0287; FMCSA–2010–0372; FMCSA–2011–0010; FMCSA–2013–0022), indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. You may submit your comments and material online or by fax, mail, or hand delivery, but please use only one of these means. FMCSA recommends that you include your name and a mailing address, an email address, or a phone number in the body of your document so the Agency can contact you if it has questions regarding your submission.

To submit your comment online, go to *http://www.regulations.gov* and put the docket number, ''FMCSA–2000–7006; FMCSA–2000–7918; FMCSA–2002–12844; FMCSA–2003–14223; FMCSA–2005–20027; FMCSA–2006–25246; FMCSA–2006–26066; FMCSA–2008–0398; FMCSA–2010–0187; FMCSA–2010–0287; FMCSA–2010–0372; FMCSA–2011–0010; FMCSA–2013–0022'' in the ''Keyword'' box, and click ''Search.'' When the new screen appears, click on ''Comment Now!'' button and type your comment into the text box in the following screen. Choose whether you are submitting your comment as an individual or on behalf of a third party and then submit. If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit comments by mail and would like to know that they reached the facility, please enclose a stamped, self-addressed postcard or envelope. FMCSA will consider all comments and material received during the comment period and may change this notice based on your comments.

*Viewing Comments and Documents*

To view comments, as well as any documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov* and in the search box insert the docket number, ''FMCSA–2000–7006; FMCSA–2000–7918; FMCSA–2002–12844; FMCSA–2003–14223; FMCSA–2005–20027; FMCSA–2006–25246; FMCSA–2006–26066; FMCSA–2008–0398; FMCSA–2010–0187; FMCSA–2010–0287; FMCSA–2010–0372; FMCSA–2011–

0010; FMCSA–2013–0022'' in the ''Keyword'' box and click ''Search.'' Next, click ''Open Docket Folder'' button choose the document listed to review. If you do not have access to the Internet, you may view the docket online by visiting the Docket Management Facility in Room W12–140 on the ground floor of the DOT West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., ET., Monday through Friday, except Federal holidays.

Issued on: March 19, 2015.

**Larry W. Minor,**

*Associate Administrator for Policy.*

[FR Doc. 2015–07046 Filed 3–26–15; 8:45 am]

**BILLING CODE 4910–EX–P**

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## DEPARTMENT OF TRANSPORTATION

### Federal Motor Carrier Safety Administration

**[Docket No. FMCSA–2000–8398; FMCSA–2002–13411; FMCSA–2003–14223; FMCSA–2004–17984; FMCSA–2004–19477; FMCSA–2005–20027; FMCSA–2007–27333; FMCSA–2008–0398; FMCSA–2009–0054; FMCSA–2010–0385]**

### Qualification of Drivers; Exemption Applications; Vision

**AGENCY:** Federal Motor Carrier Safety Administration (FMCSA), DOT.

**ACTION:** Notice of renewal of exemptions; request for comments.

**SUMMARY:** FMCSA announces its decision to renew the exemptions from the vision requirement in the Federal Motor Carrier Safety Regulations for 26 individuals. FMCSA has statutory authority to exempt individuals from the vision requirement if the exemptions granted will not compromise safety. The Agency has concluded that granting these exemption renewals will provide a level of safety that is equivalent to or greater than the level of safety maintained without the exemptions for these commercial motor vehicle (CMV) drivers.

**DATES:** This decision is effective May 7, 2015. Comments must be received on or before April 27, 2015.

**ADDRESSES:** You may submit comments bearing the Federal Docket Management System (FDMS) numbers: Docket No. [Docket No. FMCSA–2000–8398; FMCSA–2002–13411; FMCSA–2003–14223; FMCSA–2004–17984; FMCSA–2004–19477; FMCSA–2005–20027; FMCSA–2007–27333; FMCSA–2008–0398; FMCSA–2009–0054; FMCSA–2010–0385], using any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Follow the on-line instructions for submitting comments.
- *Mail:* Docket Management Facility; U.S. Department of Transportation, 1200 New Jersey Avenue SE., West Building Ground Floor, Room W12–140, Washington, DC 20590–0001.
- *Hand Delivery or Courier:* West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.
- *Fax:* 1–202–493–2251.

*Instructions:* Each submission must include the Agency name and the docket number for this notice. Note that DOT posts all comments received without change to *http://www.regulations.gov,* including any personal information included in a comment. Please see the Privacy Act heading below.

*Docket:* For access to the docket to read background documents or comments, go to *http://www.regulations.gov* at any time or Room W12–140 on the ground level of the West Building, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Federal Docket Management System (FDMS) is available 24 hours each day, 365 days each year. If you want acknowledgment that we received your comments, please include a self-addressed, stamped envelope or postcard or print the acknowledgement page that appears after submitting comments on-line.

*Privacy Act:* In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, including any personal information the commenter provides, to *www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *www.dot.gov/privacy.*

**FOR FURTHER INFORMATION CONTACT:** Charles A. Horan, III, Director, Carrier, Driver and Vehicle Safety Standards, 202–366–4001, *fmcsamedical@dot.gov,* FMCSA, Department of Transportation, 1200 New Jersey Avenue SE., Room W64–224, Washington, DC 20590–0001. Office hours are from 8:30 a.m. to 5 p.m. Monday through Friday, except Federal holidays.

**SUPPLEMENTARY INFORMATION:**

### I. Background

Under 49 U.S.C. 31136(e) and 31315, FMCSA may renew an exemption from the vision requirements in 49 CFR 391.41(b)(10), which applies to drivers of CMVs in interstate commerce, for a two-year period if it finds ''such exemption would likely achieve a level of safety that is equivalent to or greater than the level that would be achieved absent such exemption.'' The procedures for requesting an exemption (including renewals) are set out in 49 CFR part 381.

### II. Exemption Decision

This notice addresses 26 individuals who have requested renewal of their exemptions in accordance with FMCSA procedures. FMCSA has evaluated these 26 applications for renewal on their merits and decided to extend each exemption for a renewable two-year period. They are:

Rex A. Botsford (MI)
William D. Cardiff (IL)
Roger C. Carson (IN)
Gregory L. Cooper (PA)
Kenneth D. Craig (VA)
Terry J. Dare (IN)
Jerald O. Edwards (ID)
Breck L. Falcon (LA)
Kenneth E. Flack, Jr. (AL)
Maylin E. Frickey (OR)
David R. Gross (PA)
Francisco J. Jimenez (TX)
Christopher J. Kane (VT)
Michael Lafferty (ID)
Roosevelt Lawson (AL)
Eugene R. Lydick (VA)
Emanuel N. Malone (VA)
Roberto E. Martinez (WA)
Travis W. Neiwert (ID)
Bernard J. Phillips (WA)
James A. Smith (WA)
Clarence L. Swann, Jr. (AL)
Michael G. Trueblood (IL)
Donald A. Uplinger II (OH)
Kerry W. VanStory (TX)
Steven M. Vujicic (IL)

The exemptions are extended subject to the following conditions: (1) That each individual has a physical examination every year (a) by an ophthalmologist or optometrist who attests that the vision in the better eye continues to meet the requirements in 49 CFR 391.41(b)(10), and (b) by a medical examiner who attests that the individual is otherwise physically qualified under 49 CFR 391.41; (2) that each individual provides a copy of the ophthalmologist's or optometrist's report to the medical examiner at the time of the annual medical examination; and (3) that each individual provide a copy of the annual medical certification to the employer for retention in the driver's qualification file and retains a copy of the certification on his/her person while driving for presentation to

a duly authorized Federal, State, or local enforcement official. Each exemption will be valid for two years unless rescinded earlier by FMCSA. The exemption will be rescinded if: (1) The person fails to comply with the terms and conditions of the exemption; (2) the exemption has resulted in a lower level of safety than was maintained before it was granted; or (3) continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136(e) and 31315.

**III. Basis for Renewing Exemptions**

Under 49 U.S.C. 31315(b)(1), an exemption may be granted for no longer than two years from its approval date and may be renewed upon application for additional two year periods. In accordance with 49 U.S.C. 31136(e) and 31315, each of the 26 applicants has satisfied the entry conditions for obtaining an exemption from the vision requirements (65 FR 78256; 66 FR 16311; 67 FR 76439; 68 FR 10298; 68 FR 10301; 68 FR 13360; 68 FR 19596; 69 FR 33997; 69 FR 61292; 69 FR 64806; 70 FR 2701; 70 FR 2705; 70 FR 7543; 70 FR 12265; 70 FR 16886; 70 FR 16887; 72 FR 184; 72 FR 5489; 72 FR 11425; 72 FR 11426; 72 FR 12666; 72 FR 18726; 72 FR 25831; 74 FR 7097; 74 FR 8842; 74 FR 11988; 74 FR 11991; 74 FR 15584; 74 FR 15586; 74 FR 21427; 74 FR 21796; 75 FR 77942; 76 FR 5425; 76 FR 21796; 76 FR 25762; 78 FR 22596). Each of these 26 applicants has requested renewal of the exemption and has submitted evidence showing that the vision in the better eye continues to meet the requirement specified at 49 CFR 391.41(b)(10) and that the vision impairment is stable. In addition, a review of each record of safety while driving with the respective vision deficiencies over the past two years indicates each applicant continues to meet the vision exemption requirements. These factors provide an adequate basis for predicting each driver's ability to continue to drive safely in interstate commerce. Therefore, FMCSA concludes that extending the exemption for each renewal applicant for a period of two years is likely to achieve a level of safety equal to that existing without the exemption.

**IV. Public Participation and Request for Comments**

FMCSA encourages you to participate by submitting comments and related materials.

*Submitting Comments*

If you submit a comment, please include the docket number for this notice (FMCSA–2000–8398; FMCSA–2002–13411; FMCSA–2003–14223; FMCSA–2004–17984; FMCSA–2004–19477; FMCSA–2005–20027; FMCSA–2007–27333; FMCSA–2008–0398; FMCSA–2009–0054; FMCSA–2010–0385), indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. You may submit your comments and material online or by fax, mail, or hand delivery, but please use only one of these means. FMCSA recommends that you include your name and a mailing address, an email address, or a phone number in the body of your document so the Agency can contact you if it has questions regarding your submission.

To submit your comment online, got to *http://www.regulations.gov* and put the docket number, ''FMCSA–2000–8398; FMCSA–2002–13411; FMCSA–2003–14223; FMCSA–2004–17984; FMCSA–2004–19477; FMCSA–2005–20027; FMCSA–2007–27333; FMCSA–2008–0398; FMCSA–2009–0054; FMCSA–2010–0385'' in the ''Keyword'' box, and click ''Search.'' When the new screen appears, click on ''Comment Now!'' button and type your comment into the text box in the following screen. Choose whether you are submitting your comment as an individual or on behalf of a third party and then submit. If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit comments by mail and would like to know that they reached the facility, please enclose a stamped, self-addressed postcard or envelope. FMCSA will consider all comments and material received during the comment period and may change this notice based on your comments.

*Viewing Comments and Documents*

To view comments, as well as any documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov* and in the search box insert the docket number, ''FMCSA–2000–8398; FMCSA–2002–13411; FMCSA–2003–14223; FMCSA–2004–17984; FMCSA–2004–19477; FMCSA–2005–20027; FMCSA–2007–27333; FMCSA–2008–0398; FMCSA–2009–0054; FMCSA–2010–0385'' in the ''Keyword'' box and click ''Search.'' Next, click ''Open Docket Folder'' button choose the document listed to review. If you do not have access to the Internet, you may view the docket online by visiting the Docket Management Facility in Room W12–140 on the ground floor of the DOT West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., e.t., Monday through Friday, except Federal holidays.

Issued on: March 19, 2015.

**Larry W. Minor,**

*Associate Administrator for Policy.*

[FR Doc. 2015–07049 Filed 3–26–15; 8:45 am]

BILLING CODE 4910–EX–P

## DEPARTMENT OF TRANSPORTATION

### Federal Motor Carrier Safety Administration

**[Docket No. FMCSA–2014–0071]**

### Hours of Service of Drivers: McKee Foods Transportation, LLC, Application for Exemption

**AGENCY:** Federal Motor Carrier Safety Administration (FMCSA), DOT.

**ACTION:** Notice of final disposition; grant of application for exemption.

**SUMMARY:** FMCSA announces its decision to grant an exemption to McKee Foods Transportation, LLC (MFT) from certain provisions of the Agency's hours-of-service (HOS) regulations. MFT proposed that its team drivers be granted an exemption from the HOS rules pertaining to use of a sleeper berth (SB). Current HOS rules require that all SB rest regimens include, in part, the use of an SB for at least 8 hours—combined with a separate period of at least 2 hours, either in the SB, off-duty or some combination of both—to gain the equivalent of at least 10 consecutive hours off duty. The exemption will allow MFT's team drivers to take the equivalent of 10 consecutive hours off duty by splitting SB time into two periods totaling 10 hours, provided neither of the two periods is less than 3 hours.

**DATES:** This exemption is effective March 27, 2015 and expires on March 27, 2016.

**FOR FURTHER INFORMATION CONTACT:** Mrs. Pearlie Robinson, Driver and Carrier Operations Division; Office of Carrier, Driver and Vehicle Safety Standards; Telephone: 202–366–4325, Email: *MCPSD@dot.gov,* Federal Motor Carrier Safety Administration, 1200 New Jersey Avenue SE., Washington, DC 20590–0001.

*Docket:* For access to the docket to read background documents or comments submitted to notice requesting public comments on the exemption application, go to *www.regulations.gov* at any time or visit Room W12–140 on the ground level of the West Building, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., ET, Monday through

Friday, except Federal holidays. The on-line Federal document management system is available 24 hours each day, 365 days each year. The docket number is listed at the beginning of this notice.

**SUPPLEMENTARY INFORMATION:**

## Background

FMCSA has authority under 49 U.S.C. 31136(e) and 31315 to grant exemptions from certain parts of the Federal Motor Carrier Safety Regulations. FMCSA must publish a notice of each exemption request in the **Federal Register** (49 CFR 381.315(a)). The Agency must provide the public an opportunity to inspect the information relevant to the application, including any safety analyses that have been conducted. The Agency must also provide an opportunity for public comment on the request.

The Agency reviews safety analyses and public comments submitted, and determines whether granting the exemption would likely achieve a level of safety equivalent to, or greater than, the level that would be achieved by the current regulation (49 CFR 381.305). The decision of the Agency must be published in the **Federal Register** (49 CFR 381.315(b)) with the reasons for denying or granting the application and, if granted, the name of the person or class of persons receiving the exemption, and the regulatory provision from which the exemption is granted. The notice must also specify the effective period and explain the terms and conditions of the exemption. The exemption may be renewed (49 CFR 381.300(b)).

## Request for Exemption

MFT is a private carrier that sells fresh snack food products under the Little Debbie, Sunbelt, and Drake's brands. MFT delivers products in interstate commerce to 48 states and parts of Canada from three manufacturing distribution centers and one stand-alone distribution center. MFT employs approximately 650 drivers, using more than 300 tractor-trailer combinations. MFT's average driver is on duty approximately 35–45 hours per week with the majority of the on-duty time split between driving and unloading the trailer. A typical trip averages six stops. Some of the trips make backhauls—both private and for-hire. The average round trip is about 1,000 miles. A team usually delivers two trailer loads per week, with time at home between most trips.

MFT states that it operates on a routine weekly cycle. Each workweek contains a regular subset of daily cycles dispatching and returning long-, medium- and short-range trips. MFT advises that it has a constant flow of outbound and inbound trucks that allow it to continuously ship fresh-baked goods and return with backhauls of raw materials and other for-hire loads. The routine cycles allow most of the drivers to have regular schedules. Many of MFT's drivers are off duty at least 48 consecutive hours every week while many others are off duty at least 72 consecutive hours. MFT's tractors are equipped with double-bunk sleepers in the event both drivers need or want to rest at the same time. Drivers are allowed to make their own decisions about when and where to take short rest breaks based on their personal needs and preferences in conformance with current regulatory requirements. MFT advises that it takes driver safety, health and wellness seriously, and hires well-qualified drivers who go through a comprehensive orientation/new hire training program. MFT's trucks are equipped with automatic on-board recording devices (AOBRDs) that produce electronic records of duty status.

MFT requested an exemption from the current regulations for its delivery shipments and backhaul activity operations to eliminate the requirement that SB time include a period of at least 8 but less than 10 consecutive hours in the SB and a separate period of at least 2 but less than 10 consecutive hours either in the SB or off duty, or any combination thereof (49 CFR 395.1(g)(1)(ii)(A)(1)). MFT proposed that these team drivers be allowed to split SB time into two periods totaling at least 10 hours, provided neither of the two periods is less than 3 hours in length. The exemption would be limited to team drivers.

MFT states that the activities of its team drivers involve both driving and offloading product to its customers. The drivers average approximately 53 hours per week on the road away from home. MFT states that approximately 30 percent of this time is spent in the sleeper. MFT contends that the experience of its drivers has demonstrated that sleeping in a moving vehicle is more difficult than in a stopped truck. According to MFT, having the flexibility to switch with a partner allows each driver to take advantage of shorter time periods when they may feel fatigued. MFT further stated, this will result in a more-flexible work pattern, allowing both drivers to perform warehouse functions together (to reduce driver unloading time and improve maneuvering in the warehouse), and improving personal and vehicular safety.

MFT states that it is committed to maintaining its outstanding safety record by focusing on continuous improvement, promoting technologies to enhance safety, conducting thorough inspections and having well-communicated policies in place to address both safety and compliance-related topics. MFT identified some countermeasures it would take to maintain safe operations if the exemption is granted. The safeguards include, but are not limited to:

- Every week, all transportation operations shut down one hour prior to sundown on Friday until one hour after sundown on Saturday, resulting in an automatic minimum 26 hour off-duty home time for all drivers in addition to two or three days home time during the week;
- All tractors are equipped with speed limiters;
- Drivers use AOBRDs to track their duty time and HOS compliance;
- Drive time is reduced from 11 hours to 10 hours. Team drivers are limited to 10 hours of driving prior to completing their required 10 hours total SB.
- Behavior-based event data is monitored from the enhanced AOBRDs to improve safety measures already in place to help reduce the probability of accidents on the road.

MFT believes that by allowing its team drivers to exercise flexibility in their SB requirements, the drivers would experience more quality rest. To support its request for the exemption, MFT cited the results of an FMCSA-sponsored study entitled ''Investigation of the Effects of Split Sleep Schedules on Commercial Vehicle Driver Safety and Health.'' [1] The report noted ''that when consolidated nighttime sleep is not possible, split sleep is preferable to consolidated daytime sleep.'' (*http://ntl.bts.gov/lib/51000/51200/51254/12-003-Split-Sleep_Investigation-of-the-Effects-of-Split-Sleep-Schedules-on-Commercial-Vehicle-Driver-Safety-and-Health-508.pdf*)

A copy of MFT's application for exemption is available for review in the docket for this notice.

## Public Comments

On May 12, 2014, FMCSA published notice of this application, and asked for public comment (79 FR 27041). Twelve commenters responded. Eight commenters supported the application, three commenters opposed it and one individual commented but did not

[1] Belenky, G., Jackson, M.L., Tompkins, L., Satterfield, B., Bender, A., ''Investigation of the Effects of Split Sleep Schedules on Commercial Vehicle Driver Safety and Health,'' FMCSA, Dec. 2012.

indicate whether he supported or opposed the application.

The three comments opposing the exemption were from two individuals and the Advocates for Highway and Auto Safety (Advocates). Mr. Charles McKown said, ''I am EXTREMELY opposed.'' Mr. Michael Millard said, ''The request for an exemption from the HOS sets in motion a slippery slope; whereas, if the FMCSA grants the exemption they are indicating the current HOS is not suitable for acquiring the needed rest. If FMCSA grants the exemption they can expect to be hounded by other motor carriers to participate in the exemption or submit a new exemption based on the individual carrier's needs. If the exemption is approved then it creates problems for MCSAP officers performing roadside inspections as the MCSAP officers would have to be trained on how to calculate the HOS sleeper berth provision costing the tax payers thousands if not hundreds of thousands of dollars in training the MCSAP officers.''

The Advocates stated that, ''The applicant has provided no definitive proof that the proposed alternative HOS, changing the sleeper berth requirements to allow sleeper berth periods to be broken into two periods of no less than 3 hours, would in any way ensure safety or address the agency's concerns regarding acute and cumulative fatigue which was the impetus for the requirement.'' The Advocates contend that the controls listed by MFT in no way constitute a safety analysis on par with that required by statute. Seven comments supporting the application were submitted by MFT employees.

The American Trucking Associations, Inc. (ATA) also supports the exemption. The ATA said, ''ATA strongly supports McKee Foods Transportation, LLC's (MFT) application for exemption from 49 CFR 395.1(g)(1)(ii)(A)(1–2). ATA has long contended that the currently prescribed sleeper berth rules do not introduce enough flexibility into the delicate equation of driver rest, sleep and performance. MFT's application for exemption provides FMCSA with an excellent opportunity to observe the safety and, perhaps health benefits of allowing additional flexibility into sleeper berth utilization and should be granted without delay.''

All comments are available for review in the docket for this notice.

## FMCSA Response to Public Comments and Agency Decision

Prior to publishing the **Federal Register** notice announcing the receipt of MFT's exemption request, FMCSA ensured that MFT has a current USDOT registration, minimum required levels of insurance, and is not subject to any ''imminent hazard'' or other out-of-service (OOS) orders. The Agency conducted a comprehensive evaluation of the safety performance history of the applicant during the review process. As part of this process, FMCSA reviewed its Motor Carrier Management Information System safety records for MFT, including inspection and accident reports submitted to FMCSA by State agencies.

With regard to Mr. Millard's comments, the Agency does not believe that an exemption from the SB requirement is an indication that the current HOS is not suitable for acquiring needed rest. An exemption in this instance would only provide flexibility of how the 10 hours in the SB are split but does not reduce the 10 hour rest requirement. Split SB periods were allowed prior to 2003; therefore, many MCSAP officers remain familiar with it, and training others can be done economically through existing, continuing training methods.

With regard to the Advocates comments, the Agency believes that the FMCSA-sponsored study entitled ''Investigation of the Effects of Split Sleep Schedules on Commercial Vehicle Driver Safety and Health'' [2] cited by MFT provides a reasonable basis for an exemption of this type, which will enable FMCSA to observe the effects of split sleep in a real world context over a substantial time period.

The Agency is well aware that preventing fatigue is a complex process taking into account numerous factors such as time of day, amount and timing of sleep, time awake and time on task. The Agency believes that the controls identified in MFT's application, including a 26-hour off duty period every week, reduction of daily driving time from 11 hours to 10 hours and monitoring data from AOBRDs, will ensure that safety is not adversely affected.

The FMCSA has evaluated MFT's application, safety record, and the public comments. The Agency believes that MFT will likely achieve a level of safety that is equivalent to, or greater than, the level of safety achieved without the exemption [49 CFR 381.305(a)], and grants the requested exemption covering the operations of team drivers employed by MFT.

[2] Belenky, G., Jackson, M.L., Tompkins, L., Satterfield, B., Bender, A.,''Investigation of the Effects of Split Sleep Schedules on Commercial Vehicle Driver Safety and Health,'' FMCSA, Dec. 2012.

## Terms and Conditions of the Exemption

*Period of the Exemption*

This exemption from the requirements of 49 CFR 395.1(g)(1)(ii)(A)(1–2)) is effective during the period of March 27, 2015 through March 27, 2016. The exemption will expire on March 27, 2016, 11:59 p.m. local time, unless renewed.

*Extent of the Exemption*

The team drivers employed by MFT are provided a limited exemption from the SB requirements of 49 CFR 395.1(g)(1)(ii)(A)(1–2)) to allow these drivers to split SB time into two periods totaling at least 10 hours, provided neither of the two periods is less than 3 hours in length. Team drivers will use electronic logging devices to track records of duty status; have a minimum 26-hour off-duty period, at home, from Friday night to Saturday night; and, be limited to 10 hours of driving following their required 10 consecutive hours off duty, or the SB equivalent.

*Other Conditions*

The exemption is contingent upon MFT maintaining USDOT registration, minimum levels of public liability insurance, and not being subject to any ''imminent hazard'' or other OOS order issued by FMCSA. Each team driver covered by the exemption must maintain a valid CDL with the required endorsements, not be subject to any OOS order or suspension of driving privileges, and meet all physical qualifications required by 49 CFR part 391.

*Preemption*

During the period this exemption is in effect, no State may enforce any law or regulation that conflicts with or is inconsistent with the exemptions with respect to a person or entity operating under the exemptions (49 U.S.C. 31315(d)).

*FMCSA Accident Notification*

MFT must notify FMCSA within 5 business days of any accidents (as defined by 49 CFR 390.5) involving the operation of any of its CMVs while utilizing this exemption. The notification must be by email to *MCPSD@DOT.GOV,* and include the following information:

a. Date of the accident,

b. City or town, and State, in which the accident occurred, or which is closest to the scene of the accident,

c. Driver's name and driver's license number,

d. Vehicle number and State license number,

e. Number of individuals suffering physical injury,

f. Number of fatalities,

g. The police-reported cause of the accident,

h. Whether the driver was cited for violation of any traffic laws, or motor carrier safety regulations, and

i. The total driving time and the total on-duty time of the CMV driver at the time of the accident.

*Termination*

The FMCSA does not believe the team drivers covered by the exemption will experience any deterioration of their safety record. However, should this occur, FMCSA will take all steps necessary to protect the public interest, including revocation of the exemption. The FMCSA will immediately revoke the exemption for failure to comply with its terms and conditions.

Issued on: March 19, 2015.

**T.F. Scott Darling, III,**

*Acting Administrator.*

[FR Doc. 2015–07056 Filed 3–26–15; 8:45 am]

**BILLING CODE 4910–EX–P**

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## DEPARTMENT OF TRANSPORTATION

### Federal Motor Carrier Safety Administration

**[Docket No. FMCSA–2012–0370]**

### Hours of Service (HOS) of Drivers; U.S. Department of Energy (DOE); Application for Renewal of Exemption

**AGENCY:** Federal Motor Carrier Safety Administration (FMCSA), DOT.

**ACTION:** Notice of application for renewal of exemption; request for comments.

**SUMMARY:** FMCSA has received an application from the U.S. Department of Energy (DOE) for a renewal of its exemption from the 30-minute rest break provision of the Agency's hours-of-service (HOS) regulations for commercial motor vehicle (CMV) drivers. DOE currently holds an exemption for the period July 1, 2013, through June 30, 2015, which enables DOE's contract motor carriers and their employee-drivers engaged in the transportation of security-sensitive radioactive materials to be treated similarly to drivers of shipments of explosives. The exemption renewal would allow these exempted drivers to use 30 minutes or more of ''attendance time'' to meet the HOS rest break requirements providing they do not perform any other work during the break. FMCSA requests public comment on the DOE's application for renewal of the exemption.

**DATES:** Comments must be received on or before April 27, 2015. The proposed exemption renewal would be effective from June 30, 2015 through June 30, 2017.

**ADDRESSES:** You may submit comments bearing the Federal Docket Management System (FDMS) Docket ID FMCSA–2012–0370 using any of the following methods:

- *Federal eRulemaking Portal:* Go to *www.regulations.gov.* Follow the on-line instructions for submitting comments.
- *Mail:* Docket Management Facility; U.S. Department of Transportation, 1200 New Jersey Avenue SE., West Building Ground Floor, Room W12–140, Washington, DC 20590–0001.
- *Hand Delivery or Courier:* West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., ET, Monday through Friday, except Federal Holidays.
- *Fax:* 1–202–493–2251.

Each submission must include the Agency name and the docket number for this notice. Note that DOT posts all comments received without change to *www.regulations.gov,* including any personal information included in a comment. Please see the *Privacy Act* heading below.

*Docket:* For access to the docket to read background documents or comments, go to *www.regulations.gov* at any time or visit Room W12–140 on the ground level of the West Building, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., ET, Monday through Friday, except Federal holidays. The on-line Federal document management system is available 24 hours each day, 365 days each year. If you want acknowledgment that we received your comments, please include a self-addressed, stamped envelope or postcard or print the acknowledgement page that appears after submitting comments on-line.

