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FEDERAL REGISTER

Vol. 80 Wednesday,
No. 160 August 19, 2015

Pages 50189–50542

OFFICE OF THE FEDERAL REGISTER

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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 922

[Doc. No. AMS–FV–15–0033; FV15–922–1 IR]

Apricots Grown in Designated Counties in Washington; Decreased Assessment Rate

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Interim rule with request for comments.

SUMMARY: This rule implements a recommendation from the Washington Apricot Marketing Committee (Committee) for a decrease in the assessment rate from $1.50 to $0.75 per ton of Washington apricots handled for the 2015–2016 and subsequent fiscal periods. The Committee locally administers the marketing order and is comprised of producers and handlers of apricots grown in designated counties in Washington. Assessments upon apricot handlers are used by the Committee to fund reasonable and necessary expenses of the program. The fiscal period begins April 1 and ends March 31. The new assessment rate will remain in effect indefinitely unless modified, suspended or terminated.

DATES: Effective August 20, 2015. Comments received by October 19, 2015, will be considered prior to issuance of a final rule.

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

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

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

SUPPLEMENTARY INFORMATION: This rule is issued under Marketing Agreement No. 132 and Order No. 922 (7 CFR 922), as amended, regulating the handling of apricots grown in designated counties in Washington, hereinafter referred to as the ''order.'' The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the ''Act.''

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

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. Under the marketing order now in effect, apricot handlers in designated counties in Washington are subject to assessments. Funds to administer the order are derived from such assessments. It is intended that the assessment rate as issued herein will be applicable to all assessable Washington apricots beginning April 1, 2015, and continue until amended, suspended, or terminated.

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

This rule decreases the assessment rate established for the Committee for the 2015–2016 and subsequent fiscal periods from $1.50 to $0.75 per ton of Washington apricots handled under the order.

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

For the 2013–2014 and subsequent fiscal periods, the Committee recommended, and the USDA approved, an assessment rate that would continue in effect from fiscal period to fiscal period unless modified, suspended, or terminated by USDA upon recommendation and information submitted by the Committee or other information available to USDA.

The Committee met on May 12, 2015, and unanimously recommended expenditures of $7,610 for the 2015–2016 fiscal period. In comparison, the

previous fiscal period's budgeted expenditures were $7,095. The Committee also unanimously recommended an assessment rate of $0.75 per ton of apricots. The recommended assessment rate of $0.75 is $0.75 lower than the current rate of $1.50 per ton.

The Committee believes that decreasing the assessment rate will allow the Committee to fund its financial obligations and reduce its current monetary reserve of $10,353. If the current assessment rate was continued, then the Committee's monetary reserve would exceed the maximum permitted by the order of approximately one fiscal period's operational expenses.

The major expenditures recommended by the Committee for the 2015–2016 fiscal period include $3,000 for the management/administration fee, $2,500 for the annual audit review, $1,200 for Committee travel, and $500 for computer tech services, software, and equipment. In comparison, major expenditures for the 2014–2015 fiscal period included $3,000 for the management/administration fee, $2,500 for the annual audit review, $1,000 for Committee travel, and $50 for computer tech services, software, and equipment.

Committee members estimated the 2015 fresh apricot production to be approximately 5,800 tons. The Committee's recommended assessment rate was then derived by dividing the 2015–2016 anticipated expenses by the expected shipments of Washington apricots, while also taking into account the Committee's monetary reserve. The recommended assessment rate of $0.75 per ton of apricots multiplied by the 5,800 tons of estimated 2015 Washington apricot shipments would generate $4,350 in handler assessments. The projected revenue from handler assessments, along with funds from the Committee's monetary reserve of $10,353, will be adequate to cover the 2015–2016 budgeted expenses of $7,610. The Committee's monetary reserve is expected to be approximately $7,093 at the end of the 2015–2016 fiscal period which is within the maximum permitted by the order of approximately one fiscal period's operational expenses.

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

Although this assessment rate is effective for an indefinite period, the Committee will continue to meet prior to or during each fiscal period to recommend a budget of expenses and consider recommendations for modification of the assessment rate. The dates and times of the Committee meetings are available from the Committee or USDA. Committee meetings are open to the public and interested persons may express their views at these meetings. USDA will evaluate Committee recommendations and other available information to determine whether modification of the assessment rate is needed. Further rulemaking will be undertaken as necessary. The Committee's 2015–2016 budget and those for subsequent fiscal periods will be reviewed, and continue to be approved by USDA.

Initial Regulatory Flexibility Analysis

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

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

There are approximately 100 producers of apricots in the production area and approximately 17 handlers subject to regulation under the marketing order. Small agricultural producers are defined by the Small Business Administration (SBA) (13 CFR 121.201) as those having annual receipts of less than $750,000, and small agricultural service firms are defined as those having annual receipts of less than $7,000,000.

The National Agricultural Statistics Service reported that in 2014 the Washington apricot total utilization (including both fresh and processed markets) of 8,500 tons sold for an average of $1,080 per ton. Consequently, the total farm-gate value in 2014 was approximately $9,180,000. Based on the number of producers in the production area (100), the 2014 average revenue from the sale of apricots is estimated at approximately $91,800 per producer. In addition, based on information from the USDA's Market News Service, 2014 f.o.b. prices for WA No. 1 apricots ranged from $20.00 to $26.00 per 24-pound loose-pack container, and from $22.00 to $30.00 for 2-layer tray-pack containers. Using average price and shipment information provided by the Committee, it is determined that each of the Washington apricot handlers currently ship less than $7,000,000 worth of apricots on an annual basis. In view of the foregoing, it can be concluded that the majority of producers and handlers of Washington apricots may be classified as small entities.

This rule decreases the assessment rate established by the Committee and collected from handlers for the 2015–2016 and subsequent fiscal periods from $1.50 to $0.75 per ton of apricots handled under the order's authority. The Committee also unanimously recommended 2015–2016 expenditures of $7,610. With a 2015–2016 Washington apricot crop estimate of 5,800 fresh market tons, the Committee anticipates assessment income of approximately $4,350. Income derived from handler assessments, along with funds from the Committee's monetary reserve, will be adequate to cover budgeted expenses for the 2015–2016 fiscal period. At this assessment rate and expense level, the Committee's monetary reserve will approximate $7,093 by March 30, 2016, which is within the maximum permitted by the order of approximately one fiscal period's operational expenses.

The major expenditures recommended by the Committee for the 2015–2016 fiscal period include $3,000 for the management/administration fee, $2,500 for the annual audit review, $1,200 for Committee travel, and $500 for computer tech services, software, and equipment. In comparison, major expenditures for the 2014–2015 fiscal period included $3,000 for the management/administration fee, $2,500 for the annual audit review, $1,000 for Committee travel, and $50 for computer tech services, software, and equipment.

The Committee discussed alternatives to this rule, including alternative expenditure levels. Although lower assessment rates were considered, none were selected because they would not generate sufficient income to administer the order.

A review of historical crop and price information, as well as preliminary information pertaining to the 2015–2016 fiscal period, indicates that the producer price could average approximately $1,000 per ton for fresh Washington apricots. Therefore, the estimated assessment revenue for the 2015–2016 fiscal period as a percentage of total producer revenue is 0.08 percent for Washington apricots.

This action decreases the assessment obligation imposed on handlers. Assessments are applied uniformly on all handlers. Decreasing the assessment rate reduces the burden on handlers. In addition, the Committee's meeting was widely publicized throughout the Washington apricot industry, and all interested persons were invited to attend the meeting and participate in Committee deliberations on all issues. Like all Committee meetings, the May 12, 2015, meeting was a public meeting, and all entities, both large and small, were able to express views on this issue. Finally, interested persons are invited to submit comments on this interim rule, including the regulatory and informational impacts of this action on small businesses.

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

This action imposes no additional reporting or recordkeeping requirements on either small or large Washington apricot handlers. As with all Federal marketing order programs, reports and forms are periodically reviewed to reduce information requirements and duplication by industry and public sector agencies.

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

USDA has not identified any relevant Federal rules that duplicate, overlap, or conflict with this rule.

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

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

Pursuant to 5 U.S.C. 553, it is also found and determined upon good cause that it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice prior to putting this rule into effect, and that good cause exists for not postponing the effective date of this rule until 30 days after publication in the **Federal Register** because: (1) The 2015–2016 fiscal period began on April 1, 2015, and the marketing order requires that the rate of assessment for each fiscal period apply to all assessable apricots handled during such fiscal period; (2) the action decreases the assessment rate for assessable apricots beginning with the 2015–2016 fiscal period; (3) handlers are aware of this action, which was unanimously recommended by the Committee at a public meeting and is similar to other assessment rate actions issued in past years; and (4) this interim rule provides a 60-day comment period, and all comments timely received will be considered prior to finalization of this rule.

List of Subjects in 7 CFR Part 922

Apricots, Marketing agreements, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR part 922 is amended as follows:

PART 922—APRICOTS GROWN IN DESIGNATED COUNTIES IN WASHINGTON

■ 1. The authority citation for 7 CFR part 922 continues to read as follows:

Authority: 7 U.S.C. 601–674.

■ 2. Section 922.235 is revised to read as follows:

§ 922.235 Assessment rate.

On and after April 1, 2015, an assessment rate of $0.75 per ton is established for the Washington Apricot Marketing Committee.

Dated: August 13, 2015.

Rex A. Barnes,

Associate Administrator, Agricultural Marketing Service.

[FR Doc. 2015–20436 Filed 8–18–15; 8:45 am]

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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Parts 953

[Doc. No. AMS–FV–14–0011; FV14–953–1 FIR]

Irish Potatoes Grown in Southeastern States; Suspension of Marketing Order Provisions

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Affirmation of interim rule as final rule.

SUMMARY: The Department of Agriculture (USDA) is adopting, as a final rule, without change, an interim rule that continued the previous suspension of the marketing order for Irish potatoes grown in Southeastern states (order). The interim rule continued the suspension of all provisions of the order, and the rules and regulations implemented thereunder, through March 1, 2017, as requested by representatives of the Virginia/North Carolina Irish potato industry. This provides the industry more time to consider changes which could affect the need for the order. If the industry does not petition to have the order reactivated by the end of the suspension period, the Agricultural Marketing Service (AMS) will propose to terminate the order.

DATES: Effective August 20, 2015 through March 1, 2017.

FOR FURTHER INFORMATION CONTACT: Doris Jamieson, Marketing Specialist, or Christian D. Nissen, Regional Director, Southeast Marketing Field Office, Marketing Order and Agreement Division, Fruit and Vegetable Program, AMS, USDA; Telephone: (863) 324–3375, Fax: (863) 291–8614, or Email: *Doris.Jamieson@ams.usda.gov* or *Christian.Nissen@ams.usda.gov.*

Small businesses may obtain information on complying with this and other marketing order and agreement regulations by viewing a guide at the following Web site: *http://www.ams.usda.gov/MarketingOrdersSmallBusinessGuide;* or by contacting Jeffrey Smutny, Marketing Order and Agreement Division, Fruit and Vegetable Program, AMS, USDA, 1400 Independence Avenue SW., STOP 0237, Washington, DC 20250–0237; Telephone: (202) 720–2491, Fax: (202) 720–8938, or Email: *Jeffrey.Smutny@ams.usda.gov.*

SUPPLEMENTARY INFORMATION: This rule is issued under Marketing Agreement No. 104 and Marketing Order No. 953,

both as amended (7 CFR part 953), regulating the handling of Irish potatoes grown in Southeastern states, hereinafter referred to as the ''order.'' The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the ''Act.''

USDA is issuing this rule in conformance with Executive Orders 12866, 13563, and 13175.