*Privacy Act:* In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, including any personal information the commenter provides, to *www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *www.dot.gov/privacy.*

**FOR FURTHER INFORMATION CONTACT:** Mr. Richard Clemente, FMCSA Driver and Carrier Operations Division; Office of Carrier, Driver and Vehicle Safety Standards; Telephone: 202–366–4325. Email: *MCPSD@dot.gov.* If you have questions on viewing or submitting material to the docket, contact Docket Services, telephone (202) 366–9826.

**SUPPLEMENTARY INFORMATION:**

#### Background

FMCSA has authority under 49 U.S.C. 31136(e) and 31315 to grant exemptions from certain parts of the Federal Motor Carrier Safety Regulations. FMCSA must publish a notice of each exemption request in the **Federal Register** (49 CFR 381.315(a)). The Agency must provide the public an opportunity to inspect the information relevant to the application, including any safety analyses that have been conducted. The Agency must also provide an opportunity for public comment on the request.

The Agency reviews safety analyses and public comments submitted, and determines whether granting the exemption would likely achieve a level of safety equivalent to, or greater than, the level that would be achieved by the current regulation (49 CFR 381.305). The decision of the Agency must be published in the **Federal Register** (49 CFR 381.315(b)) with the reasons for denying or granting the application and, if granted, the name of the person or class of persons receiving the exemption, and the regulatory provision from which the exemption is granted. The notice must also specify the effective period and explain the terms and conditions of the exemption. The exemption may be renewed (49 CFR 381.300(b)).

#### Request for Exemption

Certain motor carriers under contract to the U.S. Department of Energy (DOE) transport ''security-sensitive radioactive materials.'' DOE requests a renewal of a limited exemption from the hours-of-service (HOS) regulation pertaining to rest breaks [49 CFR 395.3(a)(3)(ii)] to allow contract driver-employees transporting security-sensitive radioactive materials to be treated the same as drivers transporting explosives, as provided in § 395.1(q). Section 395.1(q) states that operators of CMVs carrying Division 1.1, 1.2, or 1.3 explosives subject to the requirement for a 30-minute rest break in § 395.3(a)(3)(ii) may use 30 minutes or more of ''attendance time'' to meet the requirement for a rest break. Section 395.1(q) allows drivers who are required by § 397.5 to attend a motor vehicle transporting certain types of explosives but perform no other work, to log at least a half-hour of their ''attendance time'' toward the break.

DOE contends that shipments of security-sensitive radioactive materials require a team of two drivers and the

use of a sleeper berth to minimize risk and expedite delivery in a safe and secure manner. DOE asserts that granting a renewal of the exemption would continue to allow team drivers to manage their en-route rest periods efficiently and also perform mandated shipment security surveillance, resulting in a safe and secure driving performance during a long distance trip.

DOE has implemented several technical and administrative controls to ensure the continued effective use of driver on-duty and rest-break time, which would remain in effect under the requested exemption renewal. They include the following:

- Real-time tracking and monitoring of transuranic waste and security-sensitive shipments using DOE's satellite-based systems.
- Use of electronic on-board recorders on trucks, which is contractually required for motor carriers involved in the Waste Isolation Pilot Plant to ensure compliance with driver HOS rules.
- Continuous monitoring of the performance of DOE-qualified motor carriers using the FMCSA Compliance Safety Accountability Program's Safety Measurement System, and DOE's Motor Carrier Evaluation Program.

Further details regarding DOE's safety controls can be found in its application for a renewal of the exemption. The application can be accessed in the docket identified at the beginning of this notice. DOE contends that these controls enable them to achieve a high level of safety and security for transportation of security-sensitive radioactive materials.

DOE believes that its contract employee drivers should continue to be allowed to follow the requirements of § 395.1(q) when transporting shipments of security-sensitive radioactive materials. DOE believes that shipments made under the requested exemption renewal would achieve a level of safety and security that is at least equivalent to that which would be obtained by following the normal rest break requirement in § 395.3(a)(3)(ii).

In their initial application, DOE had estimated that 30 power units and 53 drivers would be eligible for the exemption. The proposed exemption renewal would be effective from June 30, 2015 through June 30, 2017.

## Request for Comments

In accordance with 49 U.S.C. 31136(e) and 31315(b)(4), FMCSA requests public comment on DOE's application for a renewal of an exemption from certain provisions of the driver's record of duty status rules in 49 CFR part 395. The Agency will consider all comments received by close of business on April 27, 2015. Comments will be available for examination in the docket at the location listed in the **ADDRESSES** section of this notice. The Agency will consider to the extent practicable comments received in the public docket after the closing date of the comment period.

Issued on: March 19, 2015.

**Larry W. Minor,**

*Associate Administrator for Policy.*

[FR Doc. 2015–07060 Filed 3–26–15; 8:45 am]

**BILLING CODE 4910–EX–P**

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## DEPARTMENT OF TRANSPORTATION

### Federal Motor Carrier Safety Administration

**[Docket No. FMCSA–2014–0214]**

### Qualification of Drivers; Exemption Applications; Epilepsy and Seizure Disorders

**AGENCY:** Federal Motor Carrier Safety Administration (FMCSA), DOT.

**ACTION:** Notice of final disposition.

**SUMMARY:** FMCSA announces its decision to grant requests from 5 individuals for exemptions from the regulatory requirement that interstate commercial motor vehicle (CMV) drivers have ''no established medical history or clinical diagnosis of epilepsy or any other condition which is likely to cause loss of consciousness or any loss of ability to control a CMV.'' The regulation and the associated advisory criteria published in the Code of Federal Regulations as the ''Instructions for Performing and Recording Physical Examinations'' have resulted in numerous drivers being prohibited from operating CMVs in interstate commerce based on the fact that they have had one or more seizures and are taking anti-seizure medication, rather than an individual analysis of their circumstances by a qualified medical examiner. The Agency concluded that granting exemptions for these CMV drivers will provide a level of safety that is equivalent to or greater than the level of safety maintained without the exemptions. FMCSA grants exemptions that will allow these 5 individuals to operate CMVs in interstate commerce for a 2-year period. The exemptions preempt State laws and regulations and may be renewed.

**DATES:** The exemptions are effective March 27, 2015. The exemptions expire on March 27, 2017.

**FOR FURTHER INFORMATION CONTACT:** Charles A. Horan, III, Director, Office of Carrier, Driver and Vehicle Safety, (202) 366–4001, *fmcsamedical@dot.gov,* FMCSA, Department of Transportation, 1200 New Jersey Avenue SE., Room W64–224, Washington, DC 20590–0001. Office hours are 8:30 a.m. to 5 p.m., e.t., Monday through Friday, except Federal holidays.

**SUPPLEMENTARY INFORMATION:**

## A. Electronic Access

You may see all the comments online through the Federal Document Management System (FDMS) at: *http://www.regulations.gov.*

*Docket:* For access to the docket to read background documents or comments, go to *http://www.regulations.gov* and/or Room W12–140 on the ground level of the West Building, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., e.t., Monday through Friday, except Federal holidays.

*Privacy Act:* In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, including any personal information the commenter provides, to *www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *www.dot.gov/privacy.*

## B. Background

Under 49 U.S.C. 31136(e) and 31315(b), FMCSA may grant an exemption from the safety regulations for a 2-year period if it finds ''such exemption would likely achieve a level of safety that is equivalent to or greater than the level that would be achieved absent such exemption.'' The statute also allows the Agency to renew exemptions at the end of the 2-year period.

FMCSA grants 5 individuals an exemption from the regulatory requirement in § 391.41(b)(8), to allow these individuals who take anti-seizure medication to operate CMVs in interstate commerce for a 2-year period. The Agency's decision on these exemption applications is based on an individualized assessment of each applicant's medical information, including the root cause of the respective seizure(s), the length of time elapsed since the individual's last seizure, and each individual's treatment regimen. In addition, the Agency reviewed each applicant's driving record found in the Commercial Driver's License Information System (CDLIS) [1]

[1] *Commercial Driver License Information System* (CDLIS) is an information system that allows the exchange of commercial driver licensing information among all the States. CDLIS includes the databases of fifty-one licensing jurisdictions and

Continued

for commercial driver's license (CDL) holders, and interstate and intrastate inspections recorded in Motor Carrier Management Information System (MCMIS).[2] For non-CDL holders, the Agency reviewed the driving records from the State licensing agency. The Agency acknowledges the potential consequences of a driver experiencing a seizure while operating a CMV. However, the Agency believes the drivers covered by the exemptions granted here have demonstrated that they are unlikely to have a seizure and their medical condition does not pose a risk to public safety.

In reaching the decision to grant these exemption requests, the Agency considered both current medical literature and information and the 2007 recommendations of the Agency's Medical Expert Panel (MEP). The Agency previously gathered evidence for potential changes to the regulation at 49 CFR 391.41(b)(8) by conducting a comprehensive review of scientific literature that was compiled into the ''*Evidence Report on Seizure Disorders and Commercial Vehicle Driving''* (*Evidence Report*) [CD–ROM HD TL230.3 .E95 2007]. The Agency then convened a panel of medical experts in the field of neurology (the MEP) on May 14–15, 2007, to review 49 CFR 391.41(b)(8) and the advisory criteria regarding individuals who have experienced a seizure, and the 2007 *Evidence Report.* The *Evidence Report* and the MEP recommendations are published on-line at *http://www.fmcsa.dot.gov/rules-regulations/topics/mep/mep-reports.htm,* under Seizure Disorders, and are in the docket for this notice.

*MEP Criteria for Evaluation*

On October 15, 2007, the MEP issued the following recommended criteria for evaluating whether an individual with epilepsy or a seizure disorder should be allowed to operate a CMV.[3] The MEP recommendations are included in previously published dockets.

*Epilepsy diagnosis.* If there is an *epilepsy diagnosis,* the applicant should be seizure-free for *8 years, on or off medication.* If the individual is taking anti-seizure medication(s), the plan for medication should be stable for *2 years.* Stable means no changes in medication, dosage, or frequency of medication administration. Recertification for drivers with an epilepsy diagnosis should be performed every year.

*Single unprovoked seizure.* If there is a *single unprovoked seizure* (*i.e.,* there is no known trigger for the seizure), the individual should be seizure-free for *4 years, on or off medication.* If the individual is taking anti-seizure medication(s), the plan for medication should be stable for *2 years.* Stable means no changes in medication, dosage, or frequency of medication administration. Recertification for drivers with a single unprovoked seizure should be performed every 2 years.

*Single provoked seizure.* If there is a *single provoked seizure* (*i.e.,* there is a known reason for the seizure), the Agency should consider specific criteria that fall into the following two categories: Low-risk factors for recurrence and moderate-to-high risk factors for recurrence.

- *Examples of low-risk factors for recurrence* include seizures that were caused by a medication; by non-penetrating head injury with loss of consciousness less than or equal to 30 minutes; by a brief loss of consciousness not likely to recur while driving; by metabolic derangement not likely to recur; and by alcohol or illicit drug withdrawal.
- *Examples of moderate-to-high-risk factors for recurrence* include seizures caused by non-penetrating head injury with loss of consciousness or amnesia greater than 30 minutes, or penetrating head injury; intracerebral hemorrhage associated with a stroke or trauma; infections; intracranial hemorrhage; post-operative complications from brain surgery with significant brain hemorrhage; brain tumor; or stroke.

The MEP report indicates individuals with moderate to high-risk conditions should not be certified. Drivers with a history of a single provoked seizure with low risk factors for recurrence should be recertified every year.

*Medical Review Board Recommendations and Agency Decision*

FMCSA presented the MEP's findings and the *Evidence Report* to the Medical Review Board (MRB) for consideration. The MRB reviewed and considered the 2007 ''Seizure Disorders and Commercial Driver Safety'' evidence report and the 2007 MEP recommendations. The MRB recommended maintaining the current advisory criteria, which provide that ''drivers with a history of epilepsy/seizures off anti-seizure medication and seizure-free for 10 years may be qualified to drive a CMV in interstate commerce. Interstate drivers with a history of a single unprovoked seizure may be qualified to drive a CMV in interstate commerce if seizure-free and off anti-seizure medication for a 5 year period or more'' [Advisory criteria to 49 CFR 391.43(f)].

The Agency acknowledges the MRB's position on the issue but believes relevant current medical evidence supports a less conservative approach. The medical advisory criteria for epilepsy and other seizure or loss of consciousness episodes was based on the 1988 ''Conference on Neurological Disorders and Commercial Drivers'' (NITS Accession No. PB89–158950/AS). A copy of the report can be found in the docket referenced in this notice.

The MRB's recommendation treats all drivers who have experienced a seizure the same, regardless of individual medical conditions and circumstances. In addition, the recommendation to continue prohibiting drivers who are taking anti-seizure medication from operating a CMV in interstate commerce does not consider a driver's actual seizure history and time since the last seizure. The Agency has decided to use the 2007 MEP recommendations as the basis for evaluating applications for an exemption from the seizure regulation on an individual, case-by-case basis.

**C. Exemptions**

Following individualized assessments of the exemption applications, including a review of detailed follow-up information requested from each applicant, FMCSA is granting exemptions from 49 CFR 391.41(b)(8) to 5 individuals. Under current FMCSA regulations, all of the 5 drivers receiving exemptions from 49 CFR 391.41(b)(8) would have been considered physically qualified to drive a CMV in interstate commerce except that they presently take or have recently stopped taking anti-seizure medication. For these 5 drivers, the primary obstacle to medical qualification was the FMCSA Advisory Criteria for Medical Examiners, based on the 1988 ''Conference on Neurological Disorders and Commercial Drivers,'' stating that a driver should be off anti-seizure medication in order to drive in interstate commerce. In fact, the Advisory Criteria have little if anything to do with the actual risk of a seizure and more to do with assumptions about individuals who are taking anti-seizure medication.

In addition to evaluating the medical status of each applicant, FMCSA

the CDLIS Central Site, all connected by a telecommunications network.

[2] *Motor Carrier Management Information System* (MCMIS) is an information system that captures data from field offices through SAFETYNET, CAPRI, and other sources. It is a source for FMCSA inspection, crash, compliance review, safety audit, and registration data.

[3] Engel, J., Fisher, R.S., Krauss, G.L., Krumholz, A., and Quigg, M.S., ''Expert Panel Recommendations: Seizure Disorders and Commercial Motor Vehicle Driver Safety,'' FMCSA, October 15, 2007.

evaluated the crash and violation data for the 5 drivers, some of whom currently drive a CMV in intrastate commerce. The CDLIS and MCMIS were searched for crash and violation data on the 5 applicants. For non-CDL holders, the Agency reviewed the driving records from the State licensing agency.

These exemptions are contingent on the driver maintaining a stable treatment regimen and remaining seizure-free during the 2-year exemption period. The exempted drivers must submit annual reports from their treating physicians attesting to the stability of treatment and that the driver has remained seizure-free. The driver must undergo an annual medical examination by a medical examiner, as defined by 49 CFR 390.5, following the FCMSA's regulations for the physical qualifications for CMV drivers.

FMCSA published a notice of receipt of application and requested public comment during a 30-day public comment period in a **Federal Register** notice for each of the applicants. A short summary of the applicants' qualifications and a discussion of the comments received, if any, follows this section. For applicants who were denied an exemption, a notice will be published at a later date.

**D. Comments**

*Docket # FMCSA–2014–0214*

On September 18, 2014, FMCSA published a notice of receipt of exemption applications and requested public comment on six individuals (79 FR 56098; Docket number FMCSA–2014–22138). The comment period ended on October 20, 2014. No commenters responded to this **Federal Register** notice. Of the six applicants, one was denied. The Agency has determined that the following five applicants should be granted an exemption.

Michael G. Alimecco

Mr. Alimecco is a 58 year-old driver in Pennsylvania. He has a history of seizures and has remained seizure free since 1974. He takes anti-seizure medication with the dosage and frequency remaining the same since 2003. If granted an exemption, he would like to drive a CMV. His physician states he is supportive of Mr. Alimecco receiving an exemption.

Michael L. Grant

Mr. Grant is a 52 year-old driver in South Carolina. He has a history of seizures and has remained seizure free since 1995. He takes anti-seizure medication with the dosage and frequency remaining the same for over 2 years. If granted the exemption, he would like to drive a CMV. His physician states that he is supportive of Mr. Grant receiving an exemption.

Jeffrey M. Phillips

Mr. Phillips is a 45 year-old driver in South Carolina. He has a history of epilepsy and has remained seizure free since 1989. He takes anti-seizure medication with the dosage and frequency remaining the same since 1994. If granted the exemption, he would like to drive a CMV. His physician states he is supportive of Mr. Phillips receiving an exemption.

William L. Swann

Mr. Swann is a 76 year-old driver in Maryland. He has a history of a seizure disorder and has remained seizure free since 2002. He takes anti-seizure medication with the dosage and frequency remaining the same since that time. If granted the exemption, he would like to drive a CMV. His physician states that he is supportive of Mr. Swann receiving an exemption.

James M. Zihlke

Mr. Zihlke is a 31 year-old driver in Iowa. He has a history of a single seizure in December 2010. He has never taken anti-seizure medication. If granted the exemption, he would like to drive a CMV. His physician states that he is supportive of Mr. Zihlke receiving an exemption.

**E. Basis for Exemption**

Under 49 U.S.C. 31136(e) and 31315(b), FMCSA may grant an exemption from the epilepsy/seizure standard in 49 CFR 391.41(b)(8) if the exemption is likely to achieve an equivalent or greater level of safety than would be achieved without the exemption. Without the exemption, applicants will continue to be restricted to intrastate driving. With the exemption, applicants can drive in interstate commerce. Thus, the Agency's analysis focuses on whether an equal or greater level of safety is likely to be achieved by permitting each of these drivers to drive in interstate commerce as opposed to restricting the driver to driving in intrastate commerce.

*Conclusion*

The Agency is granting exemptions from the epilepsy standard, 49 CFR 391.41(b)(8), to 5 individuals based on a thorough evaluation of each driver's safety experience, and medical condition. Safety analysis of information relating to these 5 applicants meets the burden of showing that granting the exemptions would achieve a level of safety that is equivalent to or greater than the level that would be achieved without the exemption. By granting the exemptions, the interstate CMV industry will gain 5 highly trained and experienced drivers. In accordance with 49 U.S.C. 31315(b)(1), each exemption will be valid for 2 years, with annual recertification required unless revoked earlier by FMCSA. The exemption will be revoked if the following occurs: (1) The person fails to comply with the terms and conditions of the exemption; (2) the exemption has resulted in a lower level of safety than was maintained prior to being granted; or (3) continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136 and 31315.

FMCSA exempts the following 5 drivers for a period of 2 years with annual medical certification required: Michael Alimecco (PA); Michael Grant (SC); Jeffrey Phillips (SC); Michael Swann (MD); and James Zihlke (IA) from the prohibition of CMV operations by persons with a clinical diagnosis of epilepsy or seizures. If the exemption is still in effect at the end of the 2-year period, the person may apply to FMCSA for a renewal under procedures in effect at that time.

Issued on: March 20, 2015.

**Larry W. Minor,**

*Associate Administrator for Policy.*

[FR Doc. 2015–07052 Filed 3–26–15; 8:45 am]

BILLING CODE 4910–EX–P

## DEPARTMENT OF TRANSPORTATION

### Federal Motor Carrier Safety Administration

**[Docket No. FMCSA–2013–0023]**

### Qualification of Drivers; Exemption Applications; Vision

**AGENCY:** Federal Motor Carrier Safety Administration (FMCSA), DOT.

**ACTION:** Notice of renewal of exemptions; request for comments.

**SUMMARY:** FMCSA announces its decision to renew the exemptions from the vision requirement in the Federal Motor Carrier Safety Regulations for 3 individuals. FMCSA has statutory authority to exempt individuals from the vision requirement if the exemptions granted will not compromise safety. The Agency has concluded that granting these exemption renewals will provide a level of safety that is equivalent to or greater than the level of safety maintained

without the exemptions for these commercial motor vehicle (CMV) drivers.

**DATES:** This decision is effective April 24, 2015. Comments must be received on or before April 27, 2015.

**ADDRESSES:** You may submit comments bearing the Federal Docket Management System (FDMS) numbers: Docket No. [Docket No. FMCSA–2013–0023], using any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Follow the on-line instructions for submitting comments.
- *Mail:* Docket Management Facility; U.S. Department of Transportation, 1200 New Jersey Avenue SE., West Building Ground Floor, Room W12–140, Washington, DC 20590–0001.
- *Hand Delivery or Courier:* West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.
- *Fax:* 1–202–493–2251.

*Instructions:* Each submission must include the Agency name and the docket number for this notice. Note that DOT posts all comments received without change to *http://www.regulations.gov,* including any personal information included in a comment. Please see the Privacy Act heading below.

*Docket:* For access to the docket to read background documents or comments, go to *http://www.regulations.gov* at any time or Room W12–140 on the ground level of the West Building, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Federal Docket Management System (FDMS) is available 24 hours each day, 365 days each year. If you want acknowledgment that we received your comments, please include a self-addressed, stamped envelope or postcard or print the acknowledgement page that appears after submitting comments on-line.

*Privacy Act:* In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, including any personal information the commenter provides, to *www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *www.dot.gov/privacy.*

**FOR FURTHER INFORMATION CONTACT:** Charles A. Horan, III, Director, Carrier, Driver and Vehicle Safety Standards, 202–366–4001, *fmcsamedical@dot.gov,* FMCSA, Department of Transportation, 1200 New Jersey Avenue SE., Room W64–224, Washington, DC 20590–0001. Office hours are from 8:30 a.m. to 5 p.m. Monday through Friday, except Federal holidays.

**SUPPLEMENTARY INFORMATION:**

## I. Background

Under 49 U.S.C. 31136(e) and 31315, FMCSA may renew an exemption from the vision requirements in 49 CFR 391.41(b)(10), which applies to drivers of CMVs in interstate commerce, for a two-year period if it finds ''such exemption would likely achieve a level of safety that is equivalent to or greater than the level that would be achieved absent such exemption.'' The procedures for requesting an exemption (including renewals) are set out in 49 CFR part 381.

## II. Exemption Decision

This notice addresses 3 individuals who have requested renewal of their exemptions in accordance with FMCSA procedures. FMCSA has evaluated these 3 applications for renewal on their merits and decided to extend each exemption for a renewable two-year period. They are:

David Doub (IN)
Gregory S. Engleman (KY)
Gale L. Smith (PA)

The exemptions are extended subject to the following conditions: (1) That each individual has a physical examination every year (a) by an ophthalmologist or optometrist who attests that the vision in the better eye continues to meet the requirements in 49 CFR 391.41(b)(10), and (b) by a medical examiner who attests that the individual is otherwise physically qualified under 49 CFR 391.41; (2) that each individual provides a copy of the ophthalmologist's or optometrist's report to the medical examiner at the time of the annual medical examination; and (3) that each individual provide a copy of the annual medical certification to the employer for retention in the driver's qualification file and retains a copy of the certification on his/her person while driving for presentation to a duly authorized Federal, State, or local enforcement official. Each exemption will be valid for two years unless rescinded earlier by FMCSA. The exemption will be rescinded if: (1) The person fails to comply with the terms and conditions of the exemption; (2) the exemption has resulted in a lower level of safety than was maintained before it was granted; or (3) continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136(e) and 31315.

## III. Basis for Renewing Exemptions

Under 49 U.S.C. 31315(b)(1), an exemption may be granted for no longer than two years from its approval date and may be renewed upon application for additional two year periods. In accordance with 49 U.S.C. 31136(e) and 31315, each of the 3 applicants has satisfied the entry conditions for obtaining an exemption from the vision requirements (78 FR 14405; 78 FR 24296). Each of these 3 applicants has requested renewal of the exemption and has submitted evidence showing that the vision in the better eye continues to meet the requirement specified at 49 CFR 391.41(b)(10) and that the vision impairment is stable. In addition, a review of each record of safety while driving with the respective vision deficiencies over the past two years indicates each applicant continues to meet the vision exemption requirements.

These factors provide an adequate basis for predicting each driver's ability to continue to drive safely in interstate commerce. Therefore, FMCSA concludes that extending the exemption for each renewal applicant for a period of two years is likely to achieve a level of safety equal to that existing without the exemption.

## IV. Public Participation and Request for Comments

FMCSA encourages you to participate by submitting comments and related materials.

*Submitting Comments*

If you submit a comment, please include the docket number for this notice (FMCSA–2013–0023), indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. You may submit your comments and material online or by fax, mail, or hand delivery, but please use only one of these means. FMCSA recommends that you include your name and a mailing address, an email address, or a phone number in the body of your document so the Agency can contact you if it has questions regarding your submission.

To submit your comment online, go to *http://www.regulations.gov* and put the docket number, ''FMCSA–2013–0023'' in the ''Keyword'' box, and click ''Search.'' When the new screen appears, click on ''Comment Now!'' button and type your comment into the text box in the following screen. Choose whether you are submitting your

comment as an individual or on behalf of a third party and then submit. If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit comments by mail and would like to know that they reached the facility, please enclose a stamped, self-addressed postcard or envelope. FMCSA will consider all comments and material received during the comment period and may change this notice based on your comments.

*Viewing Comments and Documents*

To view comments, as well as any documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov* and in the search box insert the docket number, ''FMCSA–2013–0023'' in the ''Keyword'' box and click ''Search.'' Next, click ''Open Docket Folder'' button, choose the document listed to review. If you do not have access to the Internet, you may view the docket online by visiting the Docket Management Facility in Room W12–140 on the ground floor of the DOT West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., E.T., Monday through Friday, except Federal holidays.

Issued on: March 19, 2015.

**Larry W. Minor,**

*Associate Administrator for Policy.*

[FR Doc. 2015–07050 Filed 3–26–15; 8:45 am]

BILLING CODE 4910–EX–P

## DEPARTMENT OF TRANSPORTATION

### Federal Motor Carrier Safety Administration

**[Docket No. FMCSA–2012–0032]**

### Commercial Driver's License Standards: Application for Exemption; Daimler Trucks North America (Daimler)

**AGENCY:** Federal Motor Carrier Safety Administration (FMCSA), DOT.

**ACTION:** Notice of final disposition; grant of application for exemption.

**SUMMARY:** FMCSA announces its decision to grant Daimler Trucks North America's (Daimler) application for an exemption to allow a Daimler employee to drive commercial motor vehicles (CMV) in the United States without having a commercial driver's license (CDL) issued by one of the States. The driver, Martin Zeilinger, will test-drive Daimler vehicles on U.S. roads to better understand product requirements for these vehicles in ''real world'' environments and verify results. He holds a valid German CDL but lacks the U.S. residency necessary to obtain a CDL issued by one of the States. FMCSA believes that the process for obtaining a German CDL is comparable to or as effective as the U.S. CDL requirements and ensures that this driver will likely achieve a level of safety that is equivalent to or greater than the level of safety that would be obtained in the absence of the exemption.

**DATES:** This exemption is effective March 27, 2015 and expires March 27, 2017.

**FOR FURTHER INFORMATION CONTACT:** Mr. Richard Clemente, FMCSA Driver and Carrier Operations Division; Office of Carrier, Driver and Vehicle Safety Standards; Telephone: 202–366–4325. Email: *MCPSD@dot.gov.*

**SUPPLEMENTARY INFORMATION:**

#### Legal Basis

The Secretary of Transportation (the Secretary) has the authority to grant exemptions from any of the Federal Motor Carrier Safety Regulations (FMCSRs) issued under chapter 313 or § 31136 of title 49, United States Code, to a person(s) seeking regulatory relief (49 U.S.C. 31136(e), and 31315(b)). Prior to granting an exemption, the Secretary must request public comment and make a determination that the exemption is likely to achieve a level of safety that is equivalent to, or greater than, the level of safety that would be obtained in the absence of the exemption. Exemptions may be granted for a period of up to 2 years and may be renewed.

The FMCSA Administrator has been delegated authority under 49 CFR 1.87(e)(1) and (f) to carry out the functions vested in the Secretary by 49 U.S.C. chapter 313 and subchapters I and III of chapter 311, relating, respectively, to the commercial driver's license program and to commercial motor vehicle (CMV) programs and safety regulation.

#### Background

On July 22 and August 29, 2014, FMCSA granted similar exemptions for Daimler test drivers (79 FR 42626, 51641). These individuals each held a valid German CDL but lacked the U.S. residency necessary to obtain a CDL in the United States. FMCSA concluded that the process for obtaining a German CDL is comparable to or as effective as the U.S. CDL requirements and ensures that these drivers will likely achieve a level of safety equivalent to or greater than the level that would be obtained in the absence of the exemption. These two drivers were not involved in any crashes or other safety-related incidents.