The handling of Irish potatoes grown in Southeastern states is regulated by 7 CFR part 953. Prior to this change, the marketing order, and the rules and regulations implemented thereunder, had been suspended until March 1, 2014. Even though the Southeastern Potato Committee does not function under the suspended order and regulations, representatives of the Virginia/North Carolina Irish potato industry met on December 18, 2013, and requested that the suspension of all provisions of the order, and the rules and regulations implemented thereunder, be continued through March 1, 2017. This gives the industry more time to consider the need for the order. Therefore, this rule continues in effect the rule that suspended, through March 1, 2017, the provisions of Federal Marketing Order No. 953 and the rules and regulations issued thereunder. If the industry does not petition to have the order reactivated by the end of the suspension period, AMS will propose to terminate the order.

In an interim rule published in the **Federal Register** on April 1, 2015, and effective on April 2, 2015, (80 FR 17307, Doc. No. AMS–FV–14–0011, FV14–953–1 IR), 7 CFR 953 was suspended through March 1, 2017.

Final Regulatory Flexibility Analysis

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

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

There are approximately 10 handlers of Irish potatoes grown in Southeastern states who are subject to regulation under the order and approximately 20 potato producers in the regulated area. Small agricultural service firms are defined by the Small Business Administration (SBA) as those having annual receipts of less than $7,000,000, and small agricultural producers are defined as those whose annual receipts are less than $750,000 (13 CFR 121.201).

Using prices reported by AMS' Market News Service, the average f.o.b. price for Southeastern potatoes for the 2012–13 marketing season was around $25 per hundredweight. USDA has estimated production for the 2012–13 season at approximately 600,000 hundredweight of potatoes. Based on this information, average annual receipts for handlers would be less than $7,000,000. Information provided by the National Agricultural Statistics Service indicates that the average producer price for Irish potatoes grown in North Carolina and Virginia in 2012 was approximately $12.16 per hundredweight. Considering estimated production, average producer revenue would be about $400,000 for the 2012–13 season. Therefore, the majority of Southeastern potato handlers and producers may be classified as small entities.

This rule continues in effect the action that continued the previous suspension of the order and the associated rules and regulations through March 1, 2017. The continued suspension gives the industry more time to consider the need for the order. If the industry does not petition to have the order reactivated by the end of the suspension period, AMS will publish a proposal to terminate the order. Authority for this action is provided in section 8c(16)(A) of the Act.

Suspension of the order and its corresponding regulations relieves handlers of quality, inspection, and assessment burdens during the suspension period. Also, handler reports will not be required. Suspension of the order is therefore expected to reduce the regulatory burden on handlers and growers of all sizes.

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the order's information collection requirements have been previously approved by the Office of Management and Budget (OMB) and assigned OMB No. 0581–0178 Vegetable and Specialty Crops. No changes in those requirements as a result of this action are necessary. Should any changes become necessary, they would be submitted to OMB for approval.

This rule will not impose any additional reporting or recordkeeping requirements on either small or large Southeastern Irish potato handlers. As with all Federal marketing order programs, reports and forms are periodically reviewed to reduce information requirements and duplication by industry and public sector agencies. In addition, USDA has not identified any relevant Federal rules that duplicate, overlap or conflict with this rule.

Further, the industry's meeting was widely publicized throughout the Southeastern Irish potato industry and interested persons were invited to attend the meeting and participate in industry deliberations. The December 18, 2013, meeting was an open meeting and entities, both large and small, were able to express their views on this issue.

Comments on the interim rule were required to be received on or before June 1, 2015. No comments were received. Therefore, for the reasons given in the interim rule, we are adopting the interim rule as a final rule, without change.

To view the interim rule, go to: *http://www.regulations.gov/#!documentDetail;D=AMS-FV-14-0011-0001*.

This action also affirms information contained in the interim rule concerning Executive Orders 12866, 12988, 13175, and 13563; the Paperwork Reduction Act (44 U.S.C. Chapter 35); and the E-Gov Act (44 U.S.C. 101).

After consideration of all relevant material presented, it is found that finalizing the interim rule, without change, as published in the **Federal Register** (80 FR 17307, April 1, 2015) will tend to effectuate the declared policy of the Act.

List of Subjects in 7 CFR Part 953

Marketing agreements, Potatoes, Reporting and recordkeeping requirements.

Accordingly, the interim rule that suspended 7 CFR part 953 and that was published at 80 FR 17307 on April 1, 2015, is adopted as a final rule, without change.

Dated: August 13, 2015.

Rex A. Barnes,

Associate Administrator, Agricultural Marketing Service.

[FR Doc. 2015–20443 Filed 8–18–15; 8:45 am]

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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 958

[Doc. No. AMS–FV–15–0027; FV15–958–1 IR]

Onions Grown in Certain Designated Counties in Idaho, and Malheur County, Oregon; Decreased Assessment Rate

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Interim rule with request for comments.

SUMMARY: This rule implements a recommendation from the Idaho-Eastern Oregon Onion Committee (Committee) for a decrease in the assessment rate established for the 2015–2016 and subsequent fiscal periods from $0.10 to $0.05 per hundredweight of onions handled under the marketing order (order). The Committee locally administers the order and is comprised of producers and handlers of onions operating within the area of production. Assessments upon onion handlers are used by the Committee to fund reasonable and necessary expenses of the program. The fiscal period begins July 1 and ends June 30. The assessment rate will remain in effect indefinitely unless modified, suspended, or terminated.

DATES: Effective August 20, 2015. Comments received by October 19, 2015, will be considered prior to issuance of a final rule.

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

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

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

SUPPLEMENTARY INFORMATION: This rule is issued under Marketing Agreement No. 130 and Order No. 958, both as amended (7 CFR part 958), regulating the handling of onions grown in designated counties in Idaho, and Malheur County, Oregon, hereinafter referred to as the ''order.'' The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the ''Act.''

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

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. Under the marketing order now in effect, Idaho-Eastern Oregon onion handlers are subject to assessments. Funds to administer the order are derived from such assessments. It is intended that the assessment rate as issued herein will be applicable to all assessable onions beginning July 1, 2015, and continue until amended, suspended, or terminated.

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

This rule decreases the assessment rate established for the Committee for the 2015–2016 and subsequent fiscal periods from $0.10 to $0.05 per hundredweight of onions.

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

For the 2005–2006 and subsequent fiscal periods, the Committee recommended, and USDA approved, an assessment rate that would continue in effect from fiscal period to fiscal period unless modified, suspended, or terminated by USDA upon recommendation and information submitted by the Committee or other information available to USDA. The Committee met on April 21, 2015, and recommended 2015–2016 expenditures of $705,473 and an assessment rate of $0.05 per hundredweight of onions. Ten Committee members voted for this change, one voted against, and there were no abstentions.

In comparison, last year's budgeted expenditures were $1,173,944. The assessment rate of $0.05 is $0.05 lower than the rate currently in effect. The Committee's recommendation was in response to a request from handlers and growers to reduce promotion expenditures from $635,000 to $250,000, and to allow handlers to keep $0.05 per hundredweight to spend on their own branded promotions.

The major expenditures recommended by the Committee for the 2015–2016 year include $6,000 for committee expenses, $115,412 for salary expenses, $67,810 for travel/office expenses, $466,251 for domestic and export promotions and production research expenses, and $50,000 for marketing order contingency. Budgeted expenses for these items in 2014–2015 were $6,000, $112,124, $107,810, $898,010, and $50,000, respectively.

The Committee based its recommended assessment rate decrease on the 2015–2016 crop estimates, the 2015–2016 program expenditure needs, and the current and projected size of its monetary reserve. The Committee

estimated onion shipments for 2015–2016 at 8,800,000 hundredweight which should provide $440,000 in assessment income. Income derived from handler assessments, along with contributions ($7,000), interest income ($1,750), other income $(5,000), grant income ($34,500), and funds from the Committee's authorized reserve ($217,223), should be adequate to cover budgeted expenses. The Committee estimates that its operating reserve will be approximately $340,344 at the end of the 2015–2016 fiscal period. Funds in the reserve will be kept within the maximum permitted by the order of approximately one fiscal year's operational expenses (§ 958.44).

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

Although this assessment rate is effective for an indefinite period, the Committee will continue to meet prior to or during each fiscal period to recommend a budget of expenses and consider recommendations for modification of the assessment rate. The dates and times of Committee meetings are available from the Committee or USDA. Committee meetings are open to the public and interested persons may express their views at these meetings. USDA will evaluate Committee recommendations and other available information to determine whether modification of the assessment rate is needed. Further rulemaking will be undertaken as necessary. The Committee's 2015–2016 budget and those for subsequent fiscal periods will be reviewed and, as appropriate, approved by USDA.

Initial Regulatory Flexibility Analysis

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

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

There are approximately 250 producers of onions in the production area and approximately 31 handlers subject to regulation under the marketing order. Small agricultural producers are defined by the Small Business Administration as those having annual receipts less than $750,000, and small agricultural service firms are defined as those whose annual receipts are less than $7,000,000 (13 CFR 121.201).

According to the National Agricultural Statistics Service, as reported in the *Vegetables 2014 Summary,* the total F.O.B. value of onions in the regulated production area for 2014 was $100,951,000. Based on an industry estimate of 31 handlers, the average value of onions handled per handler is $3,256,484, well below the SBA threshold for defining small agricultural service firms. In addition, based on an industry estimate of 250 producers, the average F.O.B. value of onions produced in the production area is $403,804 per producer. Therefore, it can be concluded that the majority of handlers and producers of Idaho-Eastern Oregon onions may be classified as small entities.

This rule decreases the assessment rate established for the Committee and collected from handlers for the 2015–2016 and subsequent fiscal periods from $0.10 to $0.05 per hundredweight of onions handled. The Committee recommended 2015–2016 expenditures of $705,473 and an assessment rate of $0.05 per hundredweight. The assessment rate of $0.05 is $0.05 lower than the 2014–2015 rate. The quantity of assessable onions for the 2015–2016 fiscal period is estimated at 8,800,000 hundredweight. Thus, the $0.05 rate should provide $440,000 in assessment income. Assessment income, along with interest and other income, contributions and grants, and funds from the Committee's authorized reserve ($217,223), should be adequate to cover budgeted expenses of $705,473.

The major expenditures recommended by the Committee for the 2015–2016 year include $6,000 for committee expenses, $115,412 for salary expenses, $67,810 for travel/office expenses, $466,251 for program expenses, and $50,000 for marketing order contingency. Budgeted expenses for these items in 2014–2015 were $6,000, $112,124, $107,810, $898,010, and $50,000, respectively.

The Committee's recommendation to decrease the assessment was in response to a request from handlers and growers to reduce promotion expenditures from $635,000 to $250,000 and to allow handlers to keep $0.05 per hundredweight to spend on their own branded promotions.

Prior to arriving at this budget and assessment rate, the Committee considered information from various sources, such as the Committee's Executive, Research, Export, and Promotion Sub-Committees, grower associations, and industry leaders. Alternative expenditure levels were discussed by these groups, based upon the relative value of various activities to the onion industry. The Committee ultimately determined that income derived from handler assessments, along with interest and other income, contributions and grants, and funds from the Committee's authorized reserve will be adequate to cover 2015–2016 budgeted expenses of $705,473.

A review of historical information and preliminary information pertaining to the upcoming fiscal period indicates that the producer price for the 2015–2016 fiscal period could range between $8.00 and $8.50 per hundredweight of onions. Utilizing these estimates and the assessment rate of $0.05 per hundredweight, estimated assessment revenue as a percentage of total grower revenue could range between 0.59 and 0.63 percent for the 2015–2016 fiscal period.

This action decreases the assessment obligation imposed on handlers. Assessments are applied uniformly on all handlers, and some of the costs may be passed on to producers. However, decreasing the assessment rate reduces the burden on handlers, and may reduce the burden on producers. In addition, the Committee's meeting was widely publicized throughout the Idaho-Eastern Oregon onion industry and all interested persons were invited to attend the meeting and participate in Committee deliberations on all issues. Like all Committee meetings, the April 21, 2015, meeting was a public meeting and all entities, both large and small, were able to express views on this issue. Finally, interested persons are invited to submit comments on this interim rule, including the regulatory and informational impacts of this action on small businesses.

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the order's information collection requirements have been previously approved by the Office of Management and Budget (OMB) and assigned OMB No. 0581–0178, Vegetable and Specialty Crops. No changes in those requirements as a result of this action are necessary. Should any changes become necessary,

they would be submitted to OMB for approval.

This action imposes no additional reporting or recordkeeping requirements on either small or large Idaho-Eastern Oregon onion handlers. As with all Federal marketing order programs, reports and forms are periodically reviewed to reduce information requirements and duplication by industry and public sector agencies.

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

USDA has not identified any relevant Federal rules that duplicate, overlap, or conflict with this rule.

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

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

Pursuant to 5 U.S.C. 553, it is also found and determined upon good cause that it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice prior to putting this rule into effect, and that good cause exists for not postponing the effective date of this rule until 30 days after publication in the **Federal Register** because: (1) The 2015–2016 fiscal period begins on July 1, 2015, and the marketing order requires that the rate of assessment for each fiscal period apply to all assessable onions handled during such fiscal period; (2) the action decreases the assessment rate for assessable onions beginning with the 2015–2016 fiscal period; (3) handlers are aware of this action which was recommended by the Committee at a public meeting; and (4) this interim rule provides a 60-day comment period, and all comments timely received will be considered prior to finalization of this rule.

List of Subjects in 7 CFR Part 958

Marketing agreements, Onions, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR part 958 is amended as follows:

PART 958—ONIONS GROWN IN CERTAIN DESIGNATED COUNTIES IN IDAHO, AND MALHEUR COUNTY, OREGON

■ 1. The authority citation for 7 CFR part 958 continues to read as follows:

Authority: 7 U.S.C. 601–674.

■ 2. Section 958.240 is revised to read as follows:

§ 958.240 Assessment rate.

On and after July 1, 2015, an assessment rate of $0.05 per hundredweight is established for Idaho-Eastern Oregon onions.

Dated: August 13, 2015.

Rex A. Barnes,

Associate Administrator, Agricultural Marketing Service.

[FR Doc. 2015–20444 Filed 8–18–15; 8:45 am]

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DEPARTMENT OF STATE

22 CFR Part 96

[Public Notice 9228]

RIN 1400–AD82

Intercountry Adoptions: Regulatory Change To Prevent Accreditation and Approval Renewal Requests From Coming Due at the Same Time

AGENCY: Department of State.

ACTION: Final rule.

SUMMARY: This rule amends the Department of State (Department) regulation on the accreditation and approval of adoption service providers in intercountry adoptions. Most agencies and persons currently accredited received that accreditation at approximately the same time, which has resulted in a surge of concurrent renewal applications for consideration by the Council on Accreditation (COA), the designated accrediting entity. Permitting some agencies or persons to qualify for an extension by one year of the accreditation or approval period will result in a more even distribution of applications for renewal in a given year. By distributing renewals, and the resources needed to process them, COA will be further enabled to effectively and consistently carry out its other functions.

DATES: Effective September 18, 2015.

FOR FURTHER INFORMATION CONTACT: Carine Rosalia, Office of Legal Affairs, Overseas Citizen Services, U.S. Department of State, CA/OCS/L, SA–17, Floor 10, Washington, DC 20522–1710; (202) 485–6079.

SUPPLEMENTARY INFORMATION:

Why is the Department promulgating this rule?

This rule amends procedural aspects of the Intercountry Adoption Accreditation Regulations concerning the length of accreditation or approval found in 22 CFR part 96. Subpart G governs decisions on applications for accreditation and approval. Section 96.60 provides for accreditation or approval for a period of four years. Section 96.60 does not currently provide the opportunity to stagger the renewal applications, which results in many renewal applications coming due at the same time.

This rule aids the accrediting entity in managing its workload. In particular, the amendments to this section will allow for a one-year extension of previously-granted accreditation or approval, not to exceed five years total, based on criteria included in the rule, and summarized here.

The final rule establishes criteria for selecting which agencies or persons are eligible for the one-year extension. As a threshold matter, only agencies and persons that have no pending adoption-related complaint investigations or adverse actions will be eligible for an extension under this procedure. Also, those entities that have undergone a change in corporate or internal structure (such as a merger or a leadership change in chief executive or chief financial officer) since their initial accreditation/approval or last renewal will not qualify for an extension under this procedure. If the agency or person meets the threshold criteria, in order to ensure that the extension achieves its purpose of staggering renewals thereafter, the Secretary in his discretion may consider additional factors including, but not limited to, the agency's or person's volume of intercountry adoption cases in the year preceding the application for renewal or extension, the agency's or person's U.S. state licensure record, and the number of extensions available.

Since the President signed into law the Intercountry Adoption Universal Accreditation Act of 2012, approximately 40 new agencies received accreditation, all in the same year. The resulting surge in the number of agencies requiring review in certain years argued strongly for establishing a mechanism that would allow COA to better manage the distribution of renewals. The procedure outlined in this rulemaking allows a more even

distribution of the number of renewals an accrediting entity must review in a given year.

Administrative Procedure Act

The Department published this rule as a notice of proposed rulemaking on June 10, 2015, with a 30-day period for public comments. See 80 FR 32869. The Department received no comments on the rulemaking.

Regulatory Flexibility Act/Executive Order 13272: Small Business

Consistent with section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 605(b)), the Department certifies that this rule does not have a significant economic impact on a substantial number of small entities. For the small business entities affected by the amended rule, the cost is neutral because it does not change the cost per year of accreditation or renewal, but only potentially the year in which renewal takes place.

Unfunded Mandates Reform Act of 1995

This rulemaking is not affected by the provisions of section 202 of the Unfunded Mandates Reform Act of 1995 (codified at 2 U.S.C. 1532).

Small Business Regulatory Enforcement Fairness Act of 1996

This rule is not a major rule as defined by 5 U.S.C. 804, for purposes of congressional review of agency rulemaking under the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121).

Executive Order 12866

The Department of State has reviewed this rule to ensure its consistency with the regulatory philosophy and principles set forth in Executive Order 12866 and has determined that the benefits of this final regulation justify its costs. The Department does not consider this rulemaking to be an economically significant action under the Executive Order. The rule does not add any new legal requirements to Part 96; it merely adds administrative flexibility to the work of the Department-designated accrediting entity.

Executive Orders 12372 and 13132: Federalism

This rule does not have a substantial direct effect on the States, on the relationship between the national government and the States, or the distribution of power and responsibilities among the various levels of government. Nor does it have federalism implications warranting the application of Executive Orders 12372 and No. 13132.

Executive Order 12988: Civil Justice Reform

The Department has reviewed the rule in light of Executive Order No. 12988 to eliminate ambiguity, minimize litigation, establish clear legal standards, and reduce burden.

Executive Order 13563: Improving Regulation and Regulatory Review

The Department has considered this rule in light of Executive Order 13563, dated January 18, 2011, and affirms that it is consistent with the guidance therein.

Paperwork Reduction Act

This rule does not impose or revise information collection requirements subject to the provisions of the Paperwork Reduction Act, 44 U.S.C. Chapter 35.

List of Subjects in 22 CFR Part 96

Adoption, Child welfare, Children, Immigration, Foreign persons.

For the reasons stated in the preamble, the Department of State amends 22 CFR part 96 as follows:

PART 96—INTERCOUNTRY ADOPTION ACCREDITATION OF AGENCIES AND APPROVAL OF PERSONS

■ 1. The authority citation for part 96 continues to read as follows:

Authority: The Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption (done at the Hague, May 29, 1993), S. Treaty Doc. 105–51 (1998), 1870 U.N.T.S. 167 (Reg. No. 31922 (1993)); The Intercountry Adoption Act of 2000, 42 U.S.C. 14901–14954; The Intercountry Adoption Universal Accreditation Act of 2012, Pub. L. 112–276, 42 U.S.C. 14925.

■ 2. Revise § 96.60 to read as follows:

§ 96.60 Length of accreditation or approval period.

(a) The accrediting entity will accredit or approve an agency or person for a period of four years, except as provided in paragraph (b) of this section. The accreditation or approval period will commence on the date that the agency or person is granted accreditation or approval.

(b) In order to stagger the renewal requests from agencies and persons applying for accreditation or approval and to prevent the renewal requests from coming due at the same time, the accrediting entity may extend the period of accreditation it has previously granted for no more than one year and such that the total period of accreditation does not exceed five years, as long as the agency or person remains in substantial compliance with the applicable standards in subpart F of this part. The only agencies and persons that may qualify for an extension are: Those that have no pending Complaint Registry investigations or adverse actions (see § 96.70); and those that have not undergone a change in corporate or internal structure (such as a merger or change in chief executive or financial officer) during their current accreditation or approval period. For agencies and persons that meet these two criteria, the Secretary, in his or her discretion, may consider additional factors in deciding upon an extension including, but not limited to, the agency's or person's volume of intercountry adoption cases in the year preceding the application for renewal or extension, the agency's or person's state licensure record, and the number of extensions available.

Dated: August 11, 2015.

Michele Thoren Bond,

Assistant Secretary for Consular Affairs, U.S. Department of State.

[FR Doc. 2015–20402 Filed 8–18–15; 8:45 am]

BILLING CODE 4710–06–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 100

[Docket No. USCG–2013–1061; 1625–AA08]

Special Local Regulations; Eighth Coast Guard District Annual and Recurring Marine Events Update

AGENCY: Coast Guard, DHS.

ACTION: Final rule.

SUMMARY: The Coast Guard is amending and updating its special local regulations relating to recurring marine parades, regattas, and other events that take place in the Eighth Coast Guard District area of responsibility (AOR). This final rule informs the public of regularly scheduled marine parades, regattas, and other recurring events that require additional safety measures through establishing a special local regulation. Through this final rule, the list of recurring marine events requiring special local regulation is updated with revisions, additional events, and removal of events that no longer take place in the Eighth Coast Guard District AOR. When these special local regulations are enforced, certain restrictions are placed on marine traffic

in specified areas. Additionally, this one rulemaking project reduces administrative costs involved in producing a separate rule for each individual recurring event, and serves to provide notice of the known recurring events requiring a special local regulation throughout the year.

DATES: Effective September 18, 2015.

ADDRESSES: Documents mentioned in this preamble are part of Docket Number [USCG–2013–1061]. 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 Shelley R. Miller, Eighth Coast Guard District Waterways Management Division, (504) 671–2139 or email, *Shelley.R.Miller@uscg.mil.* If you have questions on viewing the docket, call Cheryl Collins, Program Manager, Docket Operations, telephone 202–366–9826.

SUPPLEMENTARY INFORMATION:

Table of Acronyms

AOR Area of Responsibility
BNM Broadcast Notice to Mariners
COTP Captain of the Port
DHS Department of Homeland Security
FR Federal Register
LNM Local Notice to Mariners
NPRM Notice of Proposed Rulemaking

A. Regulatory History and Information

The Coast Guard preceded this final rule with an interim final rule with request for comments. The interim rule was published in the **Federal Register** on April 22, 2014 (79 FR 22381). The interim rule established separate tables for each of the Sectors operating within the Coast Guard's Eighth District, and updated the list of recurring marine events and special local regulations under 33 CFR part 100. Although no adverse comments were received, some comments to further update the recurring list were received. Because the interim rule and now this final rule establish separate tables for each Sector within the Eighth District, further updates will now be made by each Sector individually, impacting only their table of marine events and special local regulations.