#### Daimler Application for Exemption

Daimler applied for the same CDL exemption for Martin Zeilinger. Notice of the application was published on December 17, 2014 (79 FR 75229). One comment was received in opposition to the application for exemption, but it was not substantive. A copy of the Daimler request is in the docket identified at the beginning of this notice. The exemption allows Martin Zeilinger to operate CMVs to support Daimler field tests to meet future vehicle safety and environmental requirements and to promote the development of technology and advancements in vehicle safety systems and emissions reductions. He will typically drive for no more than 6 hours per day for 2 consecutive days, and 10 percent of the test driving will be on two-lane state highways, while 90 percent will be on interstate highways. The driving will consist of no more than 200 miles per day, for a total of 400 miles during a two-day period on a quarterly basis.

Section 383.21 requires CMV drivers in the United States to have a CDL issued by a State. Mr. Zeilinger is a citizen and resident of Germany. Only residents of a State can apply for a CDL. Without the exemption, Mr. Zeilinger would not be able to test-drive prototype CMVs on U.S. roads.

Mr. Zeilinger holds a valid German CDL and is an experienced operator of CMVs. In the application for exemption, Daimler also submitted documentation showing his safe German driving record.

#### Method To Ensure an Equivalent or Greater Level of Safety

According to Daimler, the requirements for a German-issued CDL ensure that the same level of safety is met or exceeded as if these drivers had a CDL issued by one of the States. Mr. Zeilinger is familiar with the operation of CMVs worldwide and will be accompanied at all times by a driver who holds a U.S.-issued CDL and is familiar with the routes to be traveled. FMCSA has determined that the process for obtaining a CDL in Germany is comparable to that for obtaining a CDL issued by one of the States and adequately assesses the driver's ability to safely operate CMVs in the United States.

#### FMCSA Decision

Based upon the merits of this application, including Mr. Zeilinger's extensive driving experience and safety record, and the fact that he has

successfully completed the requisite training and testing to obtain a German CDL, FMCSA concluded that the exemption would likely achieve a level of safety that is equivalent to or greater than the level that would be achieved absent such exemption, in accordance with § 381.305(a).

**Terms and Conditions for the Exemption**

FMCSA grants Daimler and Mr. Martin Zeilinger an exemption from the CDL requirement in 49 CFR 383.23 to allow Mr. Zeilinger to drive CMVs in this country without a U.S. State-issued CDL, subject to the following terms and conditions: (1) The driver and carrier must comply with all other applicable provisions of the Federal Motor Carrier Safety Regulations (FMCSRs) (49 CFR parts 350–399), (2) the driver must be in possession of the exemption document and a valid German CDL, (3) the driver must be employed by and operating the CMV within the scope of his duties for Daimler, (4) Daimler must notify FMCSA in writing within 5 business days of any accident, as defined in 49 CFR 390.5, involving this driver, and (5) Daimler must notify FMCSA in writing if this driver is convicted of a disqualifying offense under § 383.51 or § 391.15 of the FMCSRs.

In accordance with 49 U.S.C. 31315 and 31136(e), the exemption will be valid for 2 years unless revoked earlier by the FMCSA. The exemption will be revoked if: (1) Mr. Zeilinger fails to comply with the terms and conditions of the exemption; (2) the exemption results in a lower level of safety than was maintained before it was granted; or (3) continuation of the exemption would be inconsistent with the goals and objectives of 49 U.S.C. 31315 and 31136.

Issued on: March 20, 2015.

**T.F. Scott Darling, III,**

*Acting Administrator.*

[FR Doc. 2015–07059 Filed 3–26–15; 8:45 am]

**BILLING CODE 4910–EX–P**

## DEPARTMENT OF TRANSPORTATION

### Federal Transit Administration

**[FTA Docket No. FTA–2015–0008]**

### Special Notice; Correction

**AGENCY:** Federal Transit Administration, DOT.

**ACTION:** Notice of Correction.

**SUMMARY:** The Federal Transit Administration (FTA) published a 30-Day Notice of Request for Comments in the **Federal Register** on March 17, 2015 entitled; ''49 U.S.C. 5320 Paul S. Sarbanes Transit in Parks Program.'' The notice contained an incorrect estimated total annual burden on respondents. This document corrects that error.

**FOR FURTHER INFORMATION CONTACT:** Tia Swain, Office of Administration, Office of Management Planning, (202) 366–0354.

**Correction**

*Estimated Total Annual Burden:* 130 hours.

**Matthew M. Crouch,**

*Associate Administrator for Administration.*

[FR Doc. 2015–06959 Filed 3–26–15; 8:45 am]

**BILLING CODE P**

## DEPARTMENT OF TRANSPORTATION

### Maritime Administration

**[Docket No. MARAD–2015–0035]**

### Requested Administrative Waiver of the Coastwise Trade Laws: Vessel TAHOE DREAMER; Invitation for Public Comments

**AGENCY:** Maritime Administration, Department of Transportation.

**ACTION:** Notice.

**SUMMARY:** As authorized by 46 U.S.C. 12121, the Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirement of the coastwise laws under certain circumstances. A request for such a waiver has been received by MARAD. The vessel, and a brief description of the proposed service, is listed below.

**DATES:** Submit comments on or before April 27, 2015.

**ADDRESSES:** Comments should refer to docket number MARAD–2015–0035. Written comments may be submitted by hand or by mail to the Docket Clerk, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590. You may also send comments electronically via the Internet at *http://www.regulations.gov.* All comments will become part of this docket and will be available for inspection and copying at the above address between 10 a.m. and 5 p.m., E.T., Monday through Friday, except federal holidays. An electronic version of this document and all documents entered into this docket is available on the World Wide Web at *http://www.regulations.gov.*

**FOR FURTHER INFORMATION CONTACT:** Linda Williams, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE., Room W23–453, Washington, DC 20590. Telephone 202–366–0903, Email *Linda.Williams@dot.gov.*

**SUPPLEMENTARY INFORMATION:** As described by the applicant the intended service of the vessel TAHOE DREAMER is:

*Intended Commercial Use of Vessel:* ''Bare boat charters on Lake Tahoe.''

*Geographic Region:* ''California and Nevada.''

The complete application is given in DOT docket MARAD–2015–0035 at *http://www.regulations.gov.* Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR part 388, that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, a waiver will not be granted. Comments should refer to the docket number of this notice and the vessel name in order for MARAD to properly consider the comments. Comments should also state the commenter's interest in the waiver application, and address the waiver criteria given in § 388.4 of MARAD's regulations at 46 CFR part 388.

**Privacy Act**

Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70; Pages 19477–78).

By Order of the Maritime Administrator.

Dated: March 19, 2015.

**Christine Gurland,**

*Acting Secretary, Maritime Administration.*

[FR Doc. 2015–06987 Filed 3–26–15; 8:45 am]

**BILLING CODE 4910–81–P**

## DEPARTMENT OF TRANSPORTATION

### Maritime Administration

**[Docket No. MARAD–2015–0036]**

### Requested Administrative Waiver of the Coastwise Trade Laws: Vessel LIBERTY; Invitation for Public Comments

**AGENCY:** Maritime Administration, Department of Transportation.

**ACTION:** Notice.

**SUMMARY:** As authorized by 46 U.S.C. 12121, the Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirement of the coastwise laws under certain circumstances. A request for such a waiver has been received by MARAD. The vessel, and a brief description of the proposed service, is listed below.

**DATES:** Submit comments on or before April 27, 2015.

**ADDRESSES:** Comments should refer to docket number MARAD–2015–0036. Written comments may be submitted by hand or by mail to the Docket Clerk, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590. You may also send comments electronically via the Internet at *http://www.regulations.gov.* All comments will become part of this docket and will be available for inspection and copying at the above address between 10 a.m. and 5 p.m., E.T., Monday through Friday, except federal holidays. An electronic version of this document and all documents entered into this docket is available on the World Wide Web at *http://www.regulations.gov.*

**FOR FURTHER INFORMATION CONTACT:** Linda Williams, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE., Room W23–453, Washington, DC 20590. Telephone 202–366–0903, Email *Linda.Williams@dot.gov.*

**SUPPLEMENTARY INFORMATION:** As described by the applicant the intended service of the vessel LIBERTY is:

*Intended Commercial Use of Vessel:* ''Day outings, sunset cruises, wedding parties, harbor and near coastal sightseeing for 6 passengers as an OUPV and up to 12 passengers with a USCG Certificate of Inspection (COI).''

*Geographic Region:* ''New Jersey, Delaware, Maryland and Pennsylvania.''

The complete application is given in DOT docket MARAD–2015–0036 at *http://www.regulations.gov.* Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR part 388, that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, a waiver will not be granted. Comments should refer to the docket number of this notice and the vessel name in order for MARAD to properly consider the comments. Comments should also state the commenter's interest in the waiver application, and address the waiver criteria given in § 388.4 of MARAD's regulations at 46 CFR part 388.

#### Privacy Act

Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70; Pages 19477–78).

By Order of the Maritime Administrator.

Dated: March 19, 2015.

**Christine Gurland,**

*Acting Secretary, Maritime Administration.*

[FR Doc. 2015–06995 Filed 3–26–15; 8:45 am]

BILLING CODE 4910–81–P

## DEPARTMENT OF TRANSPORTATION

### Maritime Administration

**[Docket No. MARAD–2015–0031]**

### Requested Administrative Waiver of the Coastwise Trade Laws: Vessel QUETZAL; Invitation for Public Comments

**AGENCY:** Maritime Administration, Department of Transportation.

**ACTION:** Notice.

**SUMMARY:** As authorized by 46 U.S.C. 12121, the Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirement of the coastwise laws under certain circumstances. A request for such a waiver has been received by MARAD. The vessel, and a brief description of the proposed service, is listed below.

**DATES:** Submit comments on or before April 27, 2015.

**ADDRESSES:** Comments should refer to docket number MARAD–2015–0031. Written comments may be submitted by hand or by mail to the Docket Clerk, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590. You may also send comments electronically via the Internet at *http://www.regulations.gov.* All comments will become part of this docket and will be available for inspection and copying at the above address between 10 a.m. and 5 p.m., E.T., Monday through Friday, except federal holidays. An electronic version of this document and all documents entered into this docket is available on the World Wide Web at *http://www.regulations.gov.*

**FOR FURTHER INFORMATION CONTACT:** Linda Williams, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE., Room W23–453, Washington, DC 20590. Telephone 202–366–0903, Email *Linda.Williams@dot.gov.*

**SUPPLEMENTARY INFORMATION:** As described by the applicant the intended service of the vessel QUETZAL is:

*Intended Commercial Use of Vessel:* ''occasional sail training and instruction''

*Geographic Region:* ''Florida, Maryland.''

The complete application is given in DOT docket MARAD–2015–0031 at *http://www.regulations.gov.* Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR part 388, that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, a waiver will not be granted. Comments should refer to the docket number of this notice and the vessel name in order for MARAD to properly consider the comments. Comments should also state the commenter's interest in the waiver application, and address the waiver criteria given in § 388.4 of MARAD's regulations at 46 CFR part 388.

#### Privacy Act

Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if

submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70; Pages 19477–78).

By Order of the Maritime Administrator.

Dated: March 19, 2015.

**Christine Gurland,**

*Acting Secretary, Maritime Administration.*

[FR Doc. 2015–06983 Filed 3–26–15; 8:45 am]

**BILLING CODE 4910–81–P**

## DEPARTMENT OF TRANSPORTATION

### Maritime Administration

**[Docket No. MARAD–2015 0034]**

### Requested Administrative Waiver of the Coastwise Trade Laws: Vessel MAJESTIC; Invitation for Public Comments

**AGENCY:** Maritime Administration, Department of Transportation.

**ACTION:** Notice.

**SUMMARY:** As authorized by 46 U.S.C. 12121, the Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirement of the coastwise laws under certain circumstances. A request for such a waiver has been received by MARAD. The vessel, and a brief description of the proposed service, is listed below.

**DATES:** Submit comments on or before April 27, 2015.

**ADDRESSES:** Comments should refer to docket number MARAD–2015–0034. Written comments may be submitted by hand or by mail to the Docket Clerk, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590. You may also send comments electronically via the Internet at *http://www.regulations.gov.* All comments will become part of this docket and will be available for inspection and copying at the above address between 10 a.m. and 5 p.m., E.T., Monday through Friday, except federal holidays. An electronic version of this document and all documents entered into this docket is available on the World Wide Web at *http://www.regulations.gov.*

**FOR FURTHER INFORMATION CONTACT:** Linda Williams, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE., Room W23–453, Washington, DC 20590. Telephone 202–366–0903, Email *Linda.Williams@dot.gov.*

**SUPPLEMENTARY INFORMATION:** As described by the applicant the intended service of the vessel MAJESTIC is:

*Intended Commercial Use of Vessel:* ''Overnight sailboat charters.''

*Geographic Region:* ''California.''

The complete application is given in DOT docket MARAD–2015–0034 at *http://www.regulations.gov.* Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR part 388, that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, a waiver will not be granted. Comments should refer to the docket number of this notice and the vessel name in order for MARAD to properly consider the comments. Comments should also state the commenter's interest in the waiver application, and address the waiver criteria given in § 388.4 of MARAD's regulations at 46 CFR part 388.

**Privacy Act**

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By Order of the Maritime Administrator.

Dated: March 19, 2015.

**Christine Gurland,**

*Acting Secretary, Maritime Administration.*

[FR Doc. 2015–06986 Filed 3–26–15; 8:45 am]

**BILLING CODE 4910–81–P**

## DEPARTMENT OF TRANSPORTATION

### Maritime Administration

**[Docket No. MARAD–2015–0037]**

### Requested Administrative Waiver of the Coastwise Trade Laws: Vessel MISTY; Invitation for Public Comments

**AGENCY:** Maritime Administration, Department of Transportation.

**ACTION:** Notice.

**SUMMARY:** As authorized by 46 U.S.C. 12121, the Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirement of the coastwise laws under certain circumstances. A request for such a waiver has been received by MARAD. The vessel, and a brief description of the proposed service, is listed below.

**DATES:** Submit comments on or before April 27, 2015.

**ADDRESSES:** Comments should refer to docket number MARAD–2015–0037. Written comments may be submitted by hand or by mail to the Docket Clerk, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590. You may also send comments electronically via the Internet at *http://www.regulations.gov.* All comments will become part of this docket and will be available for inspection and copying at the above address between 10 a.m. and 5 p.m., E.T., Monday through Friday, except federal holidays. An electronic version of this document and all documents entered into this docket is available on the World Wide Web at *http://www.regulations.gov.*

**FOR FURTHER INFORMATION CONTACT:** Linda Williams, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE., Room W23–453, Washington, DC 20590. Telephone 202–366–0903, Email *Linda.Williams@dot.gov.*

**SUPPLEMENTARY INFORMATION:** As described by the applicant the intended service of the vessel MISTY is:

*Intended Commercial Use of Vessel:* ''6 Pack/Charter.''

*Geographic Region:* ''Minnesota, Wisconsin, Michigan, Maine, New Hampshire, Massachusetts, New York, Maryland, Virginia, North Carolina, South Carolina, Florida, Texas, Washington State, Oregon, California, Hawaii and Puerto Rico.''

The complete application is given in DOT docket MARAD–2015–0037 at *http://www.regulations.gov.* Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR part 388, that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, a waiver will not be granted. Comments should refer to the docket number of this notice and the vessel name in order for MARAD to properly consider the

comments. Comments should also state the commenter's interest in the waiver application, and address the waiver criteria given in § 388.4 of MARAD's regulations at 46 CFR part 388.

**Privacy Act**

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By Order of the Maritime Administrator.

Dated: March 19, 2015.

**Christine Gurland,**

*Acting Secretary, Maritime Administration.*

[FR Doc. 2015–06996 Filed 3–26–15; 8:45 am]

BILLING CODE 4910–81–P

## DEPARTMENT OF TRANSPORTATION

### Maritime Administration

**[Docket No. MARAD–2015 0030]**

### Requested Administrative Waiver of the Coastwise Trade Laws: Vessel EL GUAPO; Invitation for Public Comments

**AGENCY:** Maritime Administration, Department of Transportation.

**ACTION:** Notice.

**SUMMARY:** As authorized by 46 U.S.C. 12121, the Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirement of the coastwise laws under certain circumstances. A request for such a waiver has been received by MARAD. The vessel, and a brief description of the proposed service, is listed below.

**DATES:** Submit comments on or before April 27, 2015.

**ADDRESSES:** Comments should refer to docket number MARAD–2015–0030. Written comments may be submitted by hand or by mail to the Docket Clerk, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590. You may also send comments electronically via the Internet at *http://www.regulations.gov.* All comments will become part of this docket and will be available for inspection and copying at the above address between 10 a.m. and 5 p.m., E.T., Monday through Friday, except federal holidays. An electronic version of this document and all documents entered into this docket is available on the World Wide Web at *http://www.regulations.gov.*

**FOR FURTHER INFORMATION CONTACT:** Linda Williams, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE., Room W23–453, Washington, DC 20590. Telephone 202–366–0903, Email *Linda.Williams@dot.gov.*

**SUPPLEMENTARY INFORMATION:** As described by the applicant the intended service of the vessel EL GUAPO is:

*Intended Commercial Use of Vessel:* ''6 Pack fishing and site seeing.''

*Geographic Region:* ''California, Florida.''

The complete application is given in DOT docket MARAD–2015–0030 at *http://www.regulations.gov.* Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR part 388, that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, a waiver will not be granted. Comments should refer to the docket number of this notice and the vessel name in order for MARAD to properly consider the comments. Comments should also state the commenter's interest in the waiver application, and address the waiver criteria given in § 388.4 of MARAD's regulations at 46 CFR part 388.

**Privacy Act**

Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70; Pages 19477–78).

By Order of the Maritime Administrator.

Dated: March 19, 2015.

**Christine Gurland,**

*Acting Secretary, Maritime Administration.*

[FR Doc. 2015–06982 Filed 3–26–15; 8:45 am]

BILLING CODE 4910–81–P

## DEPARTMENT OF TRANSPORTATION

### Maritime Administration

**[Docket No. MARAD–2015–0033]**

### Requested Administrative Waiver of the Coastwise Trade Laws: Vessel GOLD RUSH; Invitation for Public Comments

**AGENCY:** Maritime Administration, Department of Transportation.

**ACTION:** Notice.

**SUMMARY:** As authorized by 46 U.S.C. 12121, the Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirement of the coastwise laws under certain circumstances. A request for such a waiver has been received by MARAD. The vessel, and a brief description of the proposed service, is listed below.

**DATES:** Submit comments on or before April 27, 2015.

**ADDRESSES:** Comments should refer to docket number MARAD–2015–0033. Written comments may be submitted by hand or by mail to the Docket Clerk, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590. You may also send comments electronically via the Internet at *http://www.regulations.gov.* All comments will become part of this docket and will be available for inspection and copying at the above address between 10 a.m. and 5 p.m., E.T., Monday through Friday, except federal holidays. An electronic version of this document and all documents entered into this docket is available on the World Wide Web at *http://www.regulations.gov.*

**FOR FURTHER INFORMATION CONTACT:** Linda Williams, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE., Room W23–453, Washington, DC 20590. Telephone 202–366–0903, Email *Linda.Williams@dot.gov.*

**SUPPLEMENTARY INFORMATION:** As described by the applicant the intended service of the vessel GOLD RUSH is:

*Intended Commercial Use of Vessel:* ''Take 4 passengers and 2 crew from Port Angeles, WA, to Ketchikan, AK and back.''

*Geographic Region:* ''Washington State and Alaska, limited to service to/from Ketchikan, Alaska.''

The complete application is given in DOT docket MARAD–2015–0033 at

*http://www.regulations.gov.* Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR part 388, that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, a waiver will not be granted. Comments should refer to the docket number of this notice and the vessel name in order for MARAD to properly consider the comments. Comments should also state the commenter's interest in the waiver application, and address the waiver criteria given in section 388.4 of MARAD's regulations at 46 CFR part 388.

**Privacy Act**

Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70; Pages 19477–78).

By Order of the Maritime Administrator.

Dated: March 19, 2015.

**Christine Gurland,**

*Acting Secretary, Maritime Administration.*

[FR Doc. 2015–06985 Filed 3–26–15; 8:45 am]

**BILLING CODE 4910–81–P**

## DEPARTMENT OF TRANSPORTATION

### Maritime Administration

**[Docket No. MARAD–2015–0039]**

### Requested Administrative Waiver of the Coastwise Trade Laws: Vessel WANDERER CHARTERS; Invitation for Public Comments

**AGENCY:** Maritime Administration, Department of Transportation.

**ACTION:** Notice.

**SUMMARY:** As authorized by 46 U.S.C. 12121, the Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirement of the coastwise laws under certain circumstances. A request for such a waiver has been received by MARAD. The vessel, and a brief description of the proposed service, is listed below.

**DATES:** Submit comments on or before April 27, 2015.

**ADDRESSES:** Comments should refer to docket number MARAD–2015–0039. Written comments may be submitted by hand or by mail to the Docket Clerk, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590. You may also send comments electronically via the Internet at *http://www.regulations.gov.* All comments will become part of this docket and will be available for inspection and copying at the above address between 10 a.m. and 5 p.m., E.T., Monday through Friday, except federal holidays. An electronic version of this document and all documents entered into this docket is available on the World Wide Web at *http://www.regulations.gov.*

**FOR FURTHER INFORMATION CONTACT:** Linda Williams, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE., Room W23–453, Washington, DC 20590. Telephone 202–366–0903, Email *Linda.Williams@dot.gov.*

**SUPPLEMENTARY INFORMATION:** As described by the applicant the intended service of the vessel WANDERER CHARTERS is:

*Intended Commercial Use of Vessel:* ''Coastwise 6 passengers or less sport fishing.''

*Geographic Region:* Ohio, Pennsylvania, New York.

The complete application is given in DOT docket MARAD–2015–0039 at *http://www.regulations.gov.* Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR part 388, that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, a waiver will not be granted. Comments should refer to the docket number of this notice and the vessel name in order for MARAD to properly consider the comments. Comments should also state the commenter's interest in the waiver application, and address the waiver criteria given in § 388.4 of MARAD's regulations at 46 CFR part 388.

**Privacy Act**

Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70; Pages 19477–78).

By order of the Maritime Administrator.

Dated: March 19, 2015.

**Christine Gurland,**

*Acting Secretary, Maritime Administration.*

[FR Doc. 2015–06998 Filed 3–26–15; 8:45 am]

**BILLING CODE 4910–81–P**

## DEPARTMENT OF TRANSPORTATION

### Maritime Administration

**[Docket No. MARAD–2015–0032]**

### Requested Administrative Waiver of the Coastwise Trade Laws: Vessel F/V IRISH; Invitation for Public Comments

**AGENCY:** Maritime Administration, Department of Transportation.

**ACTION:** Notice.

**SUMMARY:** As authorized by 46 U.S.C. 12121, the Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirement of the coastwise laws under certain circumstances. A request for such a waiver has been received by MARAD. The vessel, and a brief description of the proposed service, is listed below.

**DATES:** Submit comments on or before April 27, 2015.

**ADDRESSES:** Comments should refer to docket number MARAD–2015–0032. Written comments may be submitted by hand or by mail to the Docket Clerk, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590. You may also send comments electronically via the Internet at *http://www.regulations.gov.* All comments will become part of this docket and will be available for inspection and copying at the above address between 10 a.m. and 5 p.m., E.T., Monday through Friday, except federal holidays. An electronic version of this document and all documents entered into this docket is available on the World Wide Web at *http://www.regulations.gov.*

**FOR FURTHER INFORMATION CONTACT:** Linda Williams, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE., Room W23–453, Washington, DC 20590. Telephone 202–

366–0903, Email *Linda.Williams@dot.gov.*

**SUPPLEMENTARY INFORMATION:** As described by the applicant the intended service of the vessel F/V IRISH:

*Intended Commercial Use of Vessel:* ''Trout and salmon charter fishing in Lake Michigan out of Chicago, IL, no fish will be sold commercially.''

*Geographic Region:* ''Illinois, Indiana, Michigan, Wisconsin''

The complete application is given in DOT docket MARAD–2015–0032 at *http://www.regulations.gov.* Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR part 388, that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, a waiver will not be granted. Comments should refer to the docket number of this notice and the vessel name in order for MARAD to properly consider the comments. Comments should also state the commenter's interest in the waiver application, and address the waiver criteria given in section 388.4 of MARAD's regulations at 46 CFR part 388.

**Privacy Act**

Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70; Pages 19477–78).

By Order of the Maritime Administrator.

Dated: March 19, 2015.

**Christine Gurland,**

*Acting Secretary, Maritime Administration.*

[FR Doc. 2015–06984 Filed 3–26–15; 8:45 am]

**BILLING CODE 4910–81–P**

## DEPARTMENT OF TRANSPORTATION

### Maritime Administration

**[Docket No. MARAD–2015 0038]**

### Requested Administrative Waiver of the Coastwise Trade Laws: Vessel UPTICK; Invitation for Public Comments

**AGENCY:** Maritime Administration, Department of Transportation.

**ACTION:** Notice.

**SUMMARY:** As authorized by 46 U.S.C. 12121, the Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirement of the coastwise laws under certain circumstances. A request for such a waiver has been received by MARAD. The vessel, and a brief description of the proposed service, is listed below.

**DATES:** Submit comments on or before April 27, 2015.

**ADDRESSES:** Comments should refer to docket number MARAD–2015–0038. Written comments may be submitted by hand or by mail to the Docket Clerk, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590. You may also send comments electronically via the Internet at *http://www.regulations.gov.* All comments will become part of this docket and will be available for inspection and copying at the above address between 10 a.m. and 5 p.m., E.T., Monday through Friday, except federal holidays. An electronic version of this document and all documents entered into this docket is available on the World Wide Web at *http://www.regulations.gov.*

**FOR FURTHER INFORMATION CONTACT:** Linda Williams, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE., Room W23–453, Washington, DC 20590. Telephone 202–366–0903, Email *Linda.Williams@dot.gov.*

**SUPPLEMENTARY INFORMATION:** As described by the applicant the intended service of the vessel UPTICK is:

*Intended Commercial Use of Vessel:* ''Sport Fishing.''

*Geographic Region:* ''North Carolina, Florida, Virginia.''

The complete application is given in DOT docket MARAD–2015–0038 at *http://www.regulations.gov.* Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR part 388, that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, a waiver will not be granted. Comments should refer to the docket number of this notice and the vessel name in order for MARAD to properly consider the comments. Comments should also state the commenter's interest in the waiver application, and address the waiver criteria given in section 388.4 of MARAD's regulations at 46 CFR part 388.

**Privacy Act**

Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70; Pages 19477–78).

By Order of the Maritime Administrator.

Dated: March 19, 2015.

**Christine Gurland,**

*Acting Secretary, Maritime Administration.*

[FR Doc. 2015–06997 Filed 3–26–15; 8:45 am]

**BILLING CODE 4910–81–P**

## DEPARTMENT OF TRANSPORTATION

### Office of the Secretary

### Notice of Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits Filed Under Subpart B (Formerly Subpart Q) During the Week Ending March 14, 2015

The following Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits were filed under Subpart B (formerly Subpart Q) of the Department of Transportation's Procedural Regulations (*See* 14 CFR 302.201 *et seq.*). The due date for Answers, Conforming Applications, or Motions to Modify Scope are set forth below for each application. Following the Answer period DOT may process the application by expedited procedures. Such procedures may consist of the adoption of a show-cause order, a tentative order, or in appropriate cases a final order without further proceedings.

*Docket Number:* DOT–OST–2015–0051.

*Date Filed:* March 10, 2015.

*Due Date for Answers, Conforming Applications, or Motion to Modify Scope:* March 31, 2015.

*Description:* Application of EJME (Portugal) Aircraft Management, Lda (''EJME'') requesting issuance of an exemption and a foreign air carrier permit authorizing EJME to engage in the following: (i) Foreign charter air transportation of persons, property, and mail from any point or points behind any Member State of the European

Union, via any point or points in any EU Member State and via intermediate points, to any point or points in the United States and beyond; (ii) foreign charter air transportation of persons, property, and mail between any point or points in the United States and any point or points in any member of the European Common Aviation Area; (iii) foreign charter air transportation of cargo between any point or points in the United States and any other point or points; (iv) other charters pursuant to the prior approval requirements set forth in the Department's regulations governing charters; and (v) charter transportation authorized by any additional route rights made available to European Union carriers in the future, to the extent permitted by EJME's homeland license on file with the Department.