The list of annual and recurring marine events and special local regulations occurring in the Eighth Coast Guard District Area of Responsibility (AOR) is published under 33 CFR 100.801. That list was last updated through a direct final rule with request for comments on March 1, 2012 (77 FR 12456) and further amended on May 16, 2012 (77 FR 28766). These actions generated no adverse comments. Like today's final rule and its preceding interim rule, the 2012 final rules updated, added to, removed from, and amended 33 CFR 100.801 to create a comprehensive list of recurring marine events requiring special local regulations.

B. Basis and Purpose

The legal basis for the rule is found in 33 U.S.C. 1233, which authorizes the Coast Guard to permit marine events and establish special local regulations related to those marine events.

The Coast Guard is amending and updating the special local regulations under 33 CFR part 100 to incorporate the numerous annual marine events held on or around navigable waters within the Eighth Coast Guard District. These events include marine parades, boat races, swim events, and other marine related events. Currently, there is a list of events located at 33 CFR § 100.801, establishing a special local regulation for each annual or recurring marine event in the Eighth Coast Guard District's AOR. That list must be amended in order to: Provide new information on existing events; include 42 new events expected to recur annually or biannually; and remove 16 special local regulations that are no longer required. Issuing individual rulemakings for each new event, amendment, or removal of an event, would create unnecessary administrative costs and burdens. This rule considerably reduces administrative overhead and provides the public with notice through publication in the **Federal Register** of the upcoming recurring marine events and their accompanying special local regulations.

C. Discussion of Comments, Changes and the Final Rule

No adverse comments were received in response to the April 22, 2014 interim final rule. Some comments regarding further updates to the recurring list were received. Because the interim rule and now this final rule establish separate tables for each Sector within the Eighth District, further updates will now be made by each Sector individually, impacting only their table of recurring marine events requiring special local regulations. Accordingly, this final rule makes no changes to the regulations in the interim rule.

D. Regulatory Analyses

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

1. Regulatory Planning and Review

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866, Regulatory Planning and Review, as supplemented by Executive Order 13563, Improving Regulation and Regulatory Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of Executive Order 12866 or under section 1 of Executive Order 13563. The Office of Management and Budget has not reviewed it under those Orders.

The marine parades, regattas, and other marine events listed in this rule will restrict vessel traffic in certain areas of Eighth Coast Guard District waters at specified times; however, the effect of this regulation will not be significant because these events are short in duration and the special local regulations restricting and governing vessel movements are also limited in scope and short in duration. Additionally, the public is given advance notification through local forms of notice, the **Federal Register**, and/or Notices of Enforcement and thus will be able to plan operations around the events in advance. Deviations from each special local regulation may be requested through the COTP and each request will be considered on a case-by-case basis.

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 might be small entities: The owners or operators of

vessels intending to transit the regulated areas during the marine events and periods of enforcement. The special local regulations will not have a significant economic impact on a substantial number of small entities for the following reasons. These regulations are limited in scope and will be in effect for short periods of times. Before each enforcement period, the Coast Guard COTP will issue maritime advisories widely available to waterway users. Deviations from each special local regulation may be requested through the COTP and each request will be considered on a case-by-case basis.

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 INFORMATION CONTACT** section to coordinate protest activities so that your message can be received without jeopardizing the safety or security of people, places or vessels.

7. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of $100,000,000 (adjusted for inflation) or more in any one year. Though this rule will not result in such 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 is categorically excluded from further review under section 2.B.2. figure 2–1, paragraph 34(h) of the Commandant Instruction because it involves the establishment of special local regulations related to marine event permits for marine parades, regattas, and other marine events. An environmental analysis checklist and a categorical exclusion determination are available in the docket where indicated under the **ADDRESSES**.

List of Subjects in 33 CFR Part 100

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

PART 100—SAFETY OF LIFE ON NAVIGABLE WATERS

■ Accordingly, the interim rule amending 33 CFR part 100 that published at 79 FR 22381 on April 22, 2014, is adopted as a final rule without change.

Dated: June 27, 2015.

D.R. Callahan,

Rear Admiral, U.S. Coast Guard, Commander, Eight Coast Guard District.

[FR Doc. 2015–20407 Filed 8–18–15; 8:45 am]

BILLING CODE 9110–04–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 51, 52, 70, and 71

[EPA–HQ–OAR–2015–0414; FRL–9932–11–OAR]

Prevention of Significant Deterioration and Title V Permitting for Greenhouse Gases: Removal of Certain Vacated Elements

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is amending its Prevention of Significant Deterioration (PSD) and title V regulations to remove from the Code of Federal Regulations portions of those regulations that were initially promulgated in 2010 and that the Court of Appeals for the District of Columbia Circuit (D.C. Circuit) specifically identified as vacated in the April 10, 2015, amended judgment, *Coalition for Responsible Regulation* v. *EPA.* This action is exempt from notice-and-comment rulemaking because it is ministerial in nature.

DATES: This rule is effective on August 19, 2015.

ADDRESSES: The EPA has established a docket for this action under Docket ID No. EPA–HQ–OAR–2015–0414. All documents in the docket are listed on the *www.regulations.gov* Web site. Publicly available docket materials are available either electronically through *www.regulations.gov* or in hard copy at the EPA Docket Center, Room 3334, EPA William Jefferson Clinton West Building, Room 3334, 1301 Constitution Avenue NW., Washington, DC 20004. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744 and the telephone number for the Office of Air and Radiation Docket is (202) 566–1742.

FOR FURTHER INFORMATION CONTACT: Questions concerning this final rule should be addressed to Mrs. Jessica Montañez, U.S. Environmental Protection Agency, Office of Air Quality Planning and Standards, Air Quality Planning Division, (C504–03), Research Triangle Park, NC 27711, telephone number (919) 541–3407, email at *montanez.jessica@epa.gov.*

SUPPLEMENTARY INFORMATION: The information in this section of the preamble is organized as follows:

I. Does this action apply to me?
II. Background and Rationale for This Action
III. Final Action
IV. Implementation
V. Environmental Justice Considerations
VI. Statutory and Executive Order Reviews
VII. Judicial Review

I. Does this action apply to me?

Entities potentially affected by this final action include new and modified stationary sources in all industry groups. To determine whether your facility would be affected by this action, you should carefully examine the applicability criteria in §§ 51.166 and 52.21 of title 40 of the Code of Federal Regulations (CFR). Entities potentially affected by this final action also include state, local and tribal governments that are authorized to implement the PSD program through an EPA-approved State Implementation Plan (SIP) or Tribal Implementation Plan (TIP) or that have been authorized to implement the PSD program through a delegation of the federal PSD regulations.

II. Background and Rationale for This Action

Part C of title I of the Clean Air Act (CAA or the Act) contains the requirements for a component of the major New Source Review (NSR) program known as the PSD program. This program sets forth procedures for the preconstruction review and permitting of new and modified stationary sources of air pollution locating in areas meeting the National Ambient Air Quality Standards (NAAQS) (''attainment'' areas) and areas for which there is insufficient information to classify an area as either attainment or nonattainment (''unclassifiable'' areas). The applicability of PSD to a particular source must be determined in advance of construction of a new source or major modification of an existing source and is pollutant-specific. Once a source is determined to be subject to PSD, among other requirements, the source must demonstrate that it will not cause or contribute to a violation of any NAAQS or PSD increment,[1] and that it will use the Best Available Control Technology (BACT).[2] The EPA regulations for the PSD program are contained in 40 CFR 51.166 (applicable to air agencies that issue permits under EPA-approved SIPs) and 40 CFR 52.21 (the federal PSD program applicable to permits issued by the EPA or air agencies that have received delegation to implement the federal PSD program).

Title V of the CAA, on the other hand, requires all major stationary sources of air pollution and certain other sources to apply for a title V operating permit that includes emission limitations and other conditions as necessary to assure compliance with applicable requirements of the CAA.[3] The title V operating permit program is a vehicle for ensuring that air quality control requirements are appropriately applied to facility emission units and for assuring compliance with such requirements. The title V program does not generally impose new substantive air quality control requirements, but does require permits to contain adequate monitoring, recordkeeping, reporting and other requirements to assure sources' compliance. The title V program is implemented through regulations contained in 40 CFR part 70 (for programs implemented by state or local agencies and tribes) and 40 CFR part 71 (for programs generally implemented by the EPA).

On June 3, 2010, the EPA published a final rule, known as the Tailoring Rule, which phased in permitting requirements for greenhouse gas (GHG) emissions from stationary sources under the CAA PSD and title V permitting programs (75 FR 31514). Under its interpretation of the CAA at the time, the EPA believed the Tailoring Rule was necessary to avoid a sudden and unmanageable increase in the number of sources that would be required to obtain PSD and title V permits under the CAA because the sources emitted or had the potential to emit GHGs above the applicable major source and major modification thresholds. In Step 1 of the Tailoring Rule, which began on January 2, 2011, the EPA limited application of PSD and title V requirements to sources only if they were subject to PSD or title V ''anyway'' due to their emissions of non-GHG pollutants. These sources are referred to as ''anyway sources.'' In Step 2 of the Tailoring Rule, which began on July 1, 2011, the EPA applied the PSD and title V permitting requirements under the CAA to sources that were classified as major, and, thus, required to obtain a permit, based solely on their GHG emissions or potential to emit GHGs, and to modifications of otherwise major sources that required a PSD permit because they increased only GHG emissions above the level in the EPA regulations.

On June 23, 2014, the U.S. Supreme Court issued a decision in *Utility Air Regulatory Group (UARG)* v. *EPA,* 134 S. Ct. 2427, addressing the application of stationary source permitting requirements to GHGs. The U.S. Supreme Court held that the EPA may not treat GHGs as an air pollutant for the

[1] CAA section 165(a)(3).

[2] CAA section 165(a)(4).

[3] CAA sections 502(a) and 504(a).

specific purpose of determining whether a source is a major source (or a modification thereof) and thus required to obtain a PSD or title V permit. However, the U.S. Supreme Court also said that the EPA could continue to require that PSD permits, otherwise required based on emissions of pollutants other than GHGs pollutants, contain limitations on GHG emissions based on the application of GHG BACT. That is, with respect to PSD, the ruling effectively upheld PSD permitting requirements for GHG emissions under Step 1 of the Tailoring Rule for ''anyway sources,'' and invalidated PSD permitting requirements for Step 2 sources.

Because the Supreme Court decision affirmed in part and reversed in part an earlier decision of the D.C. Circuit in *Coalition for Responsible Regulation* v. *EPA,* 684 F.3d 102 (D.C. Cir. 2012), on April 10, 2015, the D.C. Circuit issued an Amended Judgment (Nos. 09–1322, 10–073, 10–1092 and 10–1167), which reflects the *UARG* v. *EPA* Supreme Court decision. The D.C. Circuit simultaneously issued its mandate, which means that the *Coalition* Amended Judgment became final and effective upon issuance.

In the *Coalition* Amended Judgment, the D.C. Circuit ordered that the EPA regulations under review (including 40 CFR 51.166(b)(48)(v) and 40 CFR 52.21(b)(49)(v)) be vacated to the extent they require a stationary source to obtain a PSD permit if GHGs are the only pollutant (i) that the source emits or has the potential to emit above the applicable major source thresholds, or (ii) for which there is a significant emissions increase from a modification. The D.C. Circuit also ordered that the regulations under review be vacated to the extent they require (i) a stationary source to obtain a title V permit solely because the source emits or has the potential to emit GHGs above the applicable major source thresholds and (ii) the EPA to consider further phasing-in the GHG permitting requirements at lower GHG emission thresholds (in particular 40 CFR 52.22 and 40 CFR 70.12, 71.13).

Consistent with the *Coalition* Amended Judgment, this action removes from the PSD regulations certain regulatory provisions that require a stationary source to obtain a PSD permit solely on the basis of the source's GHG emissions and the regulations that require the EPA to consider further phasing-in GHG permitting requirements into the PSD and title V permitting programs at lower GHG emissions thresholds. The EPA intends to further revise the PSD and title V regulations to fully implement the *Coalition* Amended Judgment in a separate rulemaking. This future rulemaking will include revisions to additional definitions in the PSD regulations. It will also include further revising the title V regulations to remove portions of the title V regulations that were vacated in the *Coalition* Amended Judgment case—those that require a stationary source to obtain a title V permit solely because the source emits or has the potential to emit GHGs above the applicable major source thresholds. Those additional revisions to the PSD and title V regulations, although necessary to implement the *Coalition* Amended Judgment, are not purely ministerial in nature and will be addressed in this separate notice-and-comment rulemaking, which would give the public an opportunity to comment on how the EPA proposes to address those portions of the *Coalition* Amended Judgment.

III. Final Action

This final action removes from the CFR several provisions of the PSD and title V permitting regulations that were originally promulgated as part of the Tailoring Rule and that the D.C. Circuit specifically identified as vacated in the *Coalition* Amended Judgment. Because the D.C. Circuit specifically identified the Tailoring Rule Step 2 PSD permitting requirements in 40 CFR 51.166(b)(48)(v) and 40 CFR 52.21(b)(49)(v) and the regulations that require the EPA to consider further phasing-in the GHG permitting requirements at lower GHG emission thresholds in 40 CFR 52.22, 70.12, and 71.13 as vacated, the EPA is taking the ministerial action of removing these provisions from the CFR.

Furthermore, and since the D.C. Circuit's *Coalition* Amended Judgment further ordered ''the EPA to take steps to rescind and/or revise the applicable provisions of the CFR as expeditiously as practicable'' to reflect its vacatur of certain provisions from the Tailoring Rule, this rulemaking addresses only those provisions specifically identified in the *Coalition* Amended Judgment that can be removed from the CFR without the need for any further changes. In a subsequent notice-and-comment rulemaking, the EPA will need to make additional changes to its PSD and title V permitting regulations in order to fully implement the *Coalition* Amended Judgment.

The EPA is taking this action as a final rule without providing an opportunity for public comment or a public hearing because the EPA finds that the Administrative Procedure Act (APA) good cause exemption applies here. In general, the APA requires that general notice of proposed rulemaking shall be published in the **Federal Register**. Such notice must provide an opportunity for public participation in the rulemaking process. However, the APA also provides a way for an agency to directly issue a final rulemaking in certain specific instances. This may occur, in particular, when an agency for good cause finds (and incorporates the finding and a brief statement of reasons in the rule issued) that notice and public procedure thereon are impracticable, unnecessary, or contrary to the public interest. *See* 5 U.S.C. 553(b)(3)(B). The EPA has determined that it is not necessary to provide a public hearing or an opportunity for public comment on this action because the removal of the affected PSD and title V Tailoring Rule provisions from the CFR is a necessary ministerial act. The D.C. Circuit specifically identified as vacated the PSD and title V regulations this rule removes, and ordered that the EPA take steps to rescind and/or revise the applicable provisions of the CFR as expeditiously as practicable. The EPA no longer has the authority to require any source to obtain a PSD or title V permit based solely on the source having GHG emissions above applicable thresholds. Thus, EPA may not implement the vacated provisions at 40 CFR 51.166(b)(48)(v) and 52.21(b)(49)(v) that applied PSD to this population of sources. Further, the EPA is no longer required to take the actions specified in the vacated regulations at 40 CFR 52.22, 70.12, and 71.13 to consider further phasing in GHG PSD and title V permitting requirements at lower GHG emissions thresholds. Therefore, removing the affected regulatory text simply implements the decision of the Supreme Court and D.C. Circuit and it would serve no useful purpose to provide an opportunity for public comment or a public hearing on this issue.

In addition, notice-and-comment would be contrary to the public interest because it would unnecessarily delay the removal from the CFR of the Tailoring Rule Step 2 PSD permitting provisions that the Supreme Court held were invalid and the regulations that require the EPA to consider further phasing-in the GHG permitting requirements for lower GHG emissions thresholds in 40 CFR 52.22, 70.12, and 71.13 that the D.C. Circuit's *Coalition* Amended Judgment specifically identified as vacated. Such delay could result in confusion on the part of the

regulated industry and state, local and tribal air agencies about how the D.C. Circuit's decision affects the PSD and title V regulations as well as PSD permitting. Promulgation of this rule soon after the D.C. Circuit decision serves to clarify that sources are no longer required to obtain PSD permits under the preconstruction permitting regulations associated with Step 2 of the Tailoring Rule and that the EPA will not be required under 40 CFR 52.22, 70.12, and 71.13 to take further steps to consider further phasing in PSD and title V permitting requirements at lower GHG emissions thresholds. Given the substantial costs to the owner/operator of projects associated with delays and uncertainty, it is in the public interest for the EPA to amend the CFR without delay. Furthermore, and as stated previously, the D.C. Circuit's *Coalition* Amended Judgment ordered the EPA to take steps to undertake these revisions as expeditiously as practicable.

For these reasons, the EPA finds good cause to issue a final rulemaking pursuant to section 553 of the APA, 5 U.S.C. 553(b)(3)(B). The requirements of CAA section 307(d), including the requirement for public comment and hearing on proposed rulemakings, do not apply to this action because 5 U.S.C. 553(b)(3)(B) applies. In addition, this rule relieves a restriction on construction of some stationary sources and therefore is not subject to the requirement for a 30-day delay in effective date. 5 U.S.C. 553(d)(1). Moreover, the agency finds that the problems outlined above regarding the effects of delaying issuance of the rule also provide good cause for not delaying its effective date. 5 U.S.C. 553(d)(3). Accordingly, the requirement for a delay in effective date does not apply and the rule will take effect upon publication in the **Federal Register.** 5 U.S.C. 553(d).

IV. Implementation

The D.C. Circuit's vacatur of the Tailoring Rule Step 2 PSD permitting requirements in 40 CFR 51.166(b)(48)(v) and 40 CFR 52.21(b)(49)(v) and the provisions that required further action to consider phasing-in GHG permitting requirements into the PSD and title V programs at lower GHG emission thresholds at 40 CFR 52.22, 70.12, and 71.13 means that these provisions can no longer be relied upon by the EPA, permit applicants or permitting authorities as a basis for issuing PSD permits. Further, this means that the EPA will not be required to take the actions specified in the regulations at 40 CFR 52.22, 70.12, and 71.13 to consider further phasing in GHG PSD and title V permitting requirements at lower GHG emissions thresholds.

Permit reviewing authorities with EPA-approved SIPs containing any or all of the affected provisions previously allowed by 40 CFR 51.166(b)(48)(v) may request to remove their corresponding Tailoring Rule Step 2 provisions as soon as feasible, which may be in conjunction with the next otherwise planned SIP revision. Permit reviewing authorities also have the option to retain the Tailoring Rule Step 2 permitting requirements solely as a requirement of state law, but these requirements will not be approved as part of their federally-enforceable SIP. As we explained in a memorandum issued by the agency on July 24, 2014, titled, ''Next Steps and Preliminary Views on the Application of Clean Air Act Permitting Programs to Greenhouse Gases Following the Supreme Court's Decision in *UARG* v. *EPA''* (Preliminary Views Memo),[4] we again note that the ''[EPA does] not read the [U.S.] Supreme Court decision to preclude states from retaining permitting requirements for sources of GHG emissions that apply independently under state law even where those requirements are no longer required under federal law.''

With regard to PSD Step 2 permits already issued, the Preliminary Views Memo explained that the EPA ''will no longer require PSD . . . permits for Step 2 sources'' (Preliminary Views Memo at 2) and that the EPA expected ''to provide additional views in the future with respect to Step 2 sources that had already obtained a PSD permit . . .'' (Preliminary Views Memo at 4). The EPA provided additional views regarding EPA-issued Step 2 PSD permits[5] when it issued two memoranda on December 19, 2014. In the first memorandum issued by the Office of Air and Radiation (OAR) and titled, ''Next Steps for Addressing EPA-Issued Step 2 Prevention of Significant Deterioration Greenhouse Gas Permits and Associated Requirements'' (OAR Next Steps Memo),[6] the EPA explained that it intended to complete a rulemaking ''authorizing the rescission of Step 2 PSD permits.'' In the second memorandum, which was issued by the Office of Enforcement and Compliance Assurance (OECA) and titled, ''No Action Assurance Regarding EPA-Issued Step 2 Prevention of Significant Deterioration Permits and Related Title V Requirements Following *Utility Air Regulatory Group* v. *Environmental Protection Agency''* (OECA No Action Assurance Memo),[7] OECA issued a narrowly tailored No Action Assurance for sources with EPA-issued Step 2 PSD permits. The OECA No Action Assurance Memo establishes that the EPA will exercise its enforcement discretion not to pursue enforcement of the terms and conditions relating to GHGs in a source's EPA-issued Step 2 PSD permit, and for related GHG terms and conditions that are contained in the source's title V permit, if any, until 11:59 p.m. EDT, September 30, 2016. The No Action Assurance ceases to apply to a source once its EPA-issued Step 2 PSD permit is rescinded, and, if applicable, its title V permit is accordingly revised, whichever is later.

Consistent with the plan described in the OAR Next Steps Memo, the EPA completed the rulemaking that allows for rescission of Step 2 permits. ''Prevention of Significant Deterioration Permitting for Greenhouse Gases: Providing Option for Rescission of EPA-Issued Tailoring Rule Step 2 Prevention of Significant Deterioration Permits'' (80 FR 26183; May 7, 2015). This rule provides a mechanism for the EPA and delegated reviewing authorities to rescind EPA-issued Step 2 PSD permits in response to requests from applicants who can demonstrate that they are eligible for permit rescission and as further discussed in that rule. EPA received no comments on this rule, and it is now in effect. Sources with questions on PSD permitting obligations arising from Step 2 PSD permits issued by state, local or tribal permitting authorities under permitting programs approved into the state or tribal implementation plans should review the governing statutory provisions and the provisions in the applicable state or tribal implementation plans to determine how to address these Step 2 permits and consult with the EPA, states and tribes, as necessary.

In the case of sources that trigger PSD based on emissions of pollutants other than GHG (''anyway sources''), the PSD BACT requirement continues to apply to GHG emissions from such sources. This rulemaking does not change §§ 51.166(j), 51.166(b)(48)(iv), 52.21(j),

[4] *http://epa.gov/nsr/documents/20140724memo.pdf.*

[5] For purposes of this rule, the phrases ''EPA-issued PSD permits that were issued under Step 2 of the Tailoring Rule'' and ''EPA-issued Step 2 PSD permits'' are intended to have the same meaning. The use of the term ''EPA-issued'' in both phrases includes PSD permits issued by the EPA as well as permits issued by state or local reviewing authorities exercising federal law authority delegated by an EPA Regional Office under 40 CFR 52.21(u).