*Docket Number:* DOT–OST–2015–0055.

*Date Filed:* March 12, 2015.

*Due Date for Answers, Conforming Applications, or Motion to Modify Scope:* April 2, 2015.

*Description:* Application of Royal Jet LLC requesting an exemption and foreign air carrier permit authorizing it to engage in charter foreign air transportation of persons, property and mail to the full extent permitted by the Air Transport Agreement of March 11, 2002 between the Government of the United States of America and the Government of the United Arab Emirates (the ''U.S.-UAE Agreement'').

**Barbara J. Hairston,**

*Supervisory Dockets Officer, Docket Operations, Federal Register Liaison.*

[FR Doc. 2015–07061 Filed 3–26–15; 8:45 am]

**BILLING CODE 4910–9X–P**

## DEPARTMENT OF THE TREASURY

### Submission for OMB Review; Comment Request

**AGENCY:** Department of the Treasury.

**ACTION:** Notice.

**SUMMARY:** The Department of the Treasury will submit the following information collection request to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995, Public Law 104–13, on or after the date of publication of this notice.

**DATES:** Comments should be received on or before April 27, 2015 to be assured of consideration.

**ADDRESSES:** Send comments regarding the burden estimate, or any other aspect of the information collection, including suggestions for reducing the burden, to (1) Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for Treasury, New Executive Office Building, Room 10235, Washington, DC 20503, or email at *OIRA_Submission@OMB.EOP.gov* and (2) Treasury PRA Clearance Officer, 1750 Pennsylvania Ave. NW., Suite 8140, Washington, DC 20220, or email at *PRA@treasury.gov.*

**FOR FURTHER INFORMATION CONTACT:** Copies of the submission may be obtained by emailing *PRA@treasury.gov,* calling (202) 927–5331, or viewing the entire information collection request at *www.reginfo.gov.*

**SUPPLEMENTARY INFORMATION:**

**Bureau of the Fiscal Service (FS)**

*OMB Number:* 1530—New.

*Type of Review:* New collection.

*Title:* Analysis to Support Electronic Funds Transfer and Remittance Mandate.

*Abstract:* The Bureau of the Fiscal Service is proposing to amend regulations (31 CFR part 206) that would require the public to make non-tax payments and remittances using electronic methods. This collection will inform and benefit economic analyses required by EO 12866 and 5 U.S.C. 601–612 and support development of a Notice of Public Rulemaking.

*Affected Public:* Individuals or Households.

*Estimated Annual Burden Hours:* 330.

Dated: March 24, 2015.

**Dawn D. Wolfgang,**

*Treasury PRA Clearance Officer.*

[FR Doc. 2015–07063 Filed 3–26–15; 8:45 am]

**BILLING CODE 4810–AS–P**

## DEPARTMENT OF VETERANS AFFAIRS

### Special Medical Advisory Group; Notice of Meeting

The Department of Veterans Affairs (VA) gives notice under the Federal Advisory Committee Act, 5 U.S.C. App. 2, that the Special Medical Advisory Group (Group) will meet on May 13, 2015, in Room 830 at VA Central Office, 810 Vermont Avenue NW., Washington, DC, from 8:30 a.m. to 3:45 p.m. The meeting is open to the public.

The purpose of the Group is to advise the Secretary of Veterans Affairs and the Under Secretary for Health on the care and treatment of disabled Veterans, and other matters pertinent to the Department's Veterans Health Administration (VHA).

The agenda for the meeting will include clarification of the roles and expectations for the reconstituted Group, the current state of the VA presented by the Interim Under Secretary of Health, discussion regarding various options/enhancements available to VA to provide quality care and access to Veterans, and a discussion regarding the Interagency Collaborations between Department of Defense and VA to provide quality care and access for transitioning Servicemembers/Veterans.

There will be time for public comment from 3:00 p.m. until 3:30 p.m.; however, members of the public may also submit written statements for review by the Group to Barbara Hyduke, Designated Federal Officer, Department of Veterans Affairs, Office of Patient Care Services (10P4), Veterans Health Administration, 810 Vermont Avenue NW., Washington, DC 20420, or by email at *Barbara.Hyduke@va.gov.* Because the meeting is being held in a government building, a photo I.D. must be presented at the Guard's Desk as a part of the clearance process; therefore, you should allow an additional 15 minutes before the meeting begins for a security check. Any member of the public wishing to attend the meeting or seeking additional information should contact Ms. Hyduke at (202) 461–7800 or by email.

Dated: March 23, 2015.

**Rebecca Schiller,**

*Advisory Committee Management Officer.*

[FR Doc. 2015–07021 Filed 3–26–15; 8:45 am]

**BILLING CODE 8320–01–P**

# FEDERAL REGISTER

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Part II

## Department of Housing and Urban Development

24 CFR Part 135

Creating Economic Opportunities for Low- and Very Low-Income Persons and Eligible Businesses Through Strengthened ''Section 3'' Requirements; Proposed Rule

**DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT**

**24 CFR Part 135**

**[Docket No. FR–4893–P–01]**

**RIN 2529–AA91**

## Creating Economic Opportunities for Low- and Very Low-Income Persons and Eligible Businesses Through Strengthened ''Section 3'' Requirements

**AGENCY:** Office of the Assistant Secretary for Fair Housing and Equal Opportunity, HUD.

**ACTION:** Proposed rule.

**SUMMARY:** Section 3 of the Housing and Urban Development Act of 1968, as amended by the Housing and Community Development Act of 1992 (Section 3), contributes to the establishment of stronger, more sustainable communities by ensuring that employment and other economic opportunities generated by Federal financial assistance for housing and community development programs are, to the greatest extent feasible, directed toward low- and very low-income persons, particularly those who are recipients of government assistance for housing. HUD is statutorily charged with the authority and responsibility to implement and enforce Section 3. HUD's regulations implementing the requirements of Section 3 have not been updated since 1994. This proposed rule would update HUD's Section 3 regulations to address new programs established since 1994 that are subject to the Section 3 requirements and promote compliance with the requirements of Section 3 by recipients of Section 3 covered financial assistance, while also recognizing barriers to compliance that may exist, and strengthening HUD's oversight of Section 3.

**DATES:** *Comment Due Date:* May 26, 2015.

**ADDRESSES:** Interested persons are invited to submit comments regarding this rule to the Regulations Division, Office of General Counsel, Department of Housing and Urban Development, 451 7th Street SW., Room 10276, Washington, DC 20410–0500. Communications must refer to the above docket number and title. There are two methods for submitting public comments. All submissions must refer to the above docket number and title.

1. *Submission of Comments by Mail.* Comments may be submitted by mail to the Regulations Division, Office of General Counsel, Department of Housing and Urban Development, 451 7th Street SW., Room 10276, Washington, DC 20410–0500.

2. *Electronic Submission of Comments.* Interested persons may submit comments electronically through the Federal eRulemaking Portal at *www.regulations.gov.* HUD strongly encourages commenters to submit comments electronically. Electronic submission of comments allows the commenter maximum time to prepare and submit a comment, ensures timely receipt by HUD, and enables HUD to make them immediately available to the public. Comments submitted electronically through the *www.regulations.gov* Web site can be viewed by other commenters and interested members of the public. Commenters should follow the instructions provided on that site to submit comments electronically.

**Note:** To receive consideration as public comments, comments must be submitted through one of the two methods specified above. Again, all submissions must refer to the docket number and title of the rule.

*No Facsimile Comments.* Facsimile (fax) comments are not acceptable.

*Public Inspection of Public Comments.* All properly submitted comments and communications submitted to HUD will be available for public inspection and copying between 8 a.m. and 5 p.m., weekdays, at the above address. Due to security measures at the HUD Headquarters building, an appointment to review the public comments must be scheduled in advance by calling the Regulations Division at 202–708–3055 (this is not a toll-free number). Individuals with speech or hearing impairments may access this number via TTY by calling the Federal Relay Service at 800–877–8339. Copies of all comments submitted are available for inspection and downloading at *www.regulations.gov.*

**FOR FURTHER INFORMATION CONTACT:** Staci Gilliam, Director, Economic Opportunity Division, Office of Fair Housing and Equal Opportunity, Department of Housing and Urban Development, 451 7th Street SW., Room 5236, Washington, DC 20410; telephone 202–402–3468 (voice/TDD) (this is not a toll-free number). Persons with hearing or speech impairments may access this number through TTY by calling the Federal Relay Service, at toll-free, 800–877–8339. General email inquiries regarding Section 3 may be sent to: *section3@hud.gov.*

**SUPPLEMENTARY INFORMATION:**

**Executive Summary**

*Purpose of Regulatory Action*

This proposed rule would update the regulations implementing Section 3. The purpose of Section 3 is to ensure that employment, training, contracting, and other economic opportunities generated by certain HUD financial assistance shall, to the greatest extent feasible, and consistent with existing Federal, State and local laws and regulations, be directed to low- and very low-income persons, particularly those who are recipients of government assistance for housing, and to businesses that provide economic opportunities to low- and very low-income persons. As noted in the summary of this preamble, the regulations for Section 3 have not been updated in over 20 years. Since the regulations were last issued in 1994, new HUD programs have been established to which Section 3 applies. HUD's experience in administering Section 3 over the past 20 years has identified where HUD could improve the effectiveness of its regulations implementing Section 3. Recent efforts by HUD to improve Section 3 oversight without resorting to regulatory change (*e.g.,* increased reporting compliance through grant competitions and establishment of a business registry) have not been as successful as HUD hoped. HUD concluded that regulatory changes are needed to more effectively strengthen Section 3 oversight and more effectively help recipients of HUD funds achieve the purposes of the Section 3 statute.

*Summary of the Major Provisions of This Regulatory Action*

The following provides an overview of the more significant provisions of this proposed rule.

*Standard for Demonstrating Compliance ''To the Greatest Extent Feasible.''* The proposed rule strives to achieve uniformity with the statutory standard to undertake ''best efforts'' to provide economic opportunities to Section 3 residents and businesses, and the statutory standard to ensure ''to the greatest extent feasible'' that opportunities for training, employment, and contracting are provided to Section 3 residents and businesses. HUD views these standards as essentially the same, and would remove the distinction in the existing codified regulations. HUD would only use the ''to the greatest extent feasible'' standard.

The proposed rule clarifies that recipients of HUD funds are required to demonstrate compliance, to the greatest extent feasible, by: (1) Establishing and

implementing policies and procedures designed to achieve compliance with the goals of Section 3 as reflected in HUD's regulations; (2) fulfilling the recipient responsibilities set forth at § 135.11 of the Section 3 regulations; and (3) either reaching or exceeding the minimum numerical goals for employment and contracting, or providing a written explanation as to why the goals were not met (for example, identifying barriers encountered that prevented the recipient from achieving targeted goals and actions that will be taken to overcome such barriers). HUD believes that this approach will provide recipients of HUD funds with more flexibility in planning how to meet their Section 3 obligations while holding them accountable when their actions do not result in compliance.

*Revised Definition of ''New Hire.''* The current Section 3 regulations establish a goal for 30 percent of new hires to be Section 3 residents, regardless of the length of time that the Section 3 resident is employed. As a result, the Section 3 regulations create a loophole, so to speak, by allowing contractors to hire Section 3 residents for relatively short periods of time and this short-term employment would meet the new hire requirement. This proposed rule would close this loophole by redefining a Section 3 new hire for contractors or subcontractors as a person who works a minimum of 50 percent of the average staff hours worked for the job category for which the person was hired throughout the duration of time that the work is performed on the covered project. For example, if a Section 3 resident is hired as a painter, and painters typically work 40 hours each week, the Section 3 resident must work a minimum of 20 hours each week during their employment on the project in order to be counted towards the recipient's minimum numerical goal for employment. HUD believes that this new definition will result in more meaningful employment opportunities for Section 3 residents and prevent contractors from making nominal efforts to comply with Section 3.

*New Definition of ''Section 3 Business.''* Currently, a ''Section 3 Business'' must meet one of the following three definitions: (a) The business is 51 percent or more owned by Section 3 residents; (b) the business employs at least 30 percent of the permanent, full-time employees who are Section 3 residents; (c) the business provides evidence of a commitment to subcontract 25 percent or more of the dollar amount of all subcontracts to businesses that meet definitions (a) or (b).

This proposed rule would remove the third category, paragraph (c) of the current definition of a Section 3 Business in response to a pattern of misuse by contractors that initially indicated that they would award 25 percent of subcontracts to Section 3 businesses, in order to receive preference for contracts, but never provided contracts to them.

The proposed rule would add to categories (a) and (b) of the current definition of Section 3 Business the following categories in an effort to increase contracting opportunities for businesses that are owned by residents of public housing and to incentivize contractors to sponsor Section 3 residents to attend Department of Labor (DOL) or DOL-recognized registered apprenticeship programs. HUD would add the following categories to the definition of a Section 3 business: (1) The business meets the definition of a resident-owned business, as set forth in HUD's regulations at 24 CFR 963.5; and (2) the business demonstrates that at least 20 percent of its permanent full-time employees are Section 3 residents and the business either: (i) Sponsored a minimum of 10 percent of its current Section 3 employees to attend a DOL or DOL-recognized, State Apprenticeship Agency-approved, registered apprenticeship or pre-apprenticeship training program that meets the requirements outlined in DOL's Employment Training Administration (ETA) Training and Employment Notice 13–12 [1]; or (ii) 10 percent of the employees of the business are participants or graduates of a DOL YouthBuild program.[2]

*Removal of Minimum Numerical Goal for Nonconstruction.* Currently, the Section 3 regulations establish a minimum numerical goal that 3 percent of the total dollar amount of nonconstruction contracts shall be awarded to Section 3 businesses. Since there is no statutory basis for making a distinction between construction and nonconstruction contracts, and the interpretation of the nonconstruction goal has been problematic for recipients, HUD believes that a numerical goal of 10 percent of the total dollar amount of all covered contracts to Section 3 businesses, regardless of the type of contract or its dollar amount, will create more contracting opportunities for them.

*Introduction of New Term ''Section 3 Local Area''.* The definitions of ''Section 3 resident'' and ''Section 3 business concern'' in the current Section 3 regulation do not limit eligibility to residents and businesses, respectively, residing or located in proximity to Section 3 covered projects or activities. As a result, a public housing resident or a Section 3 business from anywhere in the U.S. can receive preference whether or not they live or operate in the specific metropolitan area where the HUD-funded work is being carried out. To be more consistent with the Section 3 statute and congressional intent, this proposed rule clarifies that Section 3 residents and businesses must reside or be located, as applicable, in the *Section 3 local area,* which is defined as: (1) The primary statistical area where the Section 3 covered project or activity takes place, or (2) the nonmetropolitan county where the Section 3 covered project or activity takes place.

*Section 3 Resident and Business Verification Procedures.* The current Section 3 regulations do not require recipients to verify that a Section 3 resident or Section 3 business meets the applicable definitions in the regulations. Instead, residents and businesses are merely required to comply with whatever procedures recipients put in place, if such procedures exist. This proposed rule would continue to allow recipients to use their discretion for developing verification procedures. However, the proposed rule explicitly allows recipients to accept self-certifications from residents or businesses, or presume that residents residing in or businesses located in disadvantaged census tracts are eligible to receive the preference in hiring and contracting. To prevent ineligible persons or businesses from receiving Section 3 benefits, this proposed rule would require recipients that implement self-certification or presumed benefit procedures to verify that such self-certification or presumption policy is an acceptable approach by undertaking a sample of residents or businesses in the disadvantaged census tract or in areas which HUD funds are being expended for covered projects and activities.

*Monitoring Payroll Data of Developers and Contractors.* This proposed rule recognizes that the most successful recipients monitor payroll data to track new hires. In an effort to formalize a long-standing best practice, this proposed rule would require recipients that are administering projects that are subject to both Section 3- and Davis Bacon-covered requirements to monitor a contractor's payroll for changes in employment (*i.e.,* terminations,

[1] See *http://wdr.doleta.gov/directives/corr_doc.cfm?DOCN=5842.*

[2] See *http://www.doleta.gov/youth_services/youthbuild.cfm.*

retirements, transfers, and other new job vacancies) to proactively identify instances when Section 3 obligations are triggered. This practice should increase monitoring and oversight by recipients and improve contractor accountability. Further, since the Davis-Bacon regulation requires recipients administering covered projects to monitor payroll data for compliance with prevailing wage laws, adding this Section 3 requirement should result in minimal administrative burden.

*Amending Agreements with Labor Unions.* Recipients that are located in jurisdictions that are governed by bargaining agreements with labor unions typically have low rates of compliance with the minimum numerical goals for contracting because unions operate outside of Section 3 obligations. In fact, a review of project labor agreements in Chicago and New York City revealed that these documents do not make any reference to HUD requirements, including Section 3. This proposed rule would require recipients to amend all existing agreements with labor unions to ensure that Section 3 obligations are included and to prevent labor unions from obstructing the recipients' ability to achieve compliance.

*Sanctions for Delinquent Section 3 Annual Reports.* Achieving full compliance with Section 3 reporting requirements has been a challenge for many years. While recent efforts to enhance reporting rates have resulted in increased reporting by 60 percentage points, there has been minimal imposition of penalties on recipients that are delinquent with the current regulatory reporting requirements. A 2013 HUD Office of Inspector General (OIG) audit report of Section 3 found that HUD was not fully enforcing the Section 3 reporting requirements for public housing agencies (PHAs).[3] The final audit report recommended that HUD's Office of Fair Housing and Equal Opportunity (FHEO) refer PHAs to HUD's Office of Public and Indian Housing (PIH) for the imposition of penalties for delinquent reporting. This proposed rule would extend this policy to all covered recipients and inform recipients that continuing failure to submit Section 3 annual reports may result in HUD denying or withholding subsequent funds.

*Funding Threshold for Recipients of Section-3 Covered Housing and Community Development Financial Assistance.* Another weakness with the current Section 3 regulations is found in the interpretation that has been given to the funding threshold for recipients of housing and community development assistance (*i.e.,* funds allocated or awarded under the Community Development Block Grants (CDBG) program, HOME Investment Partnerships program (HOME program), Housing Opportunities for Persons With AIDS (HOPWA), Lead Hazard Control program, Sections 202 and 811 Supportive Housing programs, Project-Based Section 8, etc.). The existing threshold is based on the receipt of more than $200,000 in covered funding. This proposed rule would establish a new threshold that is based on the *expenditure* of covered financial assistance.

Under this proposed rule, Section 3 requirements would apply to recipients of housing and community development financial assistance that plan to obligate or commit an aggregate amount of $400,000 or more in Section 3 covered financial assistance to projects involving housing rehabilitation, housing construction, demolition, or other public construction during a given annual reporting period. HUD arrived at the $400,000 threshold after analyzing 2013 data for recipients of CDBG assistance from the Integrated Disbursement and Information System (IDIS) to determine the expenditure dollar amounts on projects involving construction and rehabilitation that produced the greatest amount of economic opportunities for Section 3 residents and businesses. The data revealed that grantees that spent less than $400,000 on construction and rehabilitation received less than 5 percent of total covered program funding and therefore generated an insignificant amount of subsequent jobs and contracts. The proposed threshold would exempt 37 percent of recipients of financial assistance awarded under programs administered by HUD's Office of Community Planning and Development (CPD) (*i.e.,* CDBG, HOME, and HOWPA programs, etc.). Currently just over 3 percent of these recipients are exempt under the existing threshold. As set forth above, HUD considered a number of alternate thresholds before selecting the proposed threshold of $400,000. The new threshold is considered to be more effective because it would enable HUD to focus on those recipients that produce the majority of economic opportunities and for which there is a direct correlation between their expenditure of covered financial assistance and opportunities created for Section 3 residents and businesses.

*Order of Priority Consideration for Recipients of Section 3 covered Housing and Community Development Assistance.* To promote long-term hiring and create training positions for Section 3 residents, this proposed rule would give highest priority consideration for projects financed with housing and community development financial assistance to Section 3 businesses that will: (1) Retain a minimum of 75 percent of previously hired Section 3 residents and (2) provide a minimum of 50 percent of on-the-job training or registered apprenticeship opportunities to Section 3 residents.

*Costs and Benefits*

With respect to the costs and benefits of this rule, HUD has prepared a Regulatory Impact Assessment (RIA). The RIA assesses the likely costs and benefits of the proposed rule. The purpose of Section 3 is to provide jobs, including apprenticeship opportunities, to public housing residents and other eligible low- and very low-income residents of a local area, and contracting opportunities for businesses that substantially employ these persons. However, the Section 3 requirement itself does not create additional jobs or contracts. Instead, Section 3 redirects local jobs and contracts created as a result of the expenditure of HUD funds to Section 3 residents and businesses residing and operating in the area in which the HUD funds are expended. A reasonable estimate of the impact would be an additional 1,400 jobs provided to Section 3 residents, annually, and more than $172 million in contracts to Section 3 businesses, as a result of increased oversight and clarification of program standards. In addition, with respect to incomes for tenants of public housing, the Federal rental subsidies provided to those tenants are expected to be reduced as a result of the creation of job opportunities resulting from the expenditure of Federal funds. Such a reduction of Federal subsidies could result in a reduction of $19 million, annually.

If implemented as proposed, this proposed rule would result in a reporting and recordkeeping burden of 226,640 hours or $7.3 million[4] the first year and a reduction of administrative burden by −10,000 hours or $320,000 in succeeding years. This rule will not have any impact on the level of funding for covered HUD programs. Funding is determined independently by congressional appropriations, and

[3] See *http://www.hudoig.gov/reports-publications/audit-reports/hud-did-not-enforce-reporting-requirements-of-section-3-of.*

[4] Average total compensation of all workers, BLS, March 2014. See *http://www.bls.gov/news.release/ecec.t01.htm.*

authorizing statutes that may impose such requirements as minimum or maximum grants. This proposed rule is not an economically significant rule as defined in Executive Order 12866 (Regulatory Planning and Review).[5]

## I. Background

Section 3 of the Housing and Urban Development Act of 1968 (Pub. L. 90–448, approved August 1, 1968) (Section 3) was enacted for the purpose of bringing economic opportunities, generated by the expenditure of certain HUD financial assistance, to the greatest extent feasible, to low- and very low-income persons residing in communities where the financial assistance is expended. Section 3 recognizes that HUD funds are often one of the largest sources of funds expended in low-income communities and, where such funds are spent on activities such as construction and rehabilitation of housing and other public facilities, the expenditure results in economic opportunities. By directing HUD-funded economic opportunities to residents and businesses in the community where the funds are expended, the expenditure can have the double benefit of creating new or rehabilitated housing and other facilities while creating jobs for the residents of these communities. Section 3 was amended by the Housing and Community Development Act of 1992 (Pub. L. 102–550, approved October 28, 1992), which required the Secretary of HUD to promulgate regulations to implement Section 3, codified at 12 U.S.C. 1701u. HUD's Section 3 regulations were promulgated through an interim rule published on June 30, 1994, at 59 FR 33880, and the regulations are codified in 24 CFR part 135.

In the 20 years that have lapsed since HUD promulgated the current set of Section 3 regulations, significant legislation has been enacted that affects HUD programs that are subject to the requirements of Section 3 and that are not adequately addressed in the current Section 3 regulations. This legislation includes, but is not limited to the following: reforms made to HUD's Indian housing programs by the Native American Housing Assistance and Self-Determination Act of 1996 (NAHASDA) (Pub. L. 104–330, approved October 26, 1996); public housing reforms made by the Quality Housing and Work Responsibility Act of 1998 (QHWRA) (Pub. L. 105–276, approved October 21, 1998); reforms made to HUD's supportive housing programs by the Section 202 Supportive Housing for the Elderly Act of 2010 (Pub. L. 111–372, approved January 4, 2011), and the Frank Melville Supportive Housing Investment Act of 2010 (Pub. L. 111–347, approved January 4, 2011), and, more recently, reforms made to HUD's public housing by the Rental Assistance Demonstration program authorized by the act appropriating 2012 funding for HUD, the Consolidated and Further Continuing Appropriations Act, 2012 (Pub. L. 112–55, approved November 18, 2011).

HUD has sought to strengthen compliance with Section 3 by concentrating on oversight, outreach, and technical assistance. As part of this assistance, HUD has issued guidance related to applicability, recipient thresholds, and administrative procedures.[6] These steps increased recipient reporting from 20 percent to over 80 percent. The increase in reporting led to a corresponding increase in reported jobs for Section 3 residents to 21,600 (50 percent of all new hires) and an increase in reported contracts awarded Section 3 businesses to $675 million.[7]

While these efforts have facilitated increased compliance with Section 3, they have not resulted in full compliance with Section 3, nor do such efforts relieve HUD of its good governance responsibility to update its Section 3 regulations, now 20 years old, to ensure that the regulations capture new funded programs and current funding policies and practices.

In August 2010, HUD hosted a Section 3 Listening Forum[8] that brought together recipients of HUD Section 3 covered financial assistance, advocates, Section 3 residents and businesses, and other stakeholders to highlight ''best practices'' and to discuss barriers to implementation across the country. The forum offered recipients of Section 3 covered financial assistance the opportunity to identify challenges they were facing with their efforts to comply with Section 3. Forum participants stated that the existing Section 3 regulations are not sufficiently explicit about specific actions that could be undertaken to achieve compliance; that the existing regulations do not clearly describe the extent to which recipients may require subrecipients, contractors, and subcontractors to comply with Section 3; and actions that recipients may take to impose meaningful sanctions for noncompliance by their subrecipients, contractors, and subcontractors.

As noted earlier, in 2013, HUD's OIG conducted an audit to assess HUD's oversight of Section 3, in response to concerns about economic opportunities that were provided (or should have been provided) by the expenditure of financial assistance under the American Reinvestment and Recovery Act (Recovery Act) (Pub. L. 111–5, approved February 17, 2009). The audit found that HUD was not fully enforcing the reporting requirements of Section 3 for recipients of Fiscal Year 2009 Recovery Act Public Housing Capital funds from HUD.[9] HUD's OIG made several recommendations to address its findings. The following chart lists HUD OIG's recommendations for HUD and describes whether each recommendation is addressed by this proposed rule.

| Recommendation #: | Recommendation | Addressed in Proposed Rule |
|---|---|---|
| 1A. | Implement the new HUD–60002 [Section 3 Summary Report] submission and tracking system that has been in development, as well as the planned system enhancements. | This recommendation will provide FHEO the vehicle to impose the proposed sanctions for delinquent reporting described in § 135.23(f) and to address concerns with the reliability of data previously submitted by recipients. |
| 1B. | Establish procedures to follow up on missing and inaccurate information on HUD–60002 submissions. | See Recommendation 1C. |

[5] See *http://www.archives.gov/federal-register/executive-orders/pdf/12866.pdf.*

[6] See *http://portal.hud.gov/hudportal/HUD?src=/program_offices/fair_housing_equal_opp/section3/section3.*

[7] Source: 2010 Section 3 annual summary report data (Form HUD 60002).

[8] See *https://nhlp.org/files/09%20Section%203%20Barriers%20and%20best%20practices%208%2024%20d10%20Final%20with%20attachment.pdf.*

[9] See: *http://www.hudoig.gov/reports-publications/audit-reports/hud-did-not-enforce-reporting-requirements-of-section-3-of.*

| Recommendation #: | Recommendation | Addressed in Proposed Rule |
|---|---|---|
| 1C. | Establish procedures regarding when to refer to Public and Indian Housing (PIH) any public housing authorities (PHAs) that fail to make required submissions or corrections. | FHEO has developed procedures for reviewing HUD–60002 submissions and established the steps that will be taken to refer PHAs to PIH when Section 3 reports are inaccurate or delinquent. Pursuant to this proposed rule, FHEO will expand the implementation of these procedures to all recipients of Section 3 covered financial assistance and make subsequent referrals for appropriate action to all HUD program offices. |
| 1D. | Resolve issues with CPD and complete the process to publish final regulations for 24 CFR Part 135. | This regulatory action represents FHEO's efforts to comply with this recommendation. |
| 1E. | Require the six housing authorities in this finding that reported Section 3 noncompliance to provide justification or support that they met the [minimum numerical] goals. If they cannot show compliance, enter into a voluntary compliance agreement to bring their Section 3 programs into compliance, or refer them to PIH for repayment of the $26 million that should have been used for Section 3. | FHEO has incorporated this recommendation into its enforcement actions at § 135.99 and the sanctions for noncompliance at § 135.27. |

For the reasons set forth above, through this rule, HUD proposes to revise its Section 3 regulations at 24 CFR part 135 in a manner designed to better fulfill the goal of Section 3.