[6] *http://www.epa.gov/nsr/ghgdocs/Step2PermitRescissionMemoFinal_12-19-14.pdf.*

[7] *http://epa.gov/nsr/ghgdocs/OECANoActionAssuranceMemo_December192014.pdf.*

or 52.21(b)(48)(iv) of EPA's regulations, which remain in effect. Under these provisions, the BACT requirement applies to GHG emissions from ''anyway sources'' when a new source emits or has the potential to emit 75,000 tons per year (tpy) or more of GHG on a carbon dioxide equivalent (''CO_2e'') basis. When an anyway source is modified, under these provisions, the BACT requirement applies to GHGs if (1) the modification is otherwise subject to PSD for a pollutant other than GHG; and (2) the modification results in a GHG emissions increase and a net GHG emission increase equal to or greater than 75,000 tpy or more on a CO_2e basis and greater than zero on a mass basis.

With respect to title V, the D.C. Circuit's Amended Judgment in *Coalition* means that the provisions at 40 CFR 70.12 and 71.13 addressing further consideration of phasing-in of title V permitting program requirements at lower GHG emission thresholds are no longer in effect. The obligations that they contain for the EPA to further study and take further action to consider regulating GHGs at lower GHG emissions thresholds under the title V program no longer exist.

V. Environmental Justice Considerations

This action removes sections and paragraphs of the PSD and title V GHG Tailoring Rule regulations that the D.C. Circuit specifically identified as vacated in the *Coalition* Amended Judgment. In accordance with the changes made by this action, permit applicants are no longer required to request PSD permits if GHGs are the only pollutant (i) that the source emits or has the potential to emit above the major source thresholds, or (ii) for which there is a significant emissions increase and a significant net emissions increase from a modification. In addition, the EPA will not be required to take the actions specified in the regulations at 40 CFR 52.22, 70.12, and 71.13 to consider further phasing in GHG PSD and title V permitting requirements at lower GHG emissions thresholds. Therefore, this action itself does not compel any specific permit action that will affect the fair treatment and meaningful involvement of all people. Rather, it makes clear that a portion of the *Coalition* Amended Judgment is efficiently implemented and permit applicants are no longer required to submit PSD permit applications if GHGs are the only pollutant that the sources emits above the applicable major source thresholds.

VI. Statutory and Executive Order Reviews

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

This action is not a significant regulatory action and was therefore not submitted to the Office of Management and Budget (OMB) for review.

B. Paperwork Reduction Act (PRA)

This action does not impose any new information collection burden under the PRA. OMB has previously approved the information collection activities contained in the existing regulations and has assigned OMB control number 2060–0003. To the extent this rule has any substantive effect, it relieves regulatory burdens by removing regulations that purport to require permit applicants to request PSD permits if GHGs are the only pollutant emitted by the new source or modification to an existing source above the applicable major source thresholds and regulations that required the EPA to consider further phasing-in the GHG permitting requirements at lower GHG emission thresholds. This action is taken in light of the D.C. Circuit's *Coalition* Amended Judgment that vacated those regulations.

C. Regulatory Flexibility Act (RFA)

I certify that this action will not have a significant economic impact on a substantial number of small entities under the RFA. In making this determination, the impact of concern is any significant adverse economic impact on small entities. An agency may certify that a rule will not have a significant economic impact on a substantial number of small entities if the rule relieves regulatory burden, has no net burden or otherwise has a positive economic effect on the small entities subject to the rule. To the extent this rule has any substantive effect, it relieves regulatory burdens by removing regulations that purport to require permit applicants to request PSD permits if GHGs are the only pollutant emitted by the new source or modification to an existing source above the applicable major source thresholds and regulations that required the EPA to consider further phasing-in the GHG permitting requirements at lower GHG emission thresholds. This action is taken in light of the D.C. Circuit's *Coalition* Amended Judgment that vacated those regulations. We have therefore concluded that this action will relieve regulatory burden for all directly regulated small entities.

D. Unfunded Mandates Reform Act (UMRA)

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

E. Executive Order 13132: Federalism

This action does not have federalism implications. It will not have substantial direct effects on the states, on the relationship between the national government and the states or on the distribution of power and responsibilities among the various levels of government.

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

This action does not have tribal implications, as specified in Executive Order 13175. Although the Tribal Air Rule (76 FR 38748, July 1, 2011) under the CAA gives tribes the opportunity to request and be granted delegation of the federal PSD program found at 40 CFR 52.21 to issue PSD permits, there are no tribal agencies currently implementing the federal PSD permitting program. As a result, the removal of the PSD provisions that the D.C. Circuit vacated will not affect any tribal reviewing authorities and any tribally-owned sources with EPA-issued Step 2 PSD permits have the discretion to request the EPA to rescind their permit. In addition, the D.C. Circuit vacatur of the requirements for the EPA to consider further phasing in GHG permitting requirements into the PSD and title V programs at lower GHG emission thresholds provides relief to tribally-owned sources that could have been subject to GHG permitting regulations at lower GHG emission thresholds if the EPA would have taken steps to apply GHG permitting requirements to such sources at such thresholds. Thus, Executive Order 13175 does not apply to this action.

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

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

because it does not concern an environmental health risk or safety risk.

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

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

I. National Technology Transfer and Advancement Act

This rulemaking does not involve technical standards.

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

The EPA believes the human health or environmental risk addressed by this action will not have potential disproportionately high and adverse human health or environmental effects on minority, low-income or indigenous populations. The results of this evaluation are contained in the section V titled, ''Environmental Justice Considerations'' for this action.

K. Congressional Review Act (CRA)

This action is subject to the CRA, and the EPA will submit a rule report to each House of the Congress and to the Comptroller General of the United States. The CRA allows the issuing agency to make a rule effective sooner than otherwise provided by the CRA if the agency makes a good cause finding that notice-and-comment rulemaking procedures are impracticable, unnecessary or contrary to the public interest (5 U.S.C. 808(2)). The EPA has made a good cause finding for this rule as discussed in the Final Action section of this rulemaking, including the basis for that finding.

L. Determination Under Section 307(d)

Pursuant to CAA section 307(d)(1)(V), the Administrator determines that this action is subject to provisions of section 307(d). Section 307(d) establishes procedural requirements specific to rulemaking under the CAA. Section 307(d)(1)(V) provides that the provisions of section 307(d) apply to ''such other actions as the Administrator may determine.''

VII. Judicial Review

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the U.S. Court of Appeals for the D.C. Circuit within 60 days from August 19, 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 may not be challenged later in proceedings to enforce its requirements (*see* section 307(b)(2) of the CAA).

List of Subjects

40 CFR Parts 51 and 52

Environmental protection, Air pollution control, Carbon monoxide, Greenhouse gases, Incorporation by reference, Intergovernmental relations, Lead, National ambient air quality standards, New source review, Nitrogen dioxide, Ozone, Particulate matter, Preconstruction permitting, Prevention of significant deterioration, Reviewing authorities, Sulfur oxides, Tailoring rule, Volatile organic compounds.

40 CFR Parts 70 and 71

Environmental protection, Air pollution control, Carbon monoxide, Greenhouse gases, Intergovernmental relations, Lead, National ambient air quality standards, Nitrogen dioxide, Operating permits, Ozone, Particulate matter, Permitting authorities, Sulfur oxides, Tailoring rule, Title V, Volatile organic compounds.

Dated: August 12, 2015.

Gina McCarthy,

Administrator.

For the reasons stated in the preamble, title 40, Chapter I of the Code of Federal Regulations is amended as follows:

PART 51—REQUIREMENTS FOR PREPARATION, ADOPTION, AND SUBMITTAL OF IMPLEMENTATION PLANS

■ 1. The authority citation for part 51 continues to read as follows:

Authority: 23 U.S.C. 101; 42 U.S.C. 7401–7671q.

Subpart I—Review of New Sources and Modifications

§ 51.166 [Amended]

■ 2. Section 51.166 is amended by removing paragraph (b)(48)(v).

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

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

Subpart A—General Provisions

§ 52.21 [Amended]

■ 4. Section 52.21 is amended by removing paragraph (b)(49)(v).

§ 52.22 [Removed]

■ 5. Section 52.22 is removed.

PART 70—STATE OPERATING PERMIT PROGRAMS

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

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

§ 70.12 [Removed]

■ 7. Section 70.12 is removed.

PART 71—FEDERAL OPERATING PERMIT PROGRAMS

■ 8. The authority citation for part 71 continues to read as follows:

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

§ 71.13 [Removed]

■ 9. Section 71.13 is removed.

[FR Doc. 2015–20501 Filed 8–18–15; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R01–OAR–2009–0541; A–1–FRL–9932–46–Region 1]

Approval and Promulgation of Air Quality Implementation Plans; Rhode Island; Rhode Island Low Emission Vehicle Program

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving a State Implementation Plan (SIP) revision submitted by the State of Rhode Island Department of Environmental Management. The regulations adopted by Rhode Island include the California Low Emission Vehicle (LEV) II light-duty motor vehicle emission standards effective in model year 2008, the California LEV II medium-duty vehicle standards effective in model year 2009, and greenhouse gas emission standards for light-duty motor vehicles and medium-duty vehicles effective with model year 2009. The Rhode Island LEV regulation submitted also includes a zero emission vehicle (ZEV) provision. Rhode Island has adopted these revisions to reduce emissions of volatile organic compounds (VOC) and nitrogen

oxides (NO_X) in accordance with the requirements of the Clean Air Act (CAA), as well as to reduce greenhouse gases (carbon dioxide, methane, nitrous oxide, and hydrofluorocarbons). In addition, Rhode Island has worked to ensure that their program is identical to California's, as required by the CAA. These actions are being taken in accordance with the CAA.

DATES: This rule is effective on September 18, 2015.

ADDRESSES: EPA has established a docket for this action under Docket Identification No. EPA–R01–OAR–2009–0541. All documents in the docket are listed on the *www.regulations.gov* Web site. Although listed in the index, some information is not publicly available, *i.e.,* CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through *www.regulations.gov* or in hard copy at the U.S. Environmental Protection Agency, EPA New England Regional Office, Office of Ecosystem Protection, Air Quality Planning Unit, 5 Post Office Square—Suite 100, Boston, MA. EPA requests that if at all possible, you contact the contact 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 legal holidays.

Copies of the documents relevant to this action are also available for public inspection during normal business hours, by appointment at Office of Air Resources, Department of Environmental Management, 235 Promenade Street, Providence, RI 02908–5767.

FOR FURTHER INFORMATION CONTACT: Ariel Garcia, Air Quality Planning Unit, U.S. Environmental Protection Agency, EPA New England Regional Office, 5 Post Office Square, Suite 100 (mail code: OEP05–2), Boston, MA 02109–3912, telephone number (617) 918–1660, fax number (617) 918–0660, email *garcia.ariel@epa.gov.*

SUPPLEMENTARY INFORMATION: Throughout this document whenever ''we'', ''us'', or ''our'' is used, we mean EPA.

Organization of this document. The following outline is provided to aid in locating information in this preamble.

I. Background and Purpose
II. Final Action
III. Incorporation by Reference
IV. Statutory and Executive Order Reviews

I. Background and Purpose

On June 4, 2015 (80 FR 31867), EPA published a Notice of Proposed Rulemaking (NPR) for the State of Rhode Island. The NPR proposed approval of Rhode Island's amended Air Pollution Control Regulation No. 37 (APCR No. 37), ''Rhode Island's Low Emission Vehicle Program.'' Rhode Island's amended APCR No. 37, with an effective date of December 22, 2005, adopts the California LEV II program. Rhode Island first adopted California's LEV I program standards on June 6, 1996. In 1999, APCR No. 37 was amended to allow automobile manufacturers to comply with the National Low Emission Vehicle (NLEV) program in lieu of complying with the California LEV program. In 2004, Rhode Island adopted California's LEV II standards. In September 2005, California amended their LEV II standards to include standards for greenhouse gas emissions to apply to model year 2009 and later vehicles.

On December 22, 2005, Rhode Island made the following amendments to APCR No. 37: Adopted California LEV II emission standards and related provisions for medium-duty vehicles commencing with the 2009 model year, adopted recently announced revisions concerning LEV II greenhouse gas emission standards and related provisions for passenger cars, light-duty trucks, and medium-duty passenger vehicles commencing with the 2009 model year in accordance with section 177 of the CAA, and provided additional clarification and flexibility with respect to the implementation of the zero emissions vehicle (ZEV) program in Rhode Island.

A detailed discussion of Rhode Island's September 5, 2008 SIP revision and EPA's rationale for proposing approval of the SIP revision were provided in the NPR and will not be restated here. No public comments were received on the NPR.

II. Final Action

EPA is approving Rhode Island's Low Emission Vehicle Program as a revision to the Rhode Island SIP. Specifically, EPA is incorporating into the SIP Rhode Island Air Pollution Control Regulation No. 37, ''Rhode Island's Low Emission Vehicle Program,'' effective in the State of Rhode Island on December 22, 2005.

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 Rhode Island's revised Air Pollution Control Regulation No. 37 described in the amendments to 40 CFR part 52 set forth below. 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).

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 Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);
- does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and
- does not provide EPA with the discretionary authority to address, as

appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, 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 October 19, 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 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: July 22, 2015.

H. Curtis Spalding,

Regional Administrator, EPA New England.

Part 52 of 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 OO—Rhode Island

■ 2. In § 52.2070, the table in paragraph (c) ''EPA-Approved Rhode Island Regulations'', is amended by revising the entry for the state citation ''Air Pollution Control Regulation 37'' to read as follows:

§ 52.2070 Identification of plan.

* * * * *

(c) * * *

EPA—Approved Rhode Island Regulations

State citation	Title/subject	State effective date	EPA approval date	Explanations
*	*	*	*	*
Air Pollution Control Regulation 37.	Rhode Island's Low Emission Vehicle Program.	12/22/2005	8/19/2015 [Insert **Federal Register** citation].	Adopts California LEV II standards.
*	*	*	*	*

* * * * *

[FR Doc. 2015–20373 Filed 8–18–15; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R08–OAR–2012–0972, FRL–9932–52–Region 8]

Promulgation of State Implementation Plan Revisions; Infrastructure Requirements for the 2008 Ozone, 2008 Lead, and 2010 NO_2 National Ambient Air Quality Standards; Colorado

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving elements of State Implementation Plan (SIP) revisions from the State of Colorado to demonstrate the State meets infrastructure requirements of the Clean Air Act (Act, CAA) for the National Ambient Air Quality Standards (NAAQS) promulgated for ozone on March 12, 2008; lead (Pb) on October 15, 2008; and nitrogen dioxide (NO_2) on January 22, 2010. Section 110(a) of the CAA requires that each state submit a SIP for the implementation, maintenance, and enforcement of each NAAQS promulgated by EPA.

DATES: This rule is effective September 18, 2015.

ADDRESSES: The EPA has established a docket for this action under Docket Identification Number EPA–R08–OAR–2012–0972. All documents in the docket are listed on the *http://www.regulations.gov* Web site. Although listed in the index, some information may not be publicly available, *i.e.,* Confidential Business Information or other information the disclosure of which is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in the hard copy form. Publicly available docket materials are available either electronically through *http://www.regulations.gov* or in hard copy at EPA Region 8, Office of Partnership and Regulatory Assistance, Air Program, 1595 Wynkoop Street, Denver, Colorado, 80202–1129. The EPA requests that you contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section to view the hard copy of the docket. The Regional Office's official hours of business are Monday through Friday, 8:00 a.m.–4:00 p.m., excluding federal holidays. An electronic copy of the State's SIP compilation is also available at *http://www.epa.gov/region8/air/sip.html.*

FOR FURTHER INFORMATION CONTACT: Abby Fulton, Air Program, U.S. Environmental Protection Agency (EPA), Region 8, Mail Code 8P–AR, 1595 Wynkoop Street, Denver, Colorado 80202–1129, 303–312–6563, *fulton.abby@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

Infrastructure requirements for SIPs are provided in section 110(a)(1) and (2) of the CAA. Section 110(a)(2) lists the specific infrastructure elements that a SIP must contain or satisfy. The elements that are the subject of this action are described in detail in our notice of proposed rulemaking (NPR) published on June 1, 2015 (80 FR 30974).

The NPR proposed approval of Colorado's submissions with respect to the following infrastructure elements for the 2008 ozone, 2008 Pb, and 2010 NO_2 NAAQS: (A), (C) with respect to minor NSR and PSD requirements, (D)(i)(II) elements 3 and 4, (D)(ii), (E), (F), (G), (H), (J), (K), (L), and (M); (B) for the 2008 Pb and 2008 ozone NAAQS and conditional approval of (B) for the 2010 NO_2 NAAQS; and D(i)(I) elements 1 and 2 for the 2008 Pb and 2010 NO_2 NAAQS. EPA will act separately on infrastructure element (D)(i)(I), interstate transport elements 1 and 2 for the 2008 ozone NAAQS. The reasons for our approvals are provided in detail in the NPR.

II. Response to Comments

No comments were received on our June 1, 2015 NPR.

III. Final Action

EPA is approving the following infrastructure elements for the 2008 ozone, 2008 Pb, and 2010 NO_2 NAAQS: CAA 110(a)(2) (A), (C) with respect to minor NSR and PSD requirements, (D)(i)(II) elements 3 and 4, (D)(ii), (E), (F), (G), (H), (J), (K), (L), and (M). EPA is approving element (B) for the 2008 Pb and 2008 ozone NAAQS and conditionally approving (B) for the 2010 NO_2 NAAQS. Finally, EPA is approving D(i)(I) elements 1 and 2 for the 2008 Pb and 2010 NO_2 NAAQS. EPA will act separately on infrastructure element (D)(i)(I), interstate transport elements 1 and 2 for the 2008 ozone NAAQS.[1]

IV. Statutory and Executive Orders Review

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable federal regulations (42 U.S.C. 7410(k), 40 CFR 52.02(a)). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely approves some state law as meeting federal requirements and disapproves other state law because it does not meet federal requirements; this action 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, Oct. 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, Aug. 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, Feb. 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 October 19, 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 may not be challenged later in proceedings to enforce its requirements. (See CAA section 307(b)(2).)

List of Subjects in 40 CFR Part 52

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

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

Dated: July 30, 2015.

Shaun L. McGrath,

Regional Administrator, Region 8.

40 CFR part 52 is amended to read 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 G—Colorado

■ 2. Section 52.353 is amended by adding paragraph (c) to read as follows:

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

* * * * *

(c) The Colorado Department of Public Health and Environment provided submissions to meet infrastructure requirements for the State

[1] This action also corrects an error to a **Federal Register** citation in our NPR (80 FR 30974, June 1, 2015) on page 30978. The NPR incorrectly cites approval of the State's SIP-approved minor NSR program at 68 FR 37744 rather than the correct citation of 44 FR 57401 (Oct. 5, 1979).

of Colorado for the 2008 ozone, 2008 lead, and 2010 NO_2 NAAQS were received on December 31, 2012, July 26, 2012, and March 7, 2013, respectively. The State's Infrastructure SIP is approved with respect to the 2008 ozone, 2008 lead, and 2010 NO_2 NAAQS with respect to section (110)(a)(1) and the following elements of section (110)(a)(2): (A), (C) with respect to minor NSR and PSD requirements, (D)(i)(II) elements 3 and 4, (D)(ii), (E), (F), (G), (H), (J), (K), (L), and (M); (B) for the 2008 Pb and 2008 ozone NAAQS and conditional approval of (B) for the 2010 NO_2 NAAQS; and D(i)(I) elements 1 and 2 for the 2008 Pb and 2010 NO_2 NAAQS.

[FR Doc. 2015–20377 Filed 8–18–15; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[EPA–HQ–OPP–2014–0633; FRL–9931–07]

Methane Sulfonic Acid; Exemption from the Requirement of a Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes an exemption from the requirement of a tolerance for residues of methane sulfonic acid (CAS Reg. No.75–75–2) when used as an inert ingredient (acidifying agent) in pesticide formulations applied to animals at a maximum concentration not to exceed 3% by weight and when used as an inert ingredient in antimicrobial pesticide formulations applied to food-contact surfaces in public eating places, dairy-processing equipment, and food-processing equipment and utensils at a concentration not to exceed 5,000 parts per million (ppm). Lewis & Harrison, on behalf of BASF Corporation, submitted a petition to EPA under the Federal Food, Drug, and Cosmetic Act (FFDCA), requesting establishment of an exemption from the requirement of a tolerance. This regulation eliminates the need to establish a maximum permissible level for residues of methane sulfonic acid.

DATES: This regulation is effective August 19, 2015. Objections and requests for hearings must be received on or before October 19, 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–2014–0633, 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 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–2014–0633 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 October 19, 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–2014–0633, 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. Petition for Exemption

In the **Federal Register** of March 4, 2015 (80 FR 11613) (FRL–9922–68), EPA issued a document pursuant to FFDCA section 408, 21 U.S.C. 346a, announcing the filing of a pesticide petition inert ingredient (PP IN–10720) by Lewis & Harrison, 122 C Street NW., Suite 505, Washington, DC 20001 on behalf of BASF Corporation, 100 Park Avenue, Florham Park, NJ 07932. The petition requested that 40 CFR 180.930 and 40 CFR 180.940(a) be amended by establishing an exemption from the requirement of a tolerance for residues of methane sulfonic acid (CAS Reg. No.75–75–2) when used as an inert ingredient (acidifying agent) in pesticide formulations applied to animals at a

maximum concentration not to exceed 3% by weight and when used as an inert ingredient in antimicrobial pesticide formulations applied to food-contact surfaces in public eating places, dairy-processing equipment, and food-processing equipment and utensils at a concentration not to exceed 5,000 ppm. That document referenced a summary of the petition prepared by Lewis & Harrison on behalf of BASF Corporation, 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. Inert Ingredient Definition

Inert ingredients are all ingredients that are not active ingredients as defined in 40 CFR 153.125 and include, but are not limited to, the following types of ingredients (except when they have a pesticidal efficacy of their own): Solvents such as alcohols and hydrocarbons; surfactants such as polyoxyethylene polymers and fatty acids; carriers such as clay and diatomaceous earth; thickeners such as carrageenan and modified cellulose; wetting, spreading, and dispersing agents; propellants in aerosol dispensers; microencapsulating agents; and emulsifiers. The term ''inert'' is not intended to imply nontoxicity; the ingredient may or may not be chemically active. Generally, EPA has exempted inert ingredients from the requirement of a tolerance based on the low toxicity of the individual inert ingredients.

IV. Aggregate Risk Assessment and Determination of Safety

Section 408(c)(2)(A)(i) of FFDCA allows EPA to establish an exemption from the requirement for 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. . . .''

EPA establishes exemptions from the requirement of a tolerance only in those cases where it can be clearly demonstrated that the risks from aggregate exposure to pesticide chemical residues under reasonably foreseeable circumstances will pose no appreciable risks to human health. In order to determine the risks from aggregate exposure to pesticide inert ingredients, the Agency considers the toxicity of the inert in conjunction with possible exposure to residues of the inert ingredient through food, drinking water, and through other exposures that occur as a result of pesticide use in residential settings. If EPA is able to determine that a finite tolerance is not necessary to ensure that there is a reasonable certainty that no harm will result from aggregate exposure to the inert ingredient, an exemption from the requirement of a tolerance may be established.