## II. This Proposed Rule

In order to provide better parameters for achieving the goals of Section 3, this proposed rule: communicates how recipients may meet minimum numerical goals for employment and contracting opportunities; provides other direction to recipients of Section 3 covered financial assistance and their contractors in order that they may more effectively comply with Section 3; vests more discretion and responsibility with recipients on how to verify the eligibility of Section 3 residents and businesses for employment and contracting opportunities; and articulates procedures for complaint processing. This rule organizes the regulations of 24 CFR part 135 into five subparts: Subpart A—General Provisions; Subpart B—Additional Provisions for Public Housing Financial Assistance; Subpart C—Additional Provisions for Housing and Community Development Financial Assistance; Subpart D—Additional Provisions for Recipients of Competitively Awarded Section 3 Financial Assistance; and Subpart E—Enforcement.

*General Provisions—Subpart A*

Subpart A—General Provisions contains those provisions applicable to all Section 3 covered financial assistance, whether public housing financial assistance, housing and community development financial assistance, or competitively awarded financial assistance, including the following: definitions of terms applicable to compliance with Section 3 (§ 135.5); demonstration compliance with the ''greatest extent feasible'' requirement (§ 135.7); description of official Section 3 policies and procedures to be developed and implemented by recipients (§ 135.9); recipient responsibilities under Section 3 (§ 135.11); a general description of minimum numerical goals for employment and contracting opportunities (§ 135.13); the procedures for verifying the eligibility of Section 3 residents and Section 3 businesses (§ 135.15); descriptions of written agreements and contractors that must be entered into by the recipient and its subrecipients, contracts, or subcontractors before the disbursement of any Section 3 covered financial assistance (§ 135.17 and § 135.19); an overview of certifications of compliance with this part (§ 135.21); description of annual reporting requirements (§ 135.23); a summary of recordkeeping responsibilities and HUD's authority to have access to records demonstrating compliance with this part (§ 135.25); an outline of sanctions that may be imposed for noncompliance with this part (§ 135.27); and communication of other Federal requirements that may apply during the administration of Section 3 covered projects and activities (§ 135.29).

Section 135.3 of the existing regulations, which addresses the scope of applicability of the requirements of Section 3, would be removed by this proposed rule. The applicability of Section 3 would now be addressed by the following: (1) The definitions of ''housing and community development financial assistance'' and ''public housing financial assistance'' in § 135.5; (2) the individual applicability sections for public housing financial assistance and housing and community development financial assistance, in § 135.31 and § 135.51, respectively; and (3) the thresholds that trigger applicability of Section 3, which are addressed in § 135.33, and § 135.53. HUD believes that placing this information in the subparts associated with each type of Section 3 covered financial assistance will prevent recipients from inadvertently referring to the wrong requirements.

Section 135.3 of the proposed rule describes the Secretary's delegation of authority to the Assistant Secretary for Fair Housing and Equal Opportunity (FHEO) to implement and oversee compliance with the requirements of Section 3. This delegation of authority is unchanged from § 135.7 of the existing regulations. While FHEO has the overall authority for carrying out Section 3 obligations within HUD, monitoring and oversight takes place in coordination with various HUD program offices, such as PIH, CPD, Healthy Homes and Lead Hazard Control (HHLHC), Housing, etc.

Section 135.5 of the proposed rule provides the definitions of terminology used throughout the regulation (as it is in the existing regulations), introduces new definitions, revises definitions contained in the existing regulations, and removes definitions that are no longer applicable. Some of the newly defined terms include: ''construction,'' ''contracting opportunities,'' ''numerical goals,'' ''priority consideration,'' ''professional services,'' ''project-based rental assistance,'' ''public housing financial assistance,'' ''rehabilitation,'' ''routine maintenance,'' ''service area,'' and ''Section 3 local area.'' The terms ''housing and community development financial assistance,'' ''new hires,'' ''Section 3 business (formerly Section 3 business concern),'' ''Section 3 covered financial assistance,'' and ''Section 3 resident'' have been revised with the objective of improving the

understanding of their meanings. The following existing defined terms are proposed to be removed: ''annual contributions contract,'' ''HUD YouthBuild programs,'' ''Job Training Partnership Act.''

Section 135.7 of the proposed rule addresses how recipients may demonstrate compliance to the greatest extent feasible. The 1968 statute established two standards for achieving compliance with the requirements of Section 3. PHAs and their contractors and subcontractors were required to make their ''best effort,'' consistent with existing Federal, State, and local laws and regulations to provide economic opportunities to Section 3 residents and businesses. On the other hand, programs that receive housing and community development assistance are required to ensure that, to the greatest extent feasible, and consistent with existing Federal, State, and local laws and regulations, opportunities for training and employment arising in connection with housing rehabilitation, housing construction, or other public construction are given to Section 3 residents and businesses. HUD's 1994 interim rule, published on June 30, 1994, at 59 FR 33880, established HUD's position that there is very little difference in the common meaning of these statutory standards. Further, the Section 3 statute requires every recipient and contractor that generates economic opportunities from the expenditure of Section 3 financial assistance, regardless of the HUD program from which the assistance is derived, to provide these economic opportunities to low- and very low-income persons and the businesses that employ them. Accordingly, this rule maintains one standard for achieving compliance. Recipients, as defined in § 135.5, are required, to the greatest extent feasible, to target low- and very low-income persons for employment and training opportunities funded with Section 3 financial assistance, and businesses that are either owned by or substantially employ such persons.

Section 135.7 provides that while reaching the minimum numerical goals is one way to demonstrate compliance with the statute's ''greatest extent feasible'' requirement, compliance to the greatest extent feasible is demonstrated by the recipient, first and foremost, establishing and implementing procedures and strategies by which the recipient and, where applicable, its subrecipients, contractors and subcontractors will comply with the requirements set forth in § 135.11. This section also provides that where a recipient is unable to reach the minimum numerical goals set forth in the subpart associated with the type of financial assistance provided, (§ 135.35 and § 135.55, respectively) such inability does not necessarily mean that the recipient did not undertake efforts to meet these goals. Accordingly, a recipient that does not reach the minimum numerical goals will be required to provide a written justification explaining: (1) Why it was unable to meet these goals; (2) the impediments the recipient encountered; and (3) the actions the recipient will take to address identified impediments in the future. For instance, if a recipient held a job fair to hire Section 3 residents for jobs in specific building trades (*e.g.,* plumbers, electricians, welders, etc.) for an upcoming construction project, HUD may consider the recipient to be in compliance with Section 3 even if none of the participants of the job fair had the requisite job qualifications for the positions to be filled. HUD will take such justifications into consideration when making final compliance determinations. Written justifications that do not contain a valid explanation for why the recipient did not reach the minimum numerical goal may result in a finding of noncompliance.

Section 135.9 of the proposed rule presents a new means of strengthening Section 3 compliance. This section would require the recipient to develop and adopt official policies and procedures to implement the requirements of Section 3, as a means of demonstrating compliance with the ''greatest extent feasible'' requirement, as provided in § 135.7. This section provides that official policies and procedures must include at a minimum, steps that the recipient will take to: inform subrecipients and contractors about Section 3 obligations; evaluate potential bidders for Section 3 compliance during contract selection; notify Section 3 residents and businesses about economic opportunities; implement verification and/or certification procedures for residents and businesses; provide priority consideration to qualified Section 3 residents and businesses; monitor subrecipients and contractors for compliance; establish consequences for noncompliance; and utilize local community resources to meet its Section 3 requirements. The preceding list presents the minimum steps that the recipients' policies and procedures should address, but recipients should include in official policies and procedures any additional steps tailored to their funding practices and operations that would increase compliance with Section 3. Section 135.9 provides that updates to official policies and procedures shall discuss the relative success of the immediate past policies and procedures and how any changes are aimed to better promote compliance with Section 3.

This section further requires that to the extent a recipient must prepare a strategic plan, action plan, or other such plan in accordance with HUD program regulations, such plans must include a general description of the recipient's official Section 3 policies and procedures. This section provides that if a recipient is not required to submit official plans to HUD—such as public housing plans, strategic or annual action plans, or other similar plans—the recipient's official Section 3 policies and procedures shall be developed as an independent document at the time that Section 3 covered financial assistance is awarded and updated every 5 years thereafter.

Section 135.11 describes steps that all recipients must take to implement the requirements of Section 3, and describes steps that would be unique to recipients of public housing financial assistance and housing and community development financial assistance.

Section 135.13 of the proposed rule addresses the minimum numerical goals, generally, and provides that the goals apply to the aggregate number of employment and contracting opportunities generated by the expenditure of the Section 3 covered financial assistance. Specific minimum numerical goals are set forth in the subpart associated with the type of financial assistance provided; *i.e.,* § 135.35 and § 135.55, respectively. This section removes the current requirement that 3 percent of the total dollar amount of nonconstruction contracts shall be awarded to Section 3 businesses since there was no statutory reason to make a distinction between construction and nonconstruction contracts. HUD believes that requiring recipients to award 10 percent of the total dollar amount of all covered contracts to Section 3 businesses regardless of the type or dollar amount of the contract will result in more potential contracting opportunities for Section 3 businesses.

Section 135.11 of the proposed rule describes the responsibilities of the recipient for complying with the requirements of Section 3 and ensuring the compliance of their subrecipients, contractors, or subcontractors, who have the same responsibilities as the direct recipient. This section responds to requests that HUD more clearly identify specific actions that a recipient is to undertake to demonstrate compliance

with Section 3. These responsibilities reflect best practices that are being implemented by successful recipients, and will result in a reduction of an estimated 10,000 hours of administrative burden annually. The actions listed in this section would replace the list of examples of efforts that recipients may undertake to demonstrate compliance with Section 3, which are found in Appendix A to the existing regulations.

As provided in § 135.11, the listed responsibilities apply to all recipients and have been expanded to ensure that: (1) Section 3 residents and businesses are notified about economic opportunities, (2) payroll data is monitored for new hires on projects that are subject to wage rates determined under the Davis Bacon Act (40 U.S.C. 3141 *et seq.*), (3) labor unions are notified about Section 3 obligations, (4) existing collective bargaining or project labor agreements with labor unions are amended to acknowledge HUD and Section 3 obligations, (5) procedures are developed by public housing agencies to comply with the earned income disregard and resident-owned business provisions set forth at 24 CFR part 963, and (6) contractor selection procedures employ Section 3 compliance measures.

Section 135.13 of the proposed rule addresses the minimum numerical goals, generally, and provides that the goals apply to the aggregate number of employment and contracting opportunities generated by the expenditure of the Section 3 covered financial assistance. Specific minimum numerical goals are set forth in the subparts associated with the type of financial assistance provided (§ 135.35 and § 135.55). This section removes the current requirement that 3 percent of the total dollar amount of nonconstruction contracts shall be awarded to Section 3 businesses since there was no statutory reason to make a distinction between construction and nonconstruction contracts. As noted earlier in this preamble, HUD believes that requiring recipients to award 10 percent of the total dollar amount of all covered contracts to Section 3 businesses regardless of the type or dollar amount of the contract will result in more potential contracting opportunities for Section 3 businesses.

Section 135.15 of the proposed rule would require a recipient to verify that residents and businesses seeking employment and contracting opportunities generated by the expenditure of Section 3 covered financial assistance are in fact Section 3 residents and businesses as defined in § 135.5. This section does not dictate the manner of verification of the eligibility of Section 3 residents and businesses, but instead allows the recipient to decide how verification should be undertaken. HUD is aware that verifying Section 3 eligibility for residents and businesses often requires recipients to review and maintain confidential and sensitive personal information. In order to address concerns that have emerged regarding the secure handling of confidential information, this section of the proposed rule provides that a recipient may allow residents and businesses to self-certify their eligibility, and to presume that residents or businesses that are located in, or provide economic opportunities to persons that reside in a neighborhood, census tract, or area designated by HUD are eligible to receive Section 3 priority consideration absent evidence to the contrary. Both of these practices may be used if the recipient conducts procedures to verify that a sample of self-certified or Section 3 presumed benefit residents and businesses meet one of the regulatory definitions. Descriptions of procedures for verifying a sample of self-certified or Section 3 presumed benefit residents and businesses will be provided in guidance materials after the publication of the final rule. This guidance will assist recipients with determining sample size, selecting self-certified beneficiaries for verification, identifying the type of evidence that may be requested, and steps that may be taken in the event that false certifications are discovered.

Section 135.17 of the proposed rule stipulates that a written agreement must be executed by the recipient and any of its subrecipients, contractors, or subcontractors before the recipient disburses any Section 3 covered financial assistance to them. The purpose of this section is to both emphasize the responsibilities that subrecipients, contractors, and subcontractors have in complying with Section 3 and to assist the recipient in ensuring the compliance of these entities.

Section 135.19 of the proposed rule contains provisions to be included in contracts with developers, contractors, and subcontractors and the Section 3 clause language that is currently found in § 135.38 of the existing regulations.

Section 135.21 of the proposed rule addresses certifications of compliance. This section would require a recipient to annually submit to HUD a certification documenting compliance with Section 3, including the compliance of any subrecipients, contractors, or subcontractors. This section provides that, where applicable, certifications may be submitted as part of a submission of annual strategic plans, consolidated plans, or public housing plans, or as part of a submission of an application for a competitively awarded grant, cooperative agreement, or other submissions.

Sections 135.23 and 135.25 of the proposed rule contain reporting and recordkeeping requirements, now found in § 135.90 and § 135.92 of the existing regulations. Section 135.23 continues to require the submission of Section 3 annual reports, and clarifies that, going forward, the time frame applicable for Section 3 reports should coincide with the recipient's local program or fiscal year. If the recipient does not have a local program or fiscal year, the Section 3 report shall follow the federal fiscal year (*i.e.,* October 1 through September 30). Since the timely submission of Section 3 reports continues to be an issue, the proposed rule would provide procedures for HUD to sanction recipients for delinquent or missing reports. Any sanction imposed would be in accordance with the requirements of the Section 3 regulations or a notice of funding availability (NOFA) governing the program under which the Section 3 covered financial assistance is provided. Section 135.23 of the proposed rule also specifically requires a State or county recipient to submit to HUD an annual report regarding compliance with Section 3 in its own operations and in those of its subrecipients, contractors, and subcontractors. Section 135.25 of the proposed rule contains the requirement in existing § 135.92 that HUD shall have access to records, reports, and other documents recipients maintain to demonstrate compliance with Section 3, and it adds examples of such records.

Section 135.27 of the proposed rule describes sanctions for noncompliance with the requirements of Section 3, and provides that these sanctions may include requiring additional certifications or assurances of compliance; repayment of Section 3 covered financial assistance; ineligibility for future HUD financial assistance; withholding HUD financial assistance; or suspension, debarment, or limited denial of participation in HUD programs pursuant to 2 CFR part 2424, where appropriate.

Section 135.29 of the proposed rule clarifies that neither the Section 3 statute nor the Section 3 regulations supersede the employment and wage provisions of the Davis-Bacon Act or requirements of bona fide Federal or State apprentice or training programs.

*Additional Provisions for Public Housing Financial Assistance—Subpart B*

Subpart B addresses demonstration of compliance that would be unique to recipients of public housing financial assistance or PHAs.

Section 135.31 of the proposed rule provides that PHAs that receive public housing financial assistance, as defined in § 135.5, are subject to the provisions in subpart B in addition to those in subpart A. This section also provides that the requirements in subpart B apply to all new internal and external employment and training opportunities resulting from the expenditure of public housing financial assistance (*i.e.,* those within the PHA and with its subrecipients, contractors, or subcontractors). Further, this section clarifies that the requirements of Section 3 apply to the entire project or activity that is funded with public housing financial assistance regardless of whether the activity is fully- or partially-funded with Section 3 covered financial assistance.

Section 135.33 of the proposed rule would continue to maintain HUD's position that a monetary or unit threshold in public and Indian housing programs is not consistent with the Section 3 statute. Section 3 applies to public and Indian housing operating assistance, development assistance and modernization assistance, which covers virtually all PHA projects and activities. Additionally, the Section 3 statute is very specific about the residents and businesses to which PHAs and their contractors and subcontractors must give preference. These residents and businesses are tied to the housing development for which the assistance is expended, or another development managed by the PHA. HUD believes that the statute's expansive coverage of public and Indian housing projects and activities indicates that any attempt to diminish the coverage would be inconsistent with the statute. Notwithstanding, HUD will make efforts to implement measures to reduce administrative burden for PHAs whose expenditure of covered financial assistance did not trigger Section 3 obligations, but who still are required to submit annual reports, by only requiring the submission of an electronic certification.

Section 135.35 would maintain the minimum numerical hiring goals for public housing financial assistance. PHAs, as well as any subrecipients, contractors, or subcontractors, would be required to employ, to the greatest extent feasible, Section 3 residents as 30 percent of new hires, both within the agency and with its contractors. HUD chose to maintain this minimum numerical goal even though a review of recent national aggregated data indicated that recipients are exceeding the employment goal by 10 to 20 percentage points. HUD OIG's 2013 Section 3 Audit report advises that concerns exist regarding the reliability and accuracy of the data previously submitted into the Section 3 Summary Reporting System. In light of such information, HUD is not changing at this time the current minimum numerical goals based on the previously reported data. The reliability of subsequent data submitted will be addressed when HUD implements its new Section 3 Summary Reporting System in FY 2015.

The rule would establish that for a Section 3 resident to be considered a new hire by a contractor or subcontractor, the Section 3 resident must work, during the resident's employment with a contractor or subcontractor, a minimum of 50 percent of the average staff hours worked for the category of work for which they were hired throughout the duration of time that the category of work is performed on the covered project. For instance, if electricians employed on a particular Section 3 covered project work an average of 40 hours each week, Section 3 new hires in this category must work a minimum of 20 hours each week throughout the duration of time that the category of work is performed on the covered project to be counted towards the recipient's minimum numerical goal for employment.

Section 135.35 would also establish the minimum numerical contracting goals for public housing financial assistance. Under this section, PHAs, as well as any subrecipients, contractors, or subcontractors, would be required to award, to the greatest extent feasible, at least 10 percent of the total dollar amount of all subsequent contracting or subcontracting opportunities to Section 3 businesses. This proposed rule would remove the current 3 percent minimum numerical goal for contracts that do not involve construction or rehabilitation. Instead, this proposed rule seeks to ensure that 10 percent of the total dollar amount of all covered contracts (including contracts for professional services) will be awarded to Section 3 businesses. Since there is no statutory basis for making a distinction between construction and nonconstruction contracts, and the interpretation of the nonconstruction goal has been problematic for recipients, HUD believes that requiring recipients to award 10 percent of the total dollar amount of all covered contracts to Section 3 businesses regardless of the type is easier to administer and will result in more opportunities for Section 3 residents and businesses. In establishing this minimum numerical goal, HUD reviewed aggregated data submitted by recipients, which indicated that only 13.3 percent of recipients are meeting both of the current minimum numerical goals for contracting. However, 17.4 percent of recipients would meet the proposed numerical goal for all covered contracts. HUD is not changing the minimum numerical contracting goal for the same reasons that HUD is not changing the minimum numerical hiring goal.

Section 135.37 of the proposed rule would revise the priority consideration given when hiring Section 3 residents and in awarding contracts to Section 3 businesses. The proposed rule provides that PHAs must give priority consideration to a Section 3 resident or business when equally qualified for the work under consideration. Priority consideration may be given to Section 3 residents or businesses when they are minimally qualified.

*Additional Provisions for Housing and Community Development Financial Assistance—Subpart C*

Section 135.51 of the proposed rule provides that recipients of housing and community development assistance, as defined in § 135.5, are subject to the provisions in subpart C in addition to those in subpart A. Section 135.51 of the proposed rule addresses the applicability of Section 3 to housing and community development financial assistance. This section provides that Section 3 only applies to economic opportunities that arise from the expenditure of housing and community development financial assistance involving the demolition, rehabilitation, or construction of housing, public buildings, facilities, infrastructure, or other public construction or rehabilitation-related projects and activities. While HUD always considered demolition projects to be a part of rehabilitation activities, this proposed rule makes the applicability of Section 3 to demolition explicit. This section also clarifies that professional service contracts are subject to the requirements of this part, provided that the work to be performed arises in connection with a Section 3 covered project (*i.e.,* housing rehabilitation, housing construction, or other public construction project).

Consistent with the Section 3 statute, § 135.51 exempts housing and community development financial

assistance that is used for acquisition, routine maintenance, operations, administrative costs, and project rental assistance contracts (PRAC) from compliance with Section 3 because these are not considered construction or rehabilitation activities. This section also exempts Indian tribes and tribally designated housing entities from complying with Section 3 requirements if the Indian tribe has adopted, and is complying with, tribal employment and contract preference laws (including regulations and tribal ordinances) in accordance with section 101(k) of the Native American Housing Assistance and Self-Determination Act (NAHASDA) and 24 CFR 1000.42. This section also exempts Indian tribes and other tribal entities from Section 3 requirements if they are subject to Indian preference requirements under section 7(b) of the Indian Self-Determination and Education Assistance Act. HUD recognizes that both tribal preference and Indian preference requirements already often require Indian tribes, tribally designated housing entities, and other tribal entities, to apply local preferences in employment and contracting in projects receiving assistance under NAHASDA and other grant programs for the benefit of Indians, such as the Indian CDBG program. This exemption reduces administrative burden for tribal grantees that have expressed concerns to HUD about the difficulty of complying with Section 3 requirements while also complying with Indian and tribal preference requirements.

Section 135.53 of the proposed rule replaces the current threshold for recipients that administer housing and community development assistance. HUD has reassessed the policy behind the existing threshold and has decided to propose a new threshold requirement that is based on the total expenditures (rather than receipt or per-project). This change recognizes that it is the expenditure of covered financial assistance (not the receipt) that produces economic opportunities for Section 3 residents and businesses. Under this proposal, the threshold would be based on the aggregate expenditure of $400,000 of housing and community development financial assistance on construction related activities. In the section of this preamble entitled ''Summary of Major Provisions of this Regulatory Action,'' HUD described in detail the basis for selection of the $400,000 threshold.

Section 135.55 of the proposed rule establishes the minimum numerical hiring goals that recipients of housing and community development financial assistance must meet to demonstrate compliance, to the greatest extent feasible, with the Section 3 statute and Section 3 regulations. Similar to the numerical goals established for public housing financial assistance, this section provides that recipients of housing and community development financial assistance must, to the greatest extent feasible, have its contractors and subcontractors employ Section 3 residents as 30 percent of direct new hires. This section also provides, similar to § 135.35, that in order for a Section 3 resident to be considered a new hire by contractors and subcontractors, the Section 3 resident must work, during the resident's employment with a contractor or subcontractor, a minimum of 50 percent of the average staff hours worked for the category of work for which they were hired, throughout the duration of time that the category of work is performed on the covered project. For instance, if brick masons employed on a particular Section 3 covered project work an average of 40 hours each week, Section 3 new hires in this category must work a minimum of 20 hours each week to be counted towards the recipient's minimum numerical goal for employment.

With respect to contracting opportunities, this section provides that recipients of housing and community development financial assistance, as well as their subrecipients, contractors, and subcontractors, must, to the greatest extent feasible, award at least 10 percent of the total dollar amount of all contracts to Section 3 businesses, similar to § 135.35. This proposed rule removes the requirement that 3 percent of the total dollar amount of nonconstruction contracts will be awarded to Section 3 businesses in an attempt to reduce administrative burden. Instead, this proposed rule seeks to ensure that 10 percent of the total dollar amount of all covered contracts (including contracts for professional services) will be awarded to Section 3 businesses. HUD makes this change in § 135.55 for the same reasons presented for the identical change in § 135.35.

Section 135.57 of the proposed rule establishes the orders of priority consideration for employment and contracting opportunities for housing and community development financial assistance and adds additional categories for priority consideration for businesses that promote job retention and training opportunities.

*Additional Provisions for Recipients of HUD Competitive Grant Financial Assistance—Subpart D*

Subpart D of this proposed rule, clarifies the scope of applicability of Section 3 to HUD NOFAs. This section would replace the existing regulatory section, § 135.9.

As provided in proposed new § 135.71, Section 3 applies to competitively awarded (1) public housing financial assistance, and (2) housing and community development financial assistance that is anticipated to generate significant economic opportunities.

Section 135.73 provides that each NOFA that is subject to the requirements of Section 3 shall describe the selection criteria and points to be awarded.

Section 135.75 requires recipients of competitive Section 3 covered financial assistance to sign assurances of compliance with Section 3, and provides that applicants that are awarded competitive funds will be monitored on their compliance with Section 3, and their progress in carrying out the strategies described in the narrative statements submitted with their application package. Section 135.77, prohibits any recipient with outstanding findings of noncompliance with Section 3 from receiving additional competitively awarded financial assistance.

*Enforcement—Subpart E*

Subpart E of this proposed rule contains the complaint and compliance review provisions currently found in subpart D of the existing part 135 regulations. This subpart also clarifies that voluntary compliance agreements that are drafted to address findings of noncompliance shall seek to protect the public interest, provide denied economic opportunities to Section 3 residents and businesses, and may include the provision of damages and other relief for those injured by the recipient's noncompliance.

## III. Specific Questions for Comment

While HUD welcomes comments on all aspects of this proposed rule, HUD specifically requests comments on the following:

1. To address a loophole in the current regulation that does not limit jobs, training, and contracting opportunities to Section 3 residents residing and Section 3 businesses located within the proximity of the covered project or activity, this proposed rule introduces a new term ''Section 3 local area'' to clarify that in

order for Section 3 residents and businesses to receive priority consideration they must be residing or located within the metropolitan area or nonmetropolitan county where the Section 3 covered financial assistance is expended. HUD seeks comment on whether this clarification may adversely impact Section 3 residents and businesses located in neighboring jurisdictions, particularly when no Section 3 businesses are located in the Section 3 local area, and in rural communities where Section 3 residents in adjacent counties may be the most qualified job applicant. See § 135.5.

2. The proposed rule revises the definition of a Section 3 business to remove the third category of the existing definition, which refers to businesses that can provide evidence of a commitment to subcontract in excess of 25 percent of the dollar award of all subcontracts to other Section 3 businesses. This revision is made in response to complaints that the commitment presented an easy loophole for some businesses, and did not equate to a legal obligation. HUD solicits comment on the removal of this third category. See § 135.5.

3. The proposed rule seeks to provide incentives to contractors that retain Section 3 residents who were hired to work on previous projects, and to provide apprenticeship opportunities to Section 3 residents by adding two new categories to the orders of priority consideration for projects that are financed with housing and community development assistance at § 135.57. HUD solicits comment on the proposed orders of priority consideration.

4. For the reasons presented in the preamble, HUD is maintaining the existing minimum numerical goals for employment and construction contracts. HUD seeks comments on whether other proposed minimum numerical goals for employment and contracting would be more appropriate.

5. The proposed rule would replace the 3 percent minimum goal for the total dollar amount of all building trades and professional service contracts associated with construction (formerly referred to, respectively, as construction and nonconstruction contracts) with a goal of 10 percent. HUD seeks comment on whether the proposed goal that applies to building trades and professional services would result in any unintended consequences. See § 135.37 and § 135.57.

6. For the reasons presented in this preamble, under the ''Summary of the Major Provisions of this Regulatory Action,'' the proposed rule would change the threshold for recipients of housing and community development financial assistance to cover recipients that plan to obligate or commit $400,000 or more of annual expenditures of covered funds on construction or construction related projects. As discussed, the current threshold is based on the receipt of covered funds, not its expenditure. HUD believes that the expenditure of funds is a better indicator of the type and amount of economic opportunities that HUD funds create. The proposed threshold applies Section 3 to all construction and construction related projects (regardless of the dollar amount invested into individual projects) if a grantee plans to spend $400,000, or more, of covered HUD funding during the reporting period. HUD seeks comment on whether an alternate threshold would be more appropriate or equally effective to the proposed $400,000 threshold. In the table below, HUD sets out alternative expenditure thresholds and the percentage of funding that would be covered. While HUD believes that the proposed expenditure threshold of $400,000 is the appropriate threshold and would best enable the Department to focus on those recipients that produce the majority of economic opportunities, HUD would consider a different threshold but no lower than $400,000. HUD would consider a high threshold but no higher than $1 million. Although the $1 million threshold would capture almost 85 percent of the funding, which HUD finds reasonable and acceptable, HUD believes the $400,000 threshold, which would cover more than 95 percent of the funding, 10 percentage points higher than a $1 million threshold, presents the better approach, but HUD welcomes comment on the thresholds.

| Expenditure level | $250K | $300K | $400K | $500K | $750 | $1M |
|---|---|---|---|---|---|---|
| Agencies Below | 265 | 329 | 440 | 542 | 703 | 816 |
| % of those below | 22.3% | 27.7% | 37.0% | 45.6% | 59.1% | 68.6% |
| Agencies Above | 924 | 860 | 749 | 647 | 486 | 373 |
| % of those above | 77.7% | 72.3% | 63.0% | 54.4% | 40.9% | 31.4% |
| % change # of agencies | 4.2% | 5.4% | 9.3% | 8.6% | 13.5% | 9.5% |
| % of covered funding | 98.3% | 97.5% | 95.7% | 93.6% | 89.0% | 84.4% |

| Threshold level | Expenditure excluded | Agencies excluded | % Covered |
|---|---|---|---|
| $250K+ | $35,622,322.04 | 265 | 98.3 |
| $300K+ | 53,260,584.53 | 329 | 97.5 |
| $400K+ | 91,850,709.06 | 440 | 95.7 |
| $500K+ | 137,962,427.28 | 542 | 93.6 |
| $750K+ | 237,242,870.83 | 703 | 89.0 |
| $1M+ | 335,799,935.66 | 816 | 84.4 |

7. In order for a Section 3 resident to be counted as a new hire, the proposed rule would require a resident to work, during employment as a new hire, a minimum of 50 percent of the average staff hours worked for the job category for which the resident was hired, throughout the duration of time that the category of work is performed on the covered project. HUD seeks comment on whether this proposed change effectively addresses concerns that were raised about contractors that hired Section 3 residents for short time frames for purposes of circumventing meaningful compliance with Section 3. See § 135.35 and § 135.55.

8. HUD seeks comment on the specific challenges for State CDBG grantees with meeting Section 3 goals and how HUD can assist in addressing these challenges in this proposed rule.

9. HUD solicits comments from Indian tribes, tribally designated housing entities, and other tribal entities on its proposal to exempt them from Section 3 compliance when they adopt, and are complying with, tribal employment and contract preference laws (including regulations and tribal ordinances) in

accordance with section 101(k) of NAHASDA (25 U.S.C. 4111(k)), or are subject to Indian preference requirements under section 7(b) of the Indian Self-Determination and Education Assistance Act. See § 135.519(b)(3).

10. HUD seeks comment on ways that recipients can demonstrate compliance with Section 3 in communities that are governed by agreements that prohibit work by non-labor union workers.

11. HUD seeks comment on requirements or goals that should apply to contractors whose expenditure of covered financial assistance will only enable them to sustain their current workforce and will not result in new employment, training, or subcontracting opportunities.

12. HUD solicits comment on goals or strategies for training opportunities that the proposed rule should address.

13. HUD seeks comment on whether the proposal to require recipients to incorporate compliance with Section 3 into procurement procedures for responsive and responsible bidders creates an undue burden on recipients? See § 135.37(a)(3), § 135.57(a)(4), and § 135.11(b)(9).

14. In 2012, HUD implemented a Section 3 Business Registry Pilot Program in five metropolitan areas as a potential resource to help recipients meet, or exceed, the minimum numerical goals for contracting and reduce administrative burden in identifying section 3 businesses. Under the pilot program, businesses that met one of the definitions of a ''Section 3 Business'' self-certified their status with HUD, and were placed into a database to be used by recipients, developers, contractors, and others to notify these businesses about the availability of Section 3 contracting opportunities. See *www.hud.gov/sec3biz.* In 2014, HUD expanded the Section 3 Business Registry nationally. HUD seeks comments about this registry and ways that HUD should incorporate its usage into the Section 3 requirements.

## IV. Findings and Certifications

### *Regulatory Review—Executive Orders 12866 and 13563*

Under Executive Order 12866 (Regulatory Planning and Review), a determination must be made whether a regulatory action is significant and, therefore, subject to review by the Office of Management and Budget (OMB) in accordance with the requirements of the order. Executive Order 13563 (Improving Regulations and Regulatory Review) directs executive agencies to analyze regulations that are ''outmoded, ineffective, insufficient, or excessively burdensome, and to modify, streamline, expand, or repeal them in accordance with what has been learned. Executive Order 13563 also directs that, where relevant, feasible, and consistent with regulatory objectives, and to the extent permitted by law, agencies are to identify and consider regulatory approaches that reduce burdens and maintain flexibility and freedom of choice for the public.

This rule was determined to be a ''significant regulatory action'' as defined in Section 3(f) of the order (although not an economically significant regulatory action under the order). Consistent with Executive Order 13563, this rule revises the existing part 135 regulations that have not been revised or updated since 1994, with the intention to make them less burdensome, and more effective and, therefore, help to contribute to job creation for low-income persons. As noted earlier in this preamble, HUD has prepared an initial RIA that addresses the costs and benefits of the proposed rule. HUD's RIA is part of the docket file for this rule.

The docket file is available for public inspection in the Regulations Division, Office of the General Counsel, Room 10276, 451 7th Street SW., Washington, DC 20410–0500. Due to security measures at the HUD Headquarters building, please schedule an appointment to review the docket file by calling the Regulations Division at 202–402–3055 (this is not a toll-free number). Individuals with speech or hearing impairments may access this number via TTY by calling the Federal Relay Service at toll-free 800–877–8339.

### *Environmental Impact*

This proposed rule is a policy document that sets out regulatory requirements and standards for complying with Section 3 of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701u). Accordingly, under 24 CFR 50.19(c)(3), this proposed rule is categorically excluded from environmental review under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*).

### *Unfunded Mandates Reform Act*

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) (UMRA) establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and on the private sector. This proposed rule does not impose a Federal mandate on any state, local, or tribal government, or on the private sector, within the meaning of UMRA.

### *Regulatory Flexibility Act*

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements, unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. As has been discussed in this preamble, this rule proposes to update HUD's Section 3 regulations in 24 CFR part 135, for which the objective is to increase employment opportunities for low-income persons and businesses that are owned by or employ such persons, by requiring that they be considered for employment, including training positions, and contracting opportunities that are generated by the expenditure of certain HUD financial assistance. These entities generally are small and therefore strengthening the requirements of Section 3 should benefit small businesses that are Section 3 businesses.

As more fully discussed in the accompanying RIA, the number of economic opportunities generated for Section 3 residents and businesses will not increase to the degree that this rule would have a significant economic impact on a substantial number of small entities. In addition, for those small entities that are recipients of Section 3 covered financial assistance and must comply with this proposed rule, the changes made by this proposed rule are designed to reduce burden on them, as well as all recipients. For these reasons, HUD has determined that this rule would not have a significant economic impact on a substantial number of small entities. In fact, streamlined procedures in the proposed rule and HUD's recent implementation of a national Section 3 Business Registry will reduce the current administrative burden for grantees by a net −10,000 hours or $320,000 annually.[10]

Notwithstanding HUD's determination that this rule will not have a significant effect on a substantial number of small entities, HUD specifically invites comments regarding any less burdensome alternatives to this rule that will meet HUD's objectives as described in this preamble.

[10] Average total compensation of all workers, BLS, March 2014. See *http://www.bls.gov/news.release/ecec.t01.htm.*

*Executive Order 13132, Federalism*

Executive Order 13132 (entitled ''Federalism'') prohibits an agency from publishing any rule that has federalism implications if the rule either: (1) Imposes substantial direct compliance costs on State and local governments and is not required by statute, or (2) preempts State law, unless the agency meets the consultation and funding requirements of Section 6 of the Executive Order. This proposed rule does not have federalism implications and does not impose substantial direct compliance costs on State and local governments nor preempt state law within the meaning of the Executive Order.

*Paperwork Reduction Act*

The information collection requirements contained in this proposed rule have been submitted to OMB under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). In accordance with the Paperwork Reduction Act, an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection displays a currently valid OMB control number. HUD anticipates only marginal additional impact of this rule on document preparation time. Recipients are required already to provide HUD with reports documenting Section 3 activities under the existing interim regulations. The additional time to submit the new proposed information required by the rule is minimal. The burden of information collection in this proposed rule is estimated as follows:

REPORTING AND RECORDKEEPING BURDEN EXISTING REGULATION VERSUS THIS PROPOSED RULE

| Section reference in proposed rule | Number of parties | Number of responses per respondent | Estimated average time for requirement (in hours) | Existing regulation (hours) | | Proposed rule (hours) | |
|---|---|---|---|---|---|---|---|
| | | | | Total estimated annual burden | One-time burden not reoccurring annually (in hours) | Incremental burden | One-time burden—not reoccurring annually |
| Section 3 resident and business verification (§ 135.15) | 2,000 | 1 | 80 | 160,000 | 0 | [11] – 80,000 | 0 |
| Maintain lists of eligible Section 3 residents and businesses (§ 135.11) | 2,000 | 2 | 40 | 160,000 | 0 | [12] – 80,000 | 0 |
| Notify Section 3 residents and businesses about the availability of economic opportunities (§ 135.11) | 2,000 | 2 | 20 | 80,000 | 0 | [13] – 20,000 | 0 |
| Post signs or notices at job sites (§ 135.11) | 2,000 | 10 | 1 | 20,000 | 0 | 0 | 0 |
| Ensure that bid solicitations acknowledge Section 3 obligations (§ 135.11) | 2,000 | 1 | 0.5 | 0 | 1,000 | 0 | 0 |
| Monitor the payroll data of developers and contractors (§ 135.11) | 2,000 | 1 | 40 | N/A | N/A | 80,000 | 0 |
| Incorporate Section 3 factors into contractor selection procedures (§ 135.11) | 2,000 | 1 | 40 | N/A | N/A | 0 | 80,000 |
| Amend and renegotiate existing collective bargaining agreements, PLAs, etc., as appropriate (§ 135.11) | 500 | 1 | 40 | N/A | N/A | 0 | 20,000 |
| Coordinate with DOL, Youth Build, etc. (§ 135.11) | 1,000 | 1 | 40 | N/A | N/A | 40,000 | 0 |
| Draft written subrecipient agreements (§ 135.17) | 1,110 | 1 | 24 | N/A | N/A | 0 | 26,640 |
| Include the Section 3 Clause in covered contracts (§ 135.19) | 2,000 | 1 | 0.5 | 1,000 | 0 | 0 | 0 |
| Develop official Section 3 policies and procedures (§ 135.9) | 5,000 | 1 | 40 | 0 | 200,000 | 0 | 100,000 |
| Annual Certifications of compliance (§ 135.21) | 5,000 | 1 | 0.5 | 2,500 | 0 | 0 | 0 |
| Provide priority consideration to Section 3 residents and businesses (§ 135.37 and § 135.57) | 1,000 | 2 | 10 | 20,000 | 0 | 0 | 0 |
| NOFA certification of compliance (§ 135.71(d)) | 500 | 1 | 0.5 | 250 | 0 | 0 | 0 |
| Reporting requirements (§ 135.23) | 5,000 | 5 | 10 | 250,000 | 0 | 0 | 0 |
| Recordkeeping requirements (§ 135.25) | 5,000 | 1 | 40 | 200,000 | 0 | 50,000 | 0 |
| Complaint investigations (§ 135.95 and (§ 135.97) | 30 | 1 | 80 | 2,400 | 0 | 0 | 0 |
| Right to review letter of findings (§ 135.99(c) | 5 | 1 | 8 | 40 | 0 | 0 | 0 |
| Total Burden | ..... | ..... | ..... | 896,190 | 201,000 | – 10,000 | 226,640 |

In accordance with 5 CFR 1320.8(d)(1), HUD is soliciting comments from members of the public and affected agencies concerning the information collection requirements in the proposed rule regarding:

(1) 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) The accuracy of the agency's estimate of the burden of the proposed collection of information;

(3) Whether the proposed collection of information enhances the quality, utility, and clarity of the information to be collected; and

(4) Whether the proposed information collection minimizes the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology (*e.g.,* permitting electronic submission of responses).

Interested persons are invited to submit comments regarding the

[11] Due to the recent expansion of the national Section 3 Business Registry, HUD estimates a decrease in the original 80 hours that it estimated for this activity. As such, administrative burden for covered recipients is reduced.

[12] See footnote 1.

[13] See footnote 11.

information collection requirements in this rule. Under the provisions of 5 CFR part 1320, OMB is required to make a decision concerning this collection of information between 30 and 60 days after the publication date. Therefore, a comment on the information collection requirements is best assured of having its full effect if OMB receives the comment within 30 days of the publication. This time frame does not affect the deadline for comments to the agency on the proposed rule, however. Comments must refer to the proposed rule by name and docket number (FR–4893) and must be sent to:

HUD Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503, Fax number: 202–395–6947

and

Colette Pollard, HUD Reports Liaison Officer, Department of Housing and Urban Development, 451 7th Street SW., Room 2204, Washington, DC 20410.

Interested persons may submit comments regarding the information collection requirements electronically through the Federal eRulemaking Portal at *http://www.regulations.gov.* HUD strongly encourages commenters to submit comments electronically. Electronic submission of comments allows the commenter maximum time to prepare and submit a comment, ensures timely receipt by HUD, and enables HUD to make them immediately available to the public. Comments submitted electronically through the *http://www.regulations.gov* Web site can be viewed by other commenters and interested members of the public. Commenters should follow the instructions provided on that site to submit comments electronically.

**List of Subjects in 24 CFR Part 135**

Administrative practice and procedure, Community development, Equal employment opportunity, Government contracts, Grant programs—housing and community development, Housing, Loan programs—housing and community development, Reporting and recordkeeping requirements, Small businesses.

■ Accordingly, for the reasons described in the preamble, and under the authority of 42 U.S.C. 3535(d), HUD proposes to revise 24 CFR part 135 to read as follows:

## PART 135—ECONOMIC OPPORTUNITIES FOR LOW- AND VERY LOW-INCOME PERSONS

### Subpart A—General Provisions

Sec.
135.1 Purpose.
135.3 Delegation of authority.
135.5 Definitions.
135.7 Compliance to the greatest extent feasible.
135.9 Official Section 3 policies and procedures.
135.11 Recipient responsibilities.
135.13 General minimum numerical goals.
135.15 Verification of Section 3 resident and Section 3 business status.
135.17 Written agreements.
135.19 Contracts and Section 3 clause.
135.21 Certifications of compliance.
135.23 Reporting requirements.
135.25 Recordkeeping and access to records.
135.27 Sanctions for noncompliance.
135.29 Other Federal requirements.

### Subpart B—Additional Provisions for Public Housing Financial Assistance

135.31 Applicability.
135.33 Public housing agency unit thresholds.
135.35 Minimum numerical goals.
135.37 Orders of priority consideration for employment and contracting opportunities.

### Subpart C—Additional Provisions for Housing and Community Development Financial Assistance

135.51 Applicability.
135.53 Funding thresholds that trigger Section 3 compliance.
135.55 Minimum numerical goals.
135.57 Orders of priority consideration for employment and contracting opportunities.

### Subpart D—Additional Provisions for Recipients of Competitively Awarded Financial Assistance

135.71 Applicability.
135.73 Applicant selection criteria.
135.75 Section 3 compliance for NOFA grantees.
135.77 Resolution of outstanding Section 3 matters.

### Subpart E—Enforcement

135.91 Cooperation in achieving compliance.
135.93 Conduct of investigations

**Authority:** 12 U.S.C. 1701u; 42 U.S.C. 3535(d).

## PART 135—ECONOMIC OPPORTUNITIES FOR LOW- AND VERY LOW-INCOME PERSONS

### Subpart A—General Provisions

#### § 135.1 Purpose.

(a) *Section 3.* The purpose of Section 3 of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701u) (Section 3) is to direct, to the greatest extent feasible, and consistent with existing Federal, State, and local laws and regulations, training, employment, contracting, and other economic opportunities generated by the expenditure of certain HUD financial assistance to:

(1) Low- and very low-income residents of the neighborhood or neighborhoods where the Section 3 covered financial assistance is expended, particularly those that receive assistance from the Federal government for housing; and

(2) The businesses that are owned by, or substantially employ, low- or very low-income residents of the neighborhood or neighborhoods where the Section 3 covered financial assistance is expended.

(b) *Part 135.* The purpose of this subpart is to establish the standards and procedures by which all recipients of Section 3 covered financial assistance and their subrecipients, contractors, and subcontractors that may be administering Section 3 covered financial assistance on behalf of the recipient may meet the requirements of Section 3.

#### § 135.3 Delegation of authority.

Except as may be otherwise provided in this part, the functions and responsibilities of the Secretary of the Department of Housing and Urban Development, pursuant to Section 3, and described in this part, are delegated to HUD's Assistant Secretary for Fair Housing and Equal Opportunity. The Assistant Secretary for Fair Housing and Equal Opportunity is further authorized to redelegate functions and responsibilities in this part to other employees of HUD. However, the authority to issue or waive regulations of this part may not be redelegated by the Assistant Secretary. Monitoring and enforcement may be carried out in coordination with the HUD program office that provided Section 3 covered financial assistance to recipients, and the imposition of sanctions shall be in accordance with the requirements of the regulation or NOFA governing the program under which the Section 3 covered financial assistance is provided, as set forth at § 135.27.

#### § 135.5 Definitions.

For purposes of this part, the terms in this section have the meanings provided in this section. The terms *Department, HUD, Public housing agency (PHA),* and *Secretary* are defined in 24 CFR part 5.

*Applicant* means any entity which makes an application to HUD for Section 3 covered financial assistance,

and includes but is not limited to, any State, unit of local government, PHA, public housing commission, Indian tribe, tribally designated housing entity, or other public agency, public or private nonprofit organization, private agency or institution, mortgagor, developer, limited dividend sponsor, builder, property owner, property manager, resident management corporation, resident council, or cooperative association.

*Assistant Secretary* means the Assistant Secretary for Fair Housing and Equal Opportunity (FHEO).

*Business* means a business entity formed in accordance with State law, and licensed as appropriate under State, county or municipal law to engage in the type of business activity for which it was formed.

*Awarding Agency* means the recipient or subrecipient that awards Section 3 contracting opportunities.

*Complainant* means the party that files a complaint with the Assistant Secretary alleging that a recipient has failed or refused to comply with the regulations of this part.

*Complaint* means an allegation of noncompliance with the requirements of this part as provided in subpart E.

*Construction,* unless inconsistent with or otherwise defined in the regulation or NOFA governing the program under which the Section 3 financial assistance is provided, means the act or process of building houses, roads, public buildings, infrastructure, and other structures.

*Contract.* See the definition of ''contracting opportunities'' in this section.

*Contracting opportunities* subject to the requirements of Section 3 means contracts or subcontracts for work awarded in connection with Section 3 covered projects and activities. Contracting opportunities include, but are not limited to: Demolition, rehabilitation, housing construction, other public construction, architectural design, legal representation, or other services directly related to construction and rehabilitation activities. In addition, for public housing financial assistance, contracting opportunities include, but are not limited to, facilities maintenance, landscaping, painting, professional services, police and security, equipment servicing, janitorial services, and extermination. This term does not include material-only contracts; *i.e.,* contracts that are awarded for supplies without installation, demolition, rehabilitation, or other construction activities.

*Contractor* means any entity that enters into a contract or agreement to perform work generated by the expenditure of Section 3 covered financial assistance for a recipient, subrecipient, or another contractor, or for work in connection with Section 3 covered projects or activities, including contracts for services, but excluding contracts for supplies or materials that do not involve installation, rehabilitation, or construction.

*Department of Labor* or *DOL* refers to the U.S. Department of Labor.

*Department of Labor YouthBuild* program is a nonresidential, community-based alternative education program that provides classroom instruction and occupational skills training to at-risk individuals ages 16 to 24. The classroom training leads to a high school diploma or a general education development or other state-recognized equivalency diploma. The occupational skills training component provides YouthBuild participants with industry-recognized certifications in construction or other occupations. The construction skills training component teaches skills through a program to build or rehabilitate housing for low-income or homeless individuals and families in their communities.

*Economic Opportunities Generated by Section 3 Covered Financial Assistance Means*

(1) Training, employment, or other opportunities generated by the expenditure of Section 3 covered financial assistance as such term is defined in this section. Examples of economic opportunities may include, but are not limited to: Jobs (including training positions or on-the-job training opportunities), skills development (*e.g.,* computer classes, secretarial courses, etc.), registered apprenticeships, and business development; or

(2) Other training opportunities; and contracting opportunities for building trades, professional services, and other activities directly associated with demolition, rehabilitation, or construction.

*Housing and community development financial assistance* subject to the requirements of Section 3 means Section 3 covered financial assistance, provided in the form of a grant, loan, cooperative agreement, or contract, expended for housing demolition, rehabilitation, or construction, or the construction or rehabilitation of public facilities, infrastructure, or buildings and provided, or otherwise made available, from such HUD financial assistance. HUD housing or community development programs subject to the requirements of Section 3 include, but are not limited to, the following programs: The Community Development Block Grants (CDBG) program, authorized by title I of the Housing and Community Development Act of 1974 (42 U.S.C. 5301 *et seq.*); the HOME Investment Partnerships program, authorized by the HOME Investment Partnerships Act (42 U.S.C. 12701 note); the HUD homeless assistance programs authorized under title IV of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11360 *et seq.*); the Housing Opportunities for Persons With AIDS (HOPWA) program, authorized by the AIDS Housing Opportunity Act, subtitle D of title VII of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12901 note); disaster recovery grants (DRG), as authorized by appropriations acts; the Supportive Housing for the Elderly program, authorized by Section 202 of the Housing Act of 1959 (12 U.S.C. 1701q); the Supportive Housing for Persons with Disabilities program, authorized by Section 811, subtitle B of title VIII of the Cranston Gonzalez National Affordable Housing Act (42 U.S.C. 8013); the Project-Based Rental Assistance programs authorized by Section 811, subtitle B of title VIII of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 8013); the Healthy Homes and Lead Hazard Control programs, as authorized by the Lead-Based Paint Poisoning Prevention Act (42 U.S.C 4801 *et seq.*) and Residential Lead-Based Paint Hazard Reduction Act of 1992 (42 U.S.C. 4851 *et seq.*); and any housing and community development programs that HUD designates as covered by Section 3 and announced by HUD as such through a **Federal Register** notice, notice of funding availability, or announcement posted on HUD's Section 3 Web site(s). Housing and community development financial assistance does not include financial assistance provided for mortgage insurance.

*Indian tribe* means a tribe that is a federally recognized tribe or a State recognized tribe as defined in 25 U.S.C. 4103(13).

*Low-income person* means a person as defined in section 3(b)(2) of the United States Housing Act of 1937 (42 U.S.C. 1437(b)(2)), or a person whose median household income does not exceed 80 percent of the median household income within the metropolitan area or nonmetropolitan county where the Section 3 covered project or activity is located.

*Metropolitan area* means the primary metropolitan statistical area (PMSA), as established by the Office of Management and Budget (OMB).

*Neighborhood,* unless otherwise defined in the regulation or NOFA governing the program under which the Section 3 financial assistance is provided, means Zip codes or other geographical locations within the jurisdiction of a unit of general local government (but not the entire jurisdiction) designated in ordinances, or other local documents as a neighborhood, village, or similar geographical designation;

*New hires* mean full- or part-time employees for permanent, temporary, or seasonal employment opportunities. This term refers to any employee who:

(1) Was not on the payroll of the recipient, subrecipient, contractor, or subcontractor administering Section 3 covered financial assistance funds on behalf of the recipient at the beginning of the award of Section 3 covered financial assistance; or

(2) Any person hired by an entity on a per-project basis as a result of a Section 3 covered project or activity.

*NOFA* means a notice of funding availability issued by HUD for discretionary grant funding that is awarded competitively to eligible applicants.

*Nonmetropolitan county* means rural counties or any other county outside of a metropolitan area.

*Numerical goals* means minimum numerical targets that recipients, subrecipients, contractors, or subcontractors that may be administering Section 3 covered financial assistance on behalf of the recipient reach, or exceed, in order to demonstrate compliance with this part. These goals are not construed as quotas, set-asides, or a cap on the provision of economic opportunities, and may be exceeded.

*Other HUD programs* subject to the requirements of Section 3 means HUD programs, other than HUD programs providing public housing financial assistance, that provide covered housing and community development financial assistance, as defined in this section.

*Priority consideration* means that recipients, subrecipients, contractors, or subcontractors that may be administering Section 3 covered financial assistance on behalf of the recipient must give, to the greatest extent feasible, training, employment, or contracting opportunities to *Section 3 residents* or *Section 3 businesses* as defined in this section in accordance with the appropriate orders of priority consideration related to the Section 3 covered financial assistance, as provided in § 135.37 and § 135.57. Priority consideration should not be construed to be a quota or set-aside program, or an entitlement to economic opportunities such as a particular position or contract.

*Professional services* means non-building trade services that are performed in connection with construction and rehabilitation activities, including but not limited to: architecture, professional engineering, structural engineering, land surveying, mapping, project management, planning, design, accounting, and other related services, which are required to be performed or approved by a person licensed, registered, or certified to provide such services.

*Project-based rental housing assis*tance means rental assistance contracts provided under section 8(b)(1) of the U.S. Housing Act of 1937 or section 8(b)(2) of U.S. Housing Act of 1937 as it existed immediately prior to October 1, 1983.

*Public housing* has the meaning that this term is given in 24 CFR 5.100 or 24 CFR 963.5.

*Public housing financial assistance* subject to the requirements of Section 3 means any HUD financial assistance, subject to minimum unit thresholds specified in § 135.33, that is provided through the following HUD assistance:

(1) Annual contributions for low income housing projects provided pursuant to Section 5 of the U.S. Housing Act of 1937 (42 U.S.C. 1437c);

(2) Capital fund project assistance provided pursuant to Section 9 of the U.S. Housing Act of 1937 (42 U.S.C, 1473g);

(3) Operating subsidy provided pursuant to Section 9 of the U.S. Housing Act of 1937 (42 U.S.C, 1473g);

(4) Competitively awarded HUD public housing financial assistance for activities that will result in new employment, training, or contracting opportunities, under such programs as the Family-Supportive Service Coordinator (FSS), or Resident Opportunity Supportive Service (ROSS) grant funding;

(5) Emergency funds, for example, authorized for emergency capital repair of public housing or public housing facilities;

(6) Financial assistance made available under an appropriations act such as financial assistance provided for the Choice Neighborhoods program; and

(7) Such other financial assistance designated by HUD as public housing financial assistance covered by Section 3 as announced through a **Federal Register** notice, NOFA, or announcement on HUD's Section 3 Web site.

*Public housing project* has the meaning given this term in 3(b)(1) of the United States Housing Act of 1937.

*Public housing resident* has the meaning given this term in 24 CFR 963.5.

*Recipient* means:

(1) Any entity that receives Section 3 covered financial assistance directly from HUD, including but not limited to: Any State, unit of local government, public housing agency (PHA), public housing commission, Indian tribe, tribally designated housing entity, or other public agency, public or private nonprofit organization, private agency or institution, mortgagor, developer, limited dividend sponsor, builder, property owner, property manager, community housing development organization (CHDO), resident management corporation, resident council, or cooperative association. The term ''recipient'' also includes any subrecipients, successor, assignee, or transferee of such entity.

(2) ''Recipient'' does not include any ultimate beneficiary under a HUD program to which Section 3 applies (for example an individual or family receiving a housing rehabilitation grant financed with HOME assistance) and does not include contractors and subcontractors, but as provided in this part, contractors and subcontractors are subject to compliance with this part.

*Rehabilitation,* for the purposes of this regulation, means improvements or interventions taken to improve or restore the structural condition, architectural components, energy performance, or environmental quality of an existing building, dwelling, unit, or structure that are taken to improve its safety, aesthetics, or suitability for use. For project-based rental assistance contracts, including project-based Section 8, Section 202, and Section 811 properties, this definition shall apply when performed as part of a recapitalization event where Reserve for Replacement funds are utilized. Examples include replacement of roofing, gutters, electrical, plumbing, heating systems, flooring, windows, doors and concrete.

*Routine maintenance,* for the purposes of this regulation, means activities that do not materially add to the value of the building, appreciably prolong its useful life, or adapt it to new uses. Examples include: Painting, caulking, sealing, repairing minor components, including work required to prepare units for new tenants upon turnover, or other activities planned and performed at regular intervals normally established by manufacturers or associations. In the case of project-based

rental assistance contracts these planned activities include the work described in the required Project Capital Needs Assessment (PCNA).

*Section 3* means Section 3 of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701u).

*Section 3 business* means a business that is located in the Section 3 local area as defined in this section and that is able to demonstrate one of the following:

(1) Meets the definition of ''resident-owned'' business in 24 CFR 963.5;

(2) The business is 51 percent or more owned by Section 3 residents;

(3) The permanent, full-time employees of the business include persons, at least 30 percent of whom are Section 3 residents; or

(4) The business demonstrates that at least 20 percent of its permanent full-time employees are Section 3 residents and the business either: sponsored a minimum of 10 percent of its current Section 3 employees to attend a DOL or DOL recognized State-Apprenticeship Agency approved, registered apprenticeship, or a pre-apprenticeship training program that meets the requirements in outlined DOL/ETA Training and Employment Notice 13–12 ; or that 10 percent of its employees are participants or graduates of a DOL YouthBuild program. For the purposes of determining Section 3 business eligibility only, Section 3 residents include persons who:

(i) Met the definition of Section 3 resident, provided in this section, at the time the resident was hired or became an owner, or met such definition within the 3 years before the business sought certification; or

(ii) Graduated from a DOL, State approved, or YouthBuild training program within the 3 years before the business sought certification; and

(iii) Eligibility as a Section 3 business only applies as long as the businesses' employees continue to meet the definition of a Section 3 resident set forth in this part.

*Section 3 clause* means the contract provisions set forth in § 135.17.

*Section 3 covered financial assistance* means HUD loans, grants, or other financial assistance provided under:

(1) Public housing financial assistance as defined in this section; and

(2) Housing and community development financial assistance as defined in this section.

*Section 3 covered project or activity* means any project or activity that is funded by Section 3 covered financial assistance.

*Section 3 local area* is the:

(1) Primary metropolitan statistical area where the Section 3 covered project or activity takes place; or

(2) Nonmetropolitan county where the Section 3 covered project or activity takes place.

*Section 3 resident* means an individual residing in the Section 3 local area who can document that he/she is:

(1) A public housing resident;

(2) A participant in a DOL YouthBuild program;

(3) A member of a family that receives federal housing assistance; or

(4) An individual who meets the HUD income limits for determining the eligibility of low- and very low-income persons for HUD assisted housing programs within the metropolitan area or nonmetropolitan county.

*Service Area,* unless defined in the regulation or NOFA governing the program under which the Section 3 covered financial assistance is provided, means the area to be served by a Section 3 covered project or activity.

*Subcontractor* means any entity (other than a person who is an employee of the contractor) that has a contract with a contractor to undertake a portion of the contractor's obligation to perform work generated by the expenditure of Section 3 covered financial assistance, or arising in connection with a Section 3 covered project or activity.

*Subrecipient* means

(1) An entity that receives Section 3 covered financial assistance from a recipient or other subrecipient of Section 3 covered financial assistance to carry out a Section 3 covered project or activity on the recipient's or other subrecipient's behalf. This term includes, but is not limited to: any unit of State, county or local government, public housing agency (PHA), public housing commission, Indian tribe, tribally designated housing entity, or other public agency, public or private nonprofit organization, private agency, institution, mortgagor, developer, limited dividend sponsor, builder, property owner, property manager, community housing development organization (CHDO), resident management corporation, resident council, or cooperative association. Subrecipients also include any successor, assignee, or transferee of any such entity.

(2) ''Subrecipient'' does not include any ultimate beneficiary under a HUD program to which Section 3 applies (for example an individual or family receiving a housing voucher) and does not include contractors or subcontractors, but as provided in this part, contractors and subcontractors are subject to compliance with this part.

*Tribally designated housing entities* have the meaning this term is given in 25 U.S.C. 4103(22).

*Very low-income person* means the definition for this term set forth in Section 3(b)(2) of the U.S. Housing Act of 1937 (42 U.S.C. 1437a(b)(2)), or persons whose household income does not exceed 50 percent of the median household income within the metropolitan area or nonmetropolitan county where the Section 3 covered project or activity is located.

**§ 135.7 Compliance to the greatest extent feasible.**

(a) *General.* In accordance with the findings of Congress, as stated in section 3 of the Housing and Urban Development Act of 1968, economic opportunities offer an effective means of empowering low- and very low-income persons residing in the metropolitan area where HUD financial assistance is expended. Recipients, as defined in § 135.5, are required, to the greatest extent feasible, to ensure that employment and training opportunities funded with Section 3 covered financial assistance be provided to low-and very low-income persons, and that contracts are awarded to businesses that are either owned by, or substantially employ such persons.

(b) *Demonstrating compliance to the greatest extent feasible.* Absent evidence to the contrary, recipients of housing and community development assistance that meets the funding threshold set at § 135.53 and PHAs shall demonstrate compliance with Section 3 and the requirements of this part by:

(1) Establishing policies and procedures to achieve compliance with Section 3, as provided in § 135.9;

(2) Fulfilling its responsibilities, as specified in § 135.11; and either

(3) Reaching or exceeding each minimum numerical goal for employment and contracting opportunities, as provided in § 135.13 and either § 135.35 or § 135.55; or

(4) If the minimum numerical goals for employment and contracting are not met, providing written justification explaining the extent of efforts taken to meet the minimum numerical goals and the impediments confronted in trying to meet the minimum numerical goals. Such justifications must include, at a minimum, a summary of: impediments encountered; actions taken to address the identified impediments; and an identification of steps that may be successful in overcoming impediments in the future. Justifications provided by recipients will be taken into

consideration by HUD when making compliance determinations.

(c) *Compliance monitoring and enforcement.* (1) When determining if efforts taken by recipients demonstrate compliance with Section 3, to the greatest extent feasible, HUD shall review:

(i) Policies and procedures, as specified in § 135.9 developed by the recipient to ascertain the extent to which they present measures for achieving compliance with Section 3; and

(ii) The extent to which the recipient fulfilled its responsibilities, as specified in § 135.11; and either:

(A) Whether the minimum goals at § 135.35 or § 135.55 were met; or

(B) Whether written justifications for not meeting the minimum goals explain the extent of efforts taken to achieve the goals of Section 3, identify the impediments encountered, the actions taken to address the identified impediments, and steps that may be successful in overcoming impediments in the future. Justifications provided by recipients will be taken into consideration by HUD when making compliance determinations.

(2) Recipients that fail to comply with the requirements of this part are subject to sanctions for noncompliance in accordance with the requirements of the regulation or NOFA governing the program under which the Section 3 covered financial assistance is provided, as set forth at § 135.27.

**§ 135.9 Official Section 3 policies and procedures.**

(a) *Official Section 3 policies and procedures.* (1) All recipients that plan to undertake Section 3 covered activities must develop and adopt official policies or procedures to implement the requirements of this part in accordance with the ''to the greatest extent feasible'' requirement as set forth at § 135.7. Official policies and procedures shall be updated as appropriate.

(2) Official policies and procedures must include, at a minimum, steps that the recipient will take to: inform subrecipients and contractors about Section 3 obligations; evaluate potential bidders for Section 3 compliance during contract selection; notify Section 3 residents and businesses about economic opportunities; implement verification and/or certification procedures for residents and businesses; provide priority consideration to qualified Section 3 residents and businesses; monitor subrecipients and contractors for compliance; establish consequences for noncompliance; and utilize local community resources to meet its Section 3 requirements. The preceding list is not inclusive of all elements that recipients should include in official policies and procedures. Updates to official policies and procedures shall discuss the relative success of the immediate past policies and procedures and how any changes are aimed to better promote compliance with Section 3.

(3) Section 3 official policies and procedures shall be incorporated into any strategic and annual plans required of recipients of HUD covered assistance by HUD program regulations.

(i) Recipients of Section 3 covered funding shall include a general description of their Section 3 official policies and procedures in required recipient plans, such as public housing plans required by HUD regulation in 24 CFR part 903, strategic and annual action plans required by HUD regulations in 24 CFR parts 91 and 570, or other similar plans that may be required under other covered HUD programs.

(ii) If a recipient is not required to submit official plans to HUD such as public housing plans required by regulations in 24 CFR part 903, strategic or annual action plans required by regulations in 24 CFR parts 91 or 570, or other similar plans, the recipients' official section 3 policies and procedures shall be developed as an independent document at the time that Section 3 covered financial assistance is awarded and updated every 5 years thereafter.

(4) Official policies and procedures shall be available for review by HUD, Section 3 residents and businesses, and the general public upon request.

**§ 135.11 Recipient responsibilities.**

(a) *General.* Recipients have the responsibility for monitoring and ensuring compliance with this part in their own operations, and ensuring compliance in the operations of their subrecipients, contractors, or subcontractors. The use of subrecipients, contractors, or subcontractors does not relieve a recipient of its responsibility. Recipients are also responsible for determining the adequacy of performance under subrecipient agreements or procurement contracts, and for taking appropriate action when performance problems arise.

(b) *Specific responsibilities for all recipients.* Recipients shall comply with the following requirements:

(1) Develop and implement official Section 3 policies and procedures in accordance with § 135.9.

(2) Maintain lists of eligible Section 3 residents and businesses that have asked to receive priority consideration for training, employment, contracting, or other economic opportunities.

(3) Notify Section 3 residents and businesses that have asked to receive priority consideration about the availability of new employment, training, contracting, or other economic opportunities created as a result of the expenditure of Section 3 covered financial assistance.

(i) Recipients must ensure that all communications are provided in a manner that is effective for persons with hearing, visual, and other communications-related disabilities consistent with section 504 of the Rehabilitation Act of 1973 and, as applicable, the Americans with Disabilities Act.

(ii) Notifications shall be made in accordance with ''HUD's Final Guidance to Federal Financial Assistance Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons'' published in the **Federal Register** on January 22, 2007 at 72 FR 2732 (or other subsequent updated guidance).

(4) Ensure that priority consideration is provided to Section 3 residents and businesses in accordance with the orders of priority consideration set forth at §§ 135.37 and 135.57.

(5) Monitor the payroll data of developers, contractors, and subcontractors throughout the project or activity, to ensure that new employment opportunities are made available consistent with the requirements of this part. This requirement only applies to projects or activities that are subject to wage rates determined under the Davis Bacon Act (40 U.S.C. 3141 *et seq.*).

(6) Ensure that all bid solicitations associated with Section 3 covered projects or activities acknowledge the applicability of Section 3 to the project or activity and communicate the selected contractor's obligation to comply with the requirements of this part to prospective bidders. Some examples include: notifying prospective contractors about Section 3 applicability during pre-bid meetings or conferences; requiring bidders to certify that they have received a copy of the recipient's Section 3 policies/procedures; etc.

(7) Ensure that subrecipients, contractors, or subcontractors enter into written agreements consistent with § 135.17, and include the Section 3 clause at § 135.19, as appropriate.

(8) Ensure that notices or signs acknowledging Section 3 obligations and advertising vacant employment,

training, contracting, or subcontracting opportunities are posted in places where they can be clearly seen by both current employees and prospective applicants for economic opportunities.

(i) At a minimum, such notices shall include the following: anticipated dates that work will begin and end; anticipated number and type of job vacancies available; anticipated number and type of registered apprenticeship or training opportunities offered; anticipated dollar amount and type of subcontracting opportunities; application and bidding procedures; required employment and subcontracting qualifications; and the name and contact information for the person(s) accepting applications.

(ii) Notifications shall be in accordance with ''HUD's Final Guidance to Federal Financial Assistance Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons'' published in the **Federal Register** on January 22, 2007 at 72 FR 2732 (or other subsequent updated guidance).

(9) If applicable, ensure that new or existing subrecipient or contractor selection procedures, including those developed in accordance with 24 CFR part 85; assess the responsible bidder's previous compliance and ability to:

(i) Retain Section 3 hires for employment opportunities;

(ii) Comply with Section 3 requirements; and

(iii) Provide training opportunities for Section 3 residents.

(10) If applicable, ensure that labor unions are notified about recipient's and contractor's obligations to comply with the requirements of this part. Collective bargaining agreements, project labor agreements or other agreements between labor unions and recipients, or subrecipients that are established, or revised, after [*EFFECTIVE DATE OF FINAL RULE*], shall ensure that projects generated from the expenditure of Section 3 covered financial assistance provide employment, registered apprenticeship, training, contracting, or other economic opportunities to Section 3 residents and businesses in a manner that is consistent with this part

(11) Coordinate with local DOL Workforce Investment Boards, YouthBuild grantees, or other State or Federal training programs to ensure that Section 3 residents and businesses are notified about the availability of federal training opportunities.

(12) Document actions taken to comply with the requirements of this part; the results of actions taken; sanctions imposed upon subrecipients, contractors, subcontractors, or subcontractors; impediments encountered; actions taken to address the identified impediments; and steps that may be successful in overcoming impediments in the future.

(c) *Responsibilities specific to PHAs.* In addition to the responsibilities set forth in paragraph (b) of this section, PHAs must comply with the following additional requirements:

(1) PHAs are required to monitor successful bidders for compliance with descriptions provided in qualified bid proposals.

(2) Develop appropriate procedures to comply with the earned income disregard requirements; and

(3) Develop procedures to set-aside eligible contracting opportunities for public housing resident-owned businesses that are consistent with 24 CFR part 963, as appropriate.

(d) *Responsibilities specific to recipients of housing and community development financial assistance.* In addition to the responsibilities set forth in paragraph (b) of this section, recipients of housing and community development financial assistance must comply with the following additional requirements:

(1) Where practicable, recipients are required to monitor successful bidders for compliance with descriptions provided in qualified bid proposals.

(2) Recipients must ensure that qualified local Section 3 businesses are included on lists of preferred or recommended contractors when such lists are provided to homeowners for rehabilitation loan or grant programs. The recipient or subrecipient may count any Section 3 businesses that are selected by homeowners towards their minimum numerical goals annually. The recipient is not required to count any non-Section 3 businesses that are selected by homeowners toward the total amount of contracts awarded to Section 3 businesses annually.

**§ 135.13 General minimum numerical goals.**

(a) *Calculation of goals.* The minimum numerical goals established in this part apply to the aggregate number of employment and contracting opportunities generated by Section 3 covered financial assistance during each annual reporting period as defined at § 135.23(b).

(b) Minimum numerical goals. (1) Recipients of public housing financial assistance shall, to the greatest extent feasible, reach the minimum numerical goals set forth at § 135.35.

(2) Recipients of housing and community development financial assistance shall, to the greatest extent feasible, reach the minimum numerical goals set forth at § 135.55.

(3) Recipients of competitively awarded Section 3 covered financial assistance shall, to the greatest extent feasible, reach the minimum numerical goals set forth in the subpart associated with the type of financial assistance provided, §§ 135.35 and 135.55, respectively.

(c) *Inability or failure to meet goals.* Recipients that are unable or fail to meet minimum numerical goals must provide to HUD a written justification as to why the goals were not met, as provided in § 135.7(b)(4). Justifications provided by recipients will be taken into consideration by HUD when making compliance determinations.

**§ 135.15 Verification of Section 3 resident and Section 3 business status.**

(a) *General.* Recipients of Section 3 covered financial assistance are required to verify that residents and businesses seeking the employment and contracting opportunities offered by the recipient meet the definitions of Section 3 residents and Section 3 businesses at § 135.5 prior to providing priority consideration for employment, training, contracting, or other economic opportunities. Unless otherwise directed by HUD, recipients may use their own discretion for developing specific verification procedures for Section 3 residents and Section 3 businesses.

(b) *Section 3 residents.* (1) A recipient may allow persons to self-certify that they are a Section 3 resident as defined in § 135.5 provided that the recipient conducts procedures to verify a sample of self-certified Section 3 residents.

(2) A recipient may presume a person that can provide evidence that they reside within a neighborhood, zip code, census tract, etc. that has officially been identified by HUD is eligible to receive priority consideration as a Section 3 resident absent evidence to the contrary.

(3) A recipient may require information verifying that a person meets the definition of a Section 3 resident. Examples of evidence of eligibility include but are not limited to: evidence of receipt of Federal housing assistance; evidence of receipt of other Federal subsidies or Federal assistance programs; Federal tax returns; proof of residence in a neighborhood, zip code, census tract, or other area that has officially been identified by HUD.

(4) A recipient shall impose sanctions upon individuals who make false claims or representations regarding their income eligibility, residence, or other factors in order to be determined a

Section 3 resident. In addition, the recipient will refer such individuals to the HUD Office of Inspector General.

(c) *Section 3 businesses.* (1) A recipient may allow a business to self-certify that they are a Section 3 business as defined in § 135.5, provided that the recipient conducts procedures to verify a sample of self-certified Section 3 businesses.

(2) A recipient may presume that a business meets the eligibility criteria if the business provides evidence that it is located within a neighborhood, zip code, or census tract that has been identified by HUD; or if the business is able to provide evidence that it substantially employs residents from neighborhoods, zip codes, or census tracts identified by HUD, absent evidence to the contrary.

(3) A recipient may require information verifying that a business meets the definition of a Section 3 business. Examples of evidence of eligibility for priority consideration as a Section 3 business may include: Federal tax returns for workers, owners, or businesses; payroll data; employee-self-certification statements; articles of business ownership; evidence that owners or employees received housing or other Federal subsidies within 3 years from the date that the business sought designation as a Section 3 business.

(4) A recipient shall impose appropriate sanctions upon businesses that make false claims or representations regarding their eligibility, business location, eligible employees, or other factors in order to be determined a Section 3 business. In addition, the recipient will refer such individuals to the HUD Office of Inspector General.

**§ 135.17 Written agreements.**

(a) *General.* Before disbursing any Section 3 covered financial assistance to subrecipients that may administer all or a part of Section 3 covered financial assistance on- behalf of a recipient, the recipient must ensure that the parties enter into a written agreement to facilitate compliance with the requirements of this part.

(b) *Provisions in written agreements.* The contents of the agreement may vary depending upon the role the subrecipient is asked to assume on behalf of the recipient, the type of Section 3 covered project or activity that is to be undertaken, or the dollar amount of the contract. Recipients are responsible for enforcing the provisions of written agreements, including imposing sanctions upon subrecipients for noncompliance. This section specifies the minimum provisions that must be included in written agreements and contracts.

(c) [Reserved].

(d) [Reserved].

(e) *Subrecipient agreements.* Agreements between the recipient and the subrecipient must:

(1) Describe the subrecipient's plan for implementing Section 3 and meeting the numerical hiring and contracting goals; ensuring eligibility of Section 3 residents and businesses; and monitoring contractor compliance. This description must provide enough detail to provide a sound basis for the recipient to monitor performance under the agreement;

(2) Specify the duties set forth in this part that the subrecipient will undertake;

(3) State that the subrecipient will incorporate the Section 3 clause, as provided in § 135.19, into all contracts or subcontracts, memoranda of understanding, cooperative agreements, or similar legally binding arrangements, ensure that contractors and subcontractors certify their compliance at the time of contract award, and monitor parties for compliance, as appropriate;

(4) Specify other responsibilities as needed to ensure that the subrecipient or contractor complies with all requirements at §§ 135.23 and 135.25;

(5) Specify the particular records that must be maintained and the information or reports that must be submitted in order to assist the recipient in meeting its recordkeeping and reporting requirements for Section 3; and

(6) Provide for a means of enforcement and describe the sanctions for failure to comply with this part.

**§ 135.19 Contracts and Section 3 clause.**

(a) *General.* Before disbursing any Section 3 covered financial assistance to contractors or subcontractors that may administer all or a part of Section 3 covered financial assistance on- behalf of a recipient, the recipient must ensure that the parties enter into a contract to facilitate compliance with the requirements of this part.

(b) *Provisions in contracts.* The contents of the contract may vary depending upon the dollar amount of the contract. Recipients are responsible for enforcing the provisions of contracts, including imposing sanctions upon contractors or subcontractors for noncompliance. This section specifies the minimum provisions that must be included in contracts.

(c) *Contracts of $200,000 or above.* Contracts of $200,000 or more shall include the Section 3 clause at § 135.19 in its entirety.

(d) *Contracts less than $200,000.* Contracts of less than $200,000 shall include provisions A, B, C, F, H, and M of the Section 3 clause at § 135.19.

(e) Where required, the following Section 3 clause shall be included in contracts:

**Section 3 Clause**

A. The work to be performed under this contract, subcontract, memorandum of understanding, cooperative agreement or similar legally binding agreement, is subject to the requirements of section 3 of the Housing and Urban Development Act of 1968 (Section 3). The purpose of Section 3 is to ensure, to the greatest extent feasible, that training, employment, contracting, and other economic opportunities generated by Section 3 covered financial assistance shall be directed to low- and very low-income residents of the neighborhood where the financial assistance is spent, particularly to those who are recipients of government assistance for housing, and to businesses that are either owned by low- or very low-income residents of the neighborhood where the financial assistance is spent, or substantially employ these persons.

B. The parties to this contract, subcontract, memorandum of understanding, cooperative agreement, or similar legally binding agreement agree to comply with HUD's regulations in 24 CFR part 135, which implement Section 3. As evidenced by their execution of this contract or subcontract memorandum of understanding, cooperative agreement or similar legally binding agreement the parties certify that they are under no contractual or other impediment that would prevent them from complying with the requirements of 24 CFR part 135.

C. The contractor agrees to identify current employees on its payroll when the contract or subcontract was awarded who will be working on the Section 3 covered project or activity and certify that any vacant employment opportunities, including training positions, that are filled:

1. After the contractor is selected; and

2. With persons other than those that meet the definition of a Section 3 resident, were not filled to circumvent the contractor's Section 3 obligations.

D. The contractor agrees to maintain records documenting Section 3 residents that were hired to work on previous Section 3 covered projects or activities that were retained by the contractor for subsequent Section 3 covered projects or activities.

E. The contractor agrees to post signs advertising new employment, training, or subcontracting opportunities that will be available as a result of the Section 3 covered projects and activities in conspicuous places at the work site where potential applicants can review them.

F. The contractor agrees to hire, to the greatest extent feasible, Section 3 residents as 30 percent of new hires, or provide written justification to the recipient that is consistent with § 135.7(b)(4), describing why it was unable to meet minimum numerical hiring

goals, despite its efforts to comply with the provisions of this clause.

G. The contractor agrees that in order for a Section 3 resident to be counted as a new hire, the resident must work a minimum of 50 percent of the average staff hours worked for the category of work for which they were hired throughout the duration of time that the category of work is performed on the covered project.

H. The contractor agrees to award, to the greatest extent feasible, 10 percent of the total dollar amount of subsequent subcontracts awarded in connection with the Section 3 covered project or activity to Section 3 businesses, or provide written justification that is consistent with § 135.7(b)(4) describing why it was unable to meet that goal, despite their efforts to comply with the provisions of this clause.

I. The contractor agrees to notify Section 3 residents and businesses about the availability of new employment, training, or contracting opportunities created as a result of the receipt of Section 3 covered financial assistance, as stipulated by the awarding agency.

J. The contractor agrees to verify the eligibility of prospective Section 3 residents and businesses for employment, training, or subcontracting opportunities, in accordance with the recipient's policies and procedures.

K. The contractor agrees to provide priority consideration to eligible residents and businesses in accordance with 24 CFR 135.37 or 24 CFR 135.57, as applicable.

L. The contractor agrees to notify potential bidders on subcontracts that are associated with Section 3 covered projects and activities about the requirements of Section 3, and include this Section 3 clause in its entirety into every subcontract awarded.

M. The contractor agrees to impose sanctions upon any subcontractor that has violated the requirements of this clause in accordance with the awarding agency's Section 3 policies and procedures.

N. The contractor agrees to comply with all monitoring, reporting, recordkeeping, and other procedures specified by the awarding agency.

O. If applicable, the contractor agrees to notify each labor organization or representative of workers with which the recipient, subrecipient, or contractor has a collective bargaining or similar labor agreement or other understanding, if any, about its obligation to comply with the requirements of Section 3 and ensure that new collective bargaining or similar labor agreements provide employment, registered apprenticeship, training, subcontracting, or other economic opportunities to Section 3 residents and businesses, and to post notices in conspicuous places at the work site advising the labor union, organization, or workers' representative of the contractor's commitments under this part.

P. Failure to comply with this clause shall result in the imposition of sanctions. Appropriate sanctions for noncompliance may include: Requiring additional certifications or assurances of compliance; termination or cancelation of the contract, subcontract, memorandum of understanding, cooperative agreement, or similar legally binding arrangement for default; refraining from entering into subsequent contracts, subcontracts, memoranda of understanding, cooperative agreements, or similar legally binding arrangement; repayment of funds, and withholding a portion of contract awards, subcontracts, memoranda of understanding, cooperative agreements, or similar legally binding arrangements.

**§ 135.21 Certifications of compliance.**

(a) *Annual certifications.*—(1) *Recipient certifications.* (i) A recipient shall submit annual certifications to HUD documenting its acknowledgement of obligations to comply with the requirements of this part in its own operations and those of its subrecipients, contractors, subcontractors, and others that may be administering Section 3 covered financial assistance on behalf of the recipient. Certifications shall be submitted in accordance with the requirements of the regulation or NOFA governing the program under which the Section 3 covered financial assistance is provided.

(ii) HUD may require recipients to provide additional documentation or assurances as evidence of compliance with the requirements of this part prior to the acceptance of annual certifications. HUD may refuse to accept any certification when there are reasonable grounds to believe that the recipient is not in compliance with the requirements of this part.

(2) *Subrecipients, contractors and subcontractors.* (i) Subrecipients, contractors, and subcontractors shall certify their compliance by entering into a written agreement with the recipient, as specified at § 135.17 or contract that contains the Section 3 clause provided at § 135.19.

(ii) [Reserved]

(b) [Reserved]

**§ 135.23 Reporting requirements.**

(a) *Recipient reporting requirements.* (1) Each recipient shall submit to HUD an annual report documenting the recipient's compliance with Section 3 in such form and with such information as HUD may request. The purpose of the report is to summarize efforts undertaken by the recipient and accomplishments (or lack thereof) towards meeting the employment and contracting goals set forth at § 135.11.

(i) The report will include an accounting of all new hires, as defined at § 135.5, and Section 3 new hires employed as a result of the expenditure of Section 3 covered financial assistance in a manner that allows HUD to determine if the minimum numerical goal for employment was met during the reporting period.

(ii) The report will also account for the total dollar amount of contracts awarded as a result of the expenditure of Section 3 covered financial assistance during the reporting period, and the dollar amount of those contracts that were awarded to Section 3 businesses in a manner that allows HUD to determine if the minimum numerical goal for contracting was met.

(iii) The report must include a written justification consistent with § 135.7(b)(4) if a recipient failed to meet the minimum numerical goals during the reporting period.

(2) Only recipients are required to submit Section 3 annual reports to HUD. HUD will not accept reports from subrecipients, contractors, or subcontractors administering Section 3 covered financial assistance on behalf of a recipient.

(b) *Reporting periods.* Unless otherwise indicated, a recipient's reporting period shall coincide with their local program of fiscal year.

(c) *Report due dates.* (1) Unless otherwise indicated, all Section 3 annual reports shall be submitted to HUD's Office of Fair Housing and Equal Opportunity. Where the program providing the Section 3 covered assistance requires submission of an annual performance report, the Section 3 report will be submitted with that annual performance report. If the program providing the Section 3 covered assistance does not require an annual performance report, the Section 3 report is to be submitted by January 10 of each year or within 10 days of project completion, whichever is earlier.

(2) HUD may grant an extension of the due date for a Section 3 annual report for good reason based on a recipient's demonstration of the inability, through no fault of its own, to meet the reporting due date.

(d) *Electronic submission.* Unless otherwise specified, Section 3 annual reports shall be submitted electronically through online reporting systems as specified by HUD.

(e) *Data collection.* Data presented in a Section 3 annual report shall be used to make determinations regarding the recipient's efforts to ensure compliance with the requirements of Section 3 in its own operations, and those of its subrecipients, contractors, or subcontractors that may be administering Section 3 covered financial assistance on behalf of the recipient. Data from Section 3 annual reports may be used to produce reports for the Secretary, for the Executive Branch, Congress, housing professionals, the general public, and

others that may benefit from the information provided in such reports.

(f) *Sanctions for delinquent reports.* (1) Recipients that fail to submit Section 3 annual reports by the reporting due date may be sanctioned in accordance with the requirements of the regulation or NOFA governing the program under which the Section 3 covered financial assistance is provided.

(2) Continuing failure to submit Section 3 annual reports may result in HUD denying or withholding HUD financial assistance.

(g) *Subrecipient reporting.* A state or county recipient that distributes Section 3 covered financial assistance to subrecipients shall compile data regarding compliance with the requirements of this regulation in its own operations, and in the operations of its subrecipients, contractors, and subcontractors into one annual report to HUD in a manner that allows HUD to make an accurate determination regarding the State or county recipient's efforts to ensure compliance during the reporting period. Subrecipients are not required to submit annual reports directly to HUD.

(h) *Availability of Section 3 reports.* All Section 3 annual reports submitted to HUD in accordance with the requirements of this part will be made available to the public upon request.

**§ 135.25 Recordkeeping and access to records.**

HUD shall have access to all records, reports, documents, contracts, or other items that are maintained by a recipient to demonstrate compliance with the requirements of this part, in the recipient's own operations or those of its subrecipients, contractors, or subcontractors. These records include, but are not limited to: Section 3 policies, procedures, and other guidance materials; lists of Section 3 residents and businesses; evidence of efforts to notify Section 3 residents and businesses about the availability of employment training, contracting, or other economic opportunities; payroll data or other similar documentation verifying new hires; copies of Section 3 contracts, clauses, and assurances; evidence of efforts taken by contractors or subcontractors to comply with the terms of the Section 3 clause and efforts taken to reach the minimum numerical goals; and other data, evidence or materials deemed by HUD as demonstrating compliance with the requirements of this part.

**§ 135.27 Sanctions for noncompliance.**

Sanctions imposed on recipients that fail to comply with any of the requirements of this part shall be in accordance with the requirements and procedures concerning the imposition of sanctions or resolutions set forth in the regulations governing the program under which the Section 3 financial assistance is provided. Appropriate sanctions for noncompliance may, depending on the regulation governing the program under which the Section 3 financial assistance was provided, include: requiring additional certifications or assurances of compliance; repayment of HUD financial assistance; ineligibility for HUD financial assistance; withholding HUD financial assistance; or suspension, debarment, or limited denial of participation in HUD programs pursuant to 2 CFR part 2424 where appropriate.

**§ 135.29 Other Federal requirements.**

Compliance with Section 3 and the regulations of this part does not supersede other Federal requirements that may be applicable to the execution of HUD programs.

(a) *Federal labor standards provisions.* Certain construction contracts are subject to compliance with the requirement to pay prevailing wages determined under the Davis-Bacon Act and with implementing DOL regulations, including those at 29 CFR parts 1, 3 and 5. Additionally, maintenance activities on public housing developments are subject to compliance with the requirement to pay prevailing wage rates, as determined or adopted by HUD, for maintenance laborers and mechanics engaged in this work.

(b) *Use of apprentices.* Apprentices and trainees will be permitted to work at less than the predetermined rate for the work they perform when they are employed pursuant to a bona fide apprenticeship program registered with the DOL Office of Apprenticeship, or a state apprenticeship agency recognized by that Office, or pursuant to a trainee program approved by the DOL Employment and Training Administration, under the conditions specified in DOL regulations at 29 CFR 5.5(a)(4). Apprentices and trainees may be utilized only to the extent permitted under either DOL regulations or, for work subject to HUD-determined or adopted prevailing wage rates consistent with HUD policies and guidelines. The allowable use of apprentices and trainees includes adherence to the wage rates and ratios of apprentices or trainees to journeymen set out in the approved program.

## Subpart B—Additional Provisions for Public Housing Financial Assistance

**§ 135.31 Applicability.**

(a) *General.* The requirements of Section 3 apply to training, employment, contracting and other economic opportunities arising from the expenditure of *public housing financial assistance,* as defined in § 135.5. This subpart communicates provisions to be implemented by PHAs in addition to those set forth in subpart A.

(b) *Scope of applicability.* (1) The requirements of this subpart apply to all new employment and training opportunities that are generated as a result of the expenditure of public housing financial assistance.

(2) The requirements of this subpart apply to all contracting opportunities (including contracts for professional services) that are funded with Section 3 public housing financial assistance, regardless of whether the Section 3 project is fully- or partially-funded with Section 3 covered financial assistance. Accordingly, if any amount of Section 3 covered financial assistance is invested into Section 3 covered projects or activities, the requirements of this subpart apply to the entire project.

**§ 135.33 Public housing agency thresholds.**

There are no thresholds for Section 3 public housing financial assistance. The requirements of this subpart apply to Section 3 public housing assistance provided to recipients, notwithstanding the amount of the assistance provided to the recipient. The requirements of this subpart apply to all subrecipients, contractors, or subcontractors performing work in connection with projects and activities funded by public housing Section 3 covered financial assistance, regardless of the dollar amount of the contract or subcontract.

**§ 135.35 Minimum numerical goals.**

(a) *Employment opportunities.* (1) PHAs must employ, to the greatest extent feasible, Section 3 residents as 30 percent of direct new hires within the public housing agency (PHA). Employment opportunities are not limited to those related to construction and rehabilitation and may include, but are not limited, to the following employment opportunities: management, administrative, accounting, food services, case management, information technology, facilities maintenance, janitorial, daycare, construction, etc.

(2) PHAs must direct their subrecipients, contractors, subcontractors, and others that may be

administering Section 3 covered financial assistance on the PHA's behalf to employ, to the greatest extent feasible, Section 3 residents as 30 percent of its direct new hires.

(3) For a Section 3 resident to be considered a new hire by a contractor or subcontractor, the Section 3 resident must work, during its employment with the contractor or subcontractor, a minimum of 50 percent of the average staff hours worked for the category of work for which they were hired throughout the duration of time that the category of work is performed on the covered project.

(b) *Contracting opportunities.* (1) PHAs must award, to the greatest extent feasible, to Section 3 businesses at least 10 percent of the total dollar amount of all contracting opportunities generated from the expenditure of Section 3 covered financial assistance.

(2) PHAs must direct their subrecipients, contractors, subcontractors, and others that may be administering Section 3 covered financial assistance on the PHA's behalf to award, to the greatest extent feasible, to Section 3 businesses at least 10 percent of the total dollar amount of all subsequent contracting or subcontracting opportunities.

**§ 135.37 Orders of priority consideration for employment and contracting opportunities.**

(a) *General.* (1) Priority consideration should not be construed to be a quota or set-aside program, or an entitlement to economic opportunities such as a particular position or contract.

(2) Section 3 residents must possess the same job qualifications, skills, eligibility criteria, and capacity as other applicants for employment and training opportunities being sought.

(3) Section 3 businesses must be selected in accordance with the procurement standards of 24 CFR 85.36, including price, ability and willingness to comply with this part, and other factors, to be considered lowest responsible bidders on contracting opportunities being sought.

(4) A PHA may give priority consideration to a Section 3 resident or business if such resident or business is qualified for the respective employment or contracting opportunity.

(5) A PHA must give priority consideration to a Section 3 resident or business when that Section 3 resident or business is equally qualified with other individuals or businesses to which the PHA would offer employment or contracting opportunities.

(b) *Order of priority consideration for Section 3 residents in employment and training opportunities.* A PHA, its subrecipients, contractors, and subcontractors shall direct their efforts to provide employment and training opportunities generated from the expenditure of Section 3 covered financial assistance to Section 3 residents in the following order of priority consideration:

(1) Residents of the public housing project or projects where the Section 3 covered financial assistance is expended.

(2) Residents of other public housing projects managed by the PHA that is spending Section 3 covered financial assistance.

(3) Section 3 residents participating in DOL YouthBuild programs.

(4) Other Section 3 residents in the Section 3 local area, including individuals and families receiving Section 8 housing choice vouchers.

(c) *Order of priority consideration for Section 3 businesses in contracting opportunities.* A PHA, its subrecipients, contractors, and others shall direct their efforts to award contracting and subcontracting opportunities to Section 3 businesses in the following order of priority consideration:

(1) Section 3 businesses that are 51 percent or more owned by residents of the public housing project(s) where the Section 3 covered financial assistance is expended; or whose full-time, permanent workforce is comprised of 30 percent or more of residents of the public housing project(s) where the Section 3 covered financial assistance is expended.

(2) Section 3 businesses that are 51 percent or more owned by residents of any public housing projects administered by the PHA; or whose full-time, permanent, workforce is comprised of 30 percent or more of residents of any public housing projects managed by the PHA.

(3) Grantees selected to carry out DOL YouthBuild programs.

(4) Any other Section 3 business in the Section 3 local area.

## Subpart C—Additional Provisions for Housing and Community Development Financial Assistance

**§ 135.51 Applicability.**

(a) *General.* This subpart communicates provisions that must be implemented by recipients of Section 3 housing and community development financial assistance in addition to those set forth in subpart A. Section 3 applies to training, employment, contracting (including contracts for professional services), and other economic opportunities arising in connection with the expenditure of housing and community development financial assistance that is used for projects involving:

(1) Housing rehabilitation (including demolition);

(2) Housing construction; or

(3) Other public construction (including the demolition, rehabilitation or construction of other public buildings, facilities, or infrastructure).

(b) *Exemptions.* (1) The following is a list of some activities and projects that are exempt from the requirements of this subpart. This is not intended to be an all-inclusive list of activities that may be exempt from the requirements of this subpart.

(2) Covered housing and community financial assistance used for acquisition, routine maintenance, operations, administrative costs, and project rental assistance contracts (PRAC) is exempt from the requirements of this subpart.

(3) Indian tribes and tribally designated housing entities shall comply with the responsibilities set forth in subpart A and in this subpart. However, Indian tribes and tribally designated housing entities that adopt, and are complying with, tribal employment and contract preference laws (including regulations and tribal ordinances) in accordance with Section 101(k) of Native American Housing Assistance and Self-Determination Act of 1996 (NAHASDA) (25 U.S.C. 4111(k)) shall also be deemed to be in compliance with this subpart. Indian tribes, tribally designated housing entities, and other tribal entities that are subject to the Indian preference requirements of Section 7(b) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450e) shall also be deemed to be in compliance with this subpart. The requirements of this subpart apply to Indian tribes that have not adopted tribal preference laws for employment and contracting in accordance with Section 101(k) of NAHASDA, and Indian tribes, tribally designated housing entities, and tribal entities that are not subject to Indian preference requirements of Section 7(b) of the Indian Self-Determination and Education Assistance Act, in the same manner as other recipients of housing and community development financial assistance set forth in subpart C of this part.

**§ 135.53 Funding thresholds that trigger Section 3 compliance.**

(a) *Funding thresholds for recipients and subrecipients.* (1) The requirements of this subpart apply to recipients of housing and community development

financial assistance that plan to obligate or commit an aggregate amount of $400,000 or more in Section 3 covered financial assistance on projects involving demolition, housing rehabilitation, housing construction, or other public construction during an annual reporting period.

(2) The $400,000 funding threshold is comprised of the combined expenditure of all sources of housing and community development financial assistance set forth in § 135.5.

(b) *Applicability of Section 3 requirements to individual projects.* (1) Where the thresholds set forth in paragraph (a) of this section are met, the requirements of this subpart apply to all Section 3 projects and activities that are funded with housing and community development financial assistance, regardless of the specific dollar amount invested into the Section 3 covered project or activity.

(2) The requirements of this subpart apply to the entire project that is funded with Section 3 covered financial assistance, regardless of whether the Section 3 project is fully- or partially-funded with housing and community development financial assistance. Accordingly, if any amount of Section 3 covered financial assistance is invested into a project involving housing demolition, rehabilitation or construction, or the rehabilitation or construction of public buildings, facilities, or infrastructure, the requirements of this subpart apply to the entire project, both HUD and non-HUD funded portions.

**§ 135.55 Minimum numerical goals.**

(a) *Employment opportunities.* (1) Recipients of housing and community development financial assistance must direct its contractors and subcontractors employ, to the greatest extent feasible, Section 3 residents as 30 percent of direct new hires. For a Section 3 resident to be considered a new hire, the Section 3 resident must work, during the resident's employment with the contractor or subcontractor, a minimum of 50 percent of the average staff hours worked for the category of work for which they were hired throughout the duration of time that the category of work is performed on the covered project.

(2) Recipients of housing and community development financial assistance must ensure, to the greatest extent feasible, that 30 percent of any new hires within the agency that will primarily work on HUD-funded projects or activities involving demolition; housing rehabilitation; housing construction; demolition, rehabilitation, or construction of other public buildings, facilities, or infrastructure; or construction and rehabilitation-related (professional service) projects and activities are Section 3 residents. For example, these positions may include electricians, plumbers, construction managers, general laborers, consultants, accountants, and architects.

(c) *Contracting opportunities.* (1) Recipients of housing and community development financial assistance must award, to the greatest extent feasible, at least 10 percent of the total dollar amount of all contracts to Section 3 businesses.

(2) Recipients of housing and community development financial assistance must, to the greatest extent feasible, have its subrecipients, contractors, and subcontractors that receive contracts for Section 3 covered projects and activities award at least 10 percent of the total dollar amount of all subsequent contracting and subcontracting opportunities to Section 3 businesses.

**§ 135.57 Orders of priority consideration for employment and contracting opportunities.**

(a) *General.* (1) Recipients of housing and community development financial assistance and their subrecipients, and contractors shall provide priority consideration to Section 3 residents and Section 3 businesses for new training, employment, and contracting opportunities generated as a result of the expenditure of Section 3 covered financial assistance.

(2) Priority consideration should not be construed to be a quota or set-aside program, or as an entitlement to economic opportunities such as a particular job or contract.

(3) Section 3 residents must possess the same job qualifications, skills, eligibility criteria, and capacity as other applicants for employment and training opportunities being sought.

(4) Section 3 businesses must be selected in accordance with the procurement standards of 24 CFR 85.36 or 24 CFR 84.40, as appropriate, including price, ability and willingness to comply with this part, and other factors, to be considered lowest responsible bidders on contracting opportunities being sought.

(5) Recipients of housing and community development financial assistance and their subrecipients, and contractors may give priority consideration to a Section 3 resident or business if such resident or business is qualified for the respective employment or contracting opportunities

(6) Recipients of housing and community development and their subrecipients, and contractors must give priority consideration to a Section 3 resident or business when that Section 3 resident or business is equally qualified with other individuals or businesses that would be offered employment or contracting opportunities.

(b) *Orders of priority consideration for employment and training opportunities.* (1) Recipients of housing and community development financial assistance that meet the funding thresholds set forth at § 135.53 shall direct their efforts to provide training and employment opportunities generated from the expenditure of Section 3 housing and community development financial assistance, to Section 3 residents in the following order of priority consideration:

(i) Section 3 residents residing in the neighborhood or service area where the housing and community development financial assistance is spent;

(ii) Section 3 residents participating in DOL YouthBuild programs;

(iii) Section 3 residents residing in a neighborhood or service area within the Section 3 local area that has been officially identified by HUD;

(iv) Other Section 3 residents located in the Section 3 local area.

(2) Recipients of housing and community development financial assistance may, at their own discretion, provide priority consideration specifically to residents of public housing or recipients of other Federal assistance for housing, including individuals or families receiving Section 8 housing choice vouchers within the neighborhood where work on the Section 3 covered project or activity is located.

(c) *Orders of priority consideration for Section 3 businesses in contracting opportunities.* (1) Recipients of housing and community development financial assistance and their subrecipients, and contractors shall direct their efforts to provide contracting or subcontracting opportunities generated from the expenditure of housing and community development financial assistance to Section 3 businesses in the following order of priority consideration:

(i) Section 3 businesses that can provide evidence, to the satisfaction of the awarding agency, that a minimum of 75 percent of previously hired Section 3 residents residing in the service area of the project or neighborhood will be retained for the project.

(ii) Section 3 businesses that can provide evidence to the satisfaction of the awarding agency that a minimum of

50 percent of on-the-job training or registered apprenticeship opportunities will be provided to Section 3 residents in the neighborhood or area to be served by the Section 3 project or activity.

(iii) Section 3 businesses that are located in the neighborhood or service area where the Section 3 covered project or activity is located, and a minimum of 30 percent of its permanent full-time workforce is comprised of Section 3 residents residing in the neighborhood or service area where the Section 3 covered project or activity is located.

(iv) Grantees selected to carry DOL YouthBuild programs.

(5) All other businesses that are located in the Section 3 local area that meet the definition of Section 3 business in § 135.5.

## Subpart D—Additional Provisions for Recipients of Competitively Awarded Section 3 Financial Assistance

### § 135.71 Applicability.

(a) *General.*—(1) *Competitively awarded assistance.* The requirements of this subpart apply to Section 3 covered financial assistance competitively awarded by HUD.

(2) *HUD Notices of Funding Availability (NOFAs).* (i) All HUD NOFAs announcing the availability of Section 3 covered financial assistance will provide notification of the requirements of Section 3.

(ii) For competitively awarded public housing financial assistance involving activities that are anticipated to generate significant employment, training, contracting, or other economic opportunities, regardless of the source or amount of the public housing financial assistance, HUD's NOFA will include a statement advising that successful applicants shall, to the greatest extent feasible, and consistent with existing Federal, State, and local laws and regulations, ensure that employment, training, contracting, or other economic opportunities created as a result of the provision of financial assistance be directed to Section 3 residents and businesses consistent with the orders of priority consideration set forth at § 135.37.

(iii) For competitively awarded housing and community development financial assistance involving housing demolition, rehabilitation, or construction, or the demolition, rehabilitation or construction of other public buildings, facilities or infrastructure, HUD's NOFA will include a statement acknowledging that if the award of competitive financial assistance will result in the successful applicant receiving and planning to obligate or commit Section 3 covered financial assistance that exceeds the thresholds set forth at § 135.53, the grantee is required to ensure that employment, training, contracting (including contracts for professional services), or other economic opportunities generated as a result of the provision of Section 3 covered financial assistance that is competitively awarded be directed, to the greatest extent feasible, and consistent with existing Federal, State, and local laws and regulations, to Section 3 residents and businesses.

(3) *Exemption.* HUD NOFA competitions that primarily use volunteer labor, sweat equity, homeowners, or other beneficiaries to carryout construction or rehabilitation projects or activities are exempt from complying with the requirements of this subpart.

(b) [Reserved]

### § 135.73 Applicant selection criteria.

Where not otherwise precluded by statute, and where applicable, in the evaluation of applications for the award of assistance, consideration shall be given to the extent to which an applicant has described in their applications their plans to train and employ Section 3 residents and contract with Section 3 business concerns in furtherance of the proposed activities. The program NOFAs for which Section 3 is applicable will include information regarding how Section 3 activities will be considered in rating the application.

### § 135.75 Section 3 compliance for NOFA grantees.

(a) *Certifications of compliance with this part.* Successful applicants must certify that they will comply with the requirements set forth in this part. A HUD office that awards Section 3 covered financial assistance may require execution of a certification that reflects the requirements and goals of the Section 3 covered financial assistance. The Assistant Secretary for the program office will accept an applicant's certification absent evidence to the contrary.

(b) *Monitoring and compliance.* Successful applicants shall be held accountable for complying with the requirements of this subpart; implementing strategies described in narrative statements; meeting annual reporting requirements; and will be subject to monitoring at the discretion of HUD.

### § 135.77 Resolution of outstanding Section 3 matters.

Applicants that have received a letter of finding from HUD identifying noncompliance with Section 3 or that have received a sanction from HUD for noncompliance with Section 3, which has not been resolved to HUD's satisfaction before the application deadline, are ineligible to apply for competitive HUD funding. HUD will determine if actions taken to resolve the letter of findings or sanction taken before the deadline are sufficient to resolve the matter.

## Subpart E—Enforcement

### § 135.91 Cooperation in achieving compliance.

(a) *General.* HUD recognizes that the success of ensuring that Section 3 residents and Section 3 businesses have the opportunity to benefit from employment, training, contracting, and other economic opportunities generated from Section 3 covered financial assistance depends on the cooperation and assistance of recipients and their subrecipients, contractors, and subcontractors. Accordingly, all recipients shall fully and promptly cooperate with monitoring reviews, compliance reviews, or complaint investigations undertaken by HUD.

(b) *Records of compliance.* Each recipient shall maintain adequate records demonstrating compliance with Section 3 in its own operations and those of its subrecipients, contractors, and subcontractors, consistent with § 135.25. Recipients shall submit to HUD timely, complete and accurate data at such times, in specified formats, and containing information determined by HUD to be necessary to ascertain whether the recipient has complied with this subpart.

### § 135.93 Conduct of investigations.

*(a) Periodic compliance reviews.* The Assistant Secretary or designee may periodically review the practices of recipients to determine whether they are complying with this part and where he or she has a reasonable basis to do so may conduct on-site or remote reviews. Such basis may include any evidence that a problem exists or that programmatic matters exist that justify investigation in selected circumstances. The Assistant Secretary or designee shall initiate compliance reviews by sending to the recipient a letter advising the recipient of the practices to be reviewed; the programs affected by the review; and the opportunity, at any time prior to receipt of a final determination, to make a documentary or other submission that explains, validates, or otherwise addresses the practices under review. In addition, normal program compliance reviews and monitoring

procedures shall identify appropriate actions to review and monitor compliance with general or specific program requirements designed to effectuate the requirements of this part.

(b) *Interdepartmental coordination.* Monitoring and enforcement may be carried out in coordination with the HUD program office that provided Section 3 covered financial assistance to the recipient being reviewed for compliance with Section 3.

(c) *Investigations.* The Assistant Secretary may conduct an investigation whenever a compliance or monitoring review, Section 3 annual report, complaint or any other information indicates a possible failure by a recipient to comply with this part, or that a recipient failed to ensure compliance with this part by its subrecipients, contractors, or subcontractors that may be administering Section 3 covered financial assistance on behalf of the recipient.

(d) *Who may file a complaint.* The following individuals and businesses may file a complaint alleging noncompliance of the requirements of Section 3 with the Assistant Secretary, personally or through an authorized representative:

(1) Any Section 3 resident on behalf of himself or herself, or as a representative of persons similarly situated, seeking employment, training or other economic opportunities generated from the expenditure of Section 3 covered financial assistance by a recipient, subrecipient, or contractor, or by a representative who is not a Section 3 resident but who represents one or more Section 3 residents;

(2) Any Section 3 business on behalf of itself, or as a representative of other Section 3 businesses similarly situated, seeking contract opportunities generated from the expenditure of Section 3 covered financial assistance from a recipient, subrecipient, or contractor, or by an individual representative of Section 3 businesses.

(3) The Assistant Secretary or designee shall hold in confidence the identity of any person submitting a complaint, unless the person submits written authorization otherwise, and except to the extent necessary to carry out the purposes of this part, including the conduct of any investigation, hearing, or proceeding under this part.

(e) *When to file.* Complaints shall be filed within 180 days of the last occurrence of the alleged violation, unless the time for filing is extended by the Assistant Secretary for good cause shown. For purposes of determining when a complaint is filed under this paragraph (c) of this section, a complaint mailed to HUD shall be deemed filed on the date it is postmarked. Any other complaint shall be deemed filed on the date it is received by HUD.

(f) *Where to file a complaint.* A complaint must be filed with the Office of Fair Housing and Equal Opportunity, U.S. Department of Housing and Urban Development, 451 7th Street SW., Washington, DC, 20410, or any FHEO Regional or Field Office, as stipulated by HUD.

(g) *Contents of complaint.* Each complaint must contain the complainant's name and address, the name and address of the recipient alleged to have violated this part, and a description of the recipient's alleged violation in sufficient detail to inform HUD of the nature and date of the alleged violation of this part. HUD may provide assistance in drafting a complaint based on information received.

(h) *Amendment of complaints.* Complaints may be reasonably and fairly amended at any time. Amendments to complaints, such as a clarification and amplification of allegations in a complaint, or the addition of other recipients may be made at any time during the pendency of the complaint and any amendment shall be deemed to be made as of the original filing date.

(i) *Notification.* The Assistant Secretary will notify the complainant and the recipient of the agency's receipt of the complaint within 10 calendar days.

(j) *Preliminary investigation.* (1) Within 30 calendar days of acknowledgement of the complaint, the Assistant Secretary will review the complaint for acceptance, rejection, or referral to the appropriate Federal agency.

(2) If the complaint is accepted, the Assistant Secretary will notify the complainant and the applicable HUD program office. The Assistant Secretary will also notify the recipient of the allegations and provide them an opportunity to make a written submission responding to, rebutting, or denying the allegations presented in the complaint.

(3) The recipient may send the Assistant Secretary a response to the notice of complaint within 30 calendar days of receipt. With the agreement of the Assistant Secretary, an answer may be amended at any time. The Assistant Secretary will permit answers to be amended for good cause shown.

*(k) Dismissal of complaint.* If the investigation reveals no violation of this part, the Assistant Secretary or designee will dismiss the complaint and notify the complainant and recipient.

(l) *Letter of finding.* If no informal resolution of the complaint or compliance review is reached, and the facts disclosed during a compliance review or an investigation indicate a failure by the recipient or its subrecipients or contractors to comply with the requirements of this part in its own operations or to ensure the compliance of subrecipients, contractors, or subcontractors that may be administering Section 3 covered financial assistance on behalf of the recipient, the Assistant Secretary will issue a letter of findings within 180 calendar days of receipt of the complaint or culmination of a compliance review. The letter of findings shall contain the following:

(1) Preliminary findings of fact and preliminary finding of noncompliance;

(2) The actions that must be taken to address the areas of noncompliance within a specified timeframe;

(3) A notice that a copy of the Final Investigative Report of HUD will be made available, upon request, to the recipient; and

(4) Provide complainants or recipients 30 days to respond to HUD's findings and resolve or remedy findings of noncompliance identified during the compliance review or investigation.

(m) *Right to review of the letter of findings.* (1) A complainant or recipient may request that a complete review be made of the letter of findings within 30 calendar days of receipt, by mailing or delivering to the Assistant Secretary, Office of Fair Housing and Equal Opportunity, U.S. Department of Housing and Urban Development, 451 7th Street SW., Washington, DC 20410, a written statement of the reasons why the letter of findings should be modified in light of supplementary information.

(2) The Assistant Secretary will send by certified mail, return receipt requested, or other similar mail services, a copy of the request for review to the other party, if any. Such other party shall have 30 calendar days to respond to the request for review.

(3) The Assistant Secretary will either sustain or modify the letter of findings within 60 calendar days of the request for review. The Assistant Secretary's decision shall constitute the formal determination.

(4) If neither party requests that the letter of findings be reviewed, the Assistant Secretary shall send a formal written determination of noncompliance to the recipient and the appropriate

HUD program office that administers the Section 3 financial assistance provided within 14 calendar days of the expiration of the time period provided in paragraph (c)(1) of this section.

(n) *Voluntary compliance time limits.* If it has been determined that the matter cannot be resolved by voluntary means within 30 days HUD may proceed with sanctions as described at § 135.27.

(l) *Informal resolution of complaint investigations and compliance reviews.* (1) *General.* It is the policy of HUD to encourage the informal resolution of matters. The Assistant Secretary may attempt to resolve a matter through informal means at any stage of a complaint investigation or compliance review.

(2) *Objectives of informal resolution/voluntary compliance.* In attempting informal resolution, the Assistant Secretary will attempt to achieve a just resolution of the matter and will take such action as will assure the elimination of any violation of this part or the prevention of the occurrence of such violation in the future.

(3) The terms of such an informal resolution shall be reduced to a written voluntary compliance agreement and signed by the recipient and the Assistant Secretary. Such voluntary compliance agreements shall seek to protect the public interest, provide denied economic opportunities to Section 3 residents and businesses, and may include the provision of relief for those injured by the recipient's noncompliance.

(o) *Intimidatory or retaliatory acts prohibited.* No recipient or other person shall intimidate, threaten, coerce, or discriminate against any person for the purpose of interfering with any right or privilege secured by this part, or because he or she has made a complaint, testified, assisted, or participated in any manner in an compliance review, investigation or hearing under this part.

Dated: March 2, 2015.

**Gustavo Velasquez,**

*Assistant Secretary for Fair Housing and Equal Opportunity.*

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