Consistent with FFDCA section 408(c)(2)(A), and the factors specified in FFDCA section 408(c)(2)(B), 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 methane sulfonic acid including exposure resulting from the exemption established by this action. EPA's assessment of exposures and risks associated with methane sulfonic acid follows.

A. Toxicological Profile

EPA has evaluated the available toxicity data and considered their 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. Specific information on the studies received and the nature of the adverse effects caused by methane sulfonic acid 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* on pp. 7–11 of the document titled, ''Methane sulfonic acid: Decision Document for Requested Exemption from the Requirements of a Tolerance for a Food Use Inert Ingredient'' in docket ID number EPA–HQ–OPP–2014–0633.

Methane sulfonic acid has moderate acute oral toxicity to rats and moderate acute dermal toxicity to rabbits. Methane sulfonic acid is corrosive to mouse skin, extremely corrosive to the eye, but showed no evidence of dermal sensitization. Following repeated nose-only inhalation exposures in rats to low concentrations, clear evidence of portal-of-entry effects, such as histopathological lesions in the nasal turbinates were observed however there was no evidence of systemic toxicity at dose levels up to 0.74 milligram/Liter (mg/L) in a 7-day study and 0.24 mg/L in a 28-day study, the highest doses tested in both studies. In a 7-day repeat dose oral feeding study in rats, no systemic toxicity was observed at doses up to 1,805 milligrams/kilograms/day (mg/kg/day). No effects were seen for parental toxicity, offspring/developmental toxicity or reproductive performance in a combined reproductive/developmental toxicity screening test at doses up to 1,000 mg/kg/day. In one developmental toxicity study in rats, no parental systemic or developmental toxicity was observed at doses up to 400 mg/kg/day. Available prenatal developmental toxicity data showed some evidence of slight maternal toxicity but no developmental effects. Methane sulfonic acid was not mutagenic and did not induce chromosomal aberrations. There are no metabolism, chronic toxicity or carcinogenicity studies available on methane sulfonic acid. However, based on the lack of systemic toxicity at 1,000 mg/kg/day and above in a combined reproductive/developmental screening study and 7-day dietary study, and the lack of mutagenicity concern, there are low concerns for cancer.

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 the NOAEL and the LOAEL are identified. 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.*

The oral toxicity NOAEL is taken from the developmental toxicity study with female Sprague-Dawley rats where the NOAEL was identified as 400 mg/kg/day. This dose is used for the dietary exposure assessment.

The inhalation toxicity NOAEL was taken from the repeat-dose inhalation study discussed earlier. There were no treatment related macroscopic findings in the treated animals. Microscopic findings believed attributable to the test material included mucosal necrosis, suppurative inflammation and/or nasal exudate in males and females in the 0.23 and 0.74 mg/L groups. Since this is a localized effect, it was not considered as systemic toxicity, and the NOAEL was determined to be 0.74 mg/L (~191 mg/kg/day).

The dermal toxicity NOAEL is selected from an oral developmental toxicity study with the assumption of 100% dermal absorption. Based on the results of this study, the dermal toxicity NOAEL was 400 mg/kg/day.

C. Exposure Assessment

1. *Dietary exposure from food and feed uses.* In evaluating dietary exposure to methane sulfonic acid, EPA considered exposure under the proposed exemption from the requirement of a tolerance. EPA assessed dietary exposures from methane sulfonic acid in food as follows: Based upon the requested use patterns, humans may be exposed to methane sulfonic acid. Dietary exposure may occur as a result of residues transferred from treated food contact areas, including food/dairy processing equipment or systems.

Additional dietary exposure may occur from consuming meat and dairy products from treated dairy cattle, sheep or goats. The Agency used the dietary exposure model to assess possible residues from treated animals.

Food. To assess oral exposure from food handling surfaces, the Agency utilized the Food and Drug Administration (FDA) Food Contact Surface Sanitizing Solution Dietary Exposure Assessment Model (FDA/CFSAN OPA: Chemistry Guidance—Sanitizing Solution version 1.1; January 1993; Office of Premarket Approval now Office of Food Additive Safety). To assess dietary exposures from ''clean in place'' of food processing equipment the Agency utilized assessment techniques described in EPA, 2006 (Reregistration Eligibility Decision Document for Alkyl Dimethyl Benzyl Ammonium Chloride (ADBAC) U.S. EPA Document EPA 739–R–06–009 August 2006). The Agency used the dietary exposure model to assess possible residues from treated animals.

In conducting the chronic dietary exposure assessment using the Dietary Exposure Evaluation Model/Food Commodity Intake Database (DEEM–FCID)™, Version 3.16, EPA used food consumption information from the U.S. Department of Agriculture's National Health and Nutrition Examination Survey, What we eat in America, (NHANES/WWEIA). This dietary survey was conducted from 2003 to 2008. As to residue levels in food, no residue data were submitted for methane sulfonic acid. In the absence of specific residue data, EPA has developed an approach which uses surrogate information to derive upper bound exposure estimates for the subject inert ingredient. Upper bound exposure estimates are based on the highest tolerance for a given commodity from a list of high-use insecticides, herbicides, and fungicides. A complete description of the general approach taken to assess inert ingredient risks in the absence of residue data is contained in the memorandum entitled ''Alkyl Amines Polyalkoxylates (Cluster 4): Acute and Chronic Aggregate (Food and Drinking Water) Dietary Exposure and Risk Assessments for the Inerts.'' (D361707, S. Piper, 2/25/09) and can be found at *http://www.regulations.gov* in docket ID number EPA–HQ–OPP–2008–0738. In the case of methane sulfonic acid, EPA made specific adjustments to the dietary exposure assessment to account for the use limitations of methane sulfonic acid as an inert ingredient in pesticide formulations applied to animals (*i.e.,* livestock used for food) only and at a maximum concentration of 3.0% by weight.

2. *Dietary exposure from drinking water.* Based upon the requested use patterns and the restrictions on maximum end-use concentrations, the Agency believes methane sulfonic acid is not likely to be present in drinking water. A quantitative assessment is not necessary.

3. *From non-dietary exposure.* The term ''residential exposure'' is used in this document to refer to non-occupational, non-dietary exposure (*e.g.,* textiles (clothing and diapers), carpets, swimming pools, and hard surface disinfection on walls, floors, tables).

Dermal and inhalation exposures may occur as a result of the use of sanitizing solutions which contain methane sulfonic acid. Such uses include mopping floors or wiping/sponging food contact surfaces *i.e.,* counter tops. According to Antimicrobials Division, Office of Pesticide Programs Standard Operating Procedures, the Agency conducted conservative assessments of dermal and inhalation exposures for typical residential use patterns.

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.''

EPA has not found methane sulfonic acid to share a common mechanism of toxicity with any other substances, and methane sulfonic acid does not appear to produce a toxic metabolite produced by other substances. For the purposes of this tolerance action, therefore, EPA has assumed that methane sulfonic acid 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 sensitivity to infants and children due to pre- and post-natal exposure to methane sulfonic acid. No treatment-related effects were observed on maternal toxicity and offspring/

developmental toxicity at doses up to the limit dose of 1,000 mg/kg/day in a combined reproductive/developmental toxicity study with rats.

In one developmental toxicity study in rats, there were no treatment related effects observed in the maternal animals or in the fetuses at doses up to 400 mg/kg/day (the highest dose tested). In another developmental toxicity study in rats no maternal or developmental toxicity was observed at dose levels up to 300 mg/kg/day; the highest dose tested.

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 methane sulfonic acid is complete for FQPA assessment. The available studies include two developmental toxicity studies in rats, a combined rat reproductive/developmental toxicity, two repeated dose inhalation toxicity studies in rats, and several mutagenicity studies.

ii. No treatment related effects were observed in the Functional Observation Battery and motor activity in a combined reproductive/developmental toxicity with rats at doses up to 1,000 mg/kg/day. Based on the results of this study it is concluded that methane sulfonic acid is not a neurotoxic chemical and there is no need for a developmental neurotoxicity study or additional uncertainty factors (UFs) to account for neurotoxicity.

iii. There is no evidence that methane sulfonic acid results in increased susceptibility in *in utero* rats (as discussed above).

iv. There is no immunotoxicity study available in the database, however, there was no systemic toxicity observed at the limit dose in a combined reproductive/developmental toxicity study. Therefore, there is no need for an immunotoxicity study or additional UFs to account for the lack of an immunotoxicity study.

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

These assessments will not underestimate the exposure and risks posed by methane sulfonic acid.

E. Aggregate Risks and Determination of Safety

1. *Acute risk.* An acute aggregate risk assessment takes into account acute exposure estimates from dietary consumption of food and drinking water. No adverse effect resulting from a single oral exposure was identified and no acute dietary endpoint was selected. Therefore, methane sulfonic acid is not expected to pose an acute risk.

2. *Chronic risk.* Using the exposure assumptions described in this unit (and at *http://www.regulations.gov* on pp. 7–11 of the document titled, ''Methane sulfonic acid: Decision Document for Requested Exemption from the Requirements of a Tolerance for a Food Use Inert Ingredient'' in docket ID number EPA–HQ–OPP–2014–0633.) For chronic exposure, EPA has concluded that chronic exposure to methane sulfonic acid from food and water will utilize 0.2% of the chronic population adjusted reference dose (cPAD) for the U.S. population and 0.7% of the cPAD for children 1–2 years of age, the most highly exposed population group.

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).

Methane sulfonic acid maybe used as an inert ingredient in pesticide products that are registered for any use that could result in short-term residential exposure. It is possible that methane sulfonic acid could be used in such products and the Agency has determined that it is appropriate to aggregate chronic exposure through food and water with potential short-term exposures to methane sulfonic acid.

Using the exposure assumptions described in this unit for short-term exposures, EPA has concluded that the combined food, water and residential exposures result in aggregate short term MOEs of 1680 for adults and 300 for children (1–2 years old). EPA's level of concern for methane sulfonic acid is a MOE of 100 or below; therefore these MOEs are not of concern.

4. *Intermediate-term risk.* Intermediate-term aggregate exposure takes into account intermediate-term residential exposure plus chronic exposure to food and water (considered to be a background exposure level). No intermediate-term exposure are expected from the use of methane sulfonic acid as an inert ingredient, therefore, there are no intermediate-term risk concerns.

5. *Aggregate cancer risk for U.S. population.* Aggregate cancer risk was not estimated because the Agency has not identified any concerns for cancer risk due to exposure to methane sulfonic acid.

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 methane sulfonic acid residues.

V. Other Considerations

A. Analytical Enforcement Methodology

An analytical method is not required for enforcement purposes since the Agency is not establishing a numerical tolerance for residues of methane sulfonic acid in or on any food commodities. EPA is establishing a limitation on the amount of methane sulfonic acid that may be used in pesticide formulations applied to animals and in food-contact surface antimicrobial applications. Those limitations will be enforced through the pesticide registration process under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), 7 U.S.C. 136 *et seq.* EPA will not register any pesticide formulation for use on animals for sale or distribution that contains greater than 3% by weight of methane sulfonic acid or any food-contact surface antimicrobial formulations for sale or distribution that contains greater than 5,000 ppm of methane sulfonic acid.

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 Nation 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 methane sulfonic acid.

VI. Conclusions

Therefore, an exemption from the requirement of a tolerance is established under 40 CFR 180.930 and 40 CFR 180.940(a) for methane sulfonic acid (CAS Reg. No. 75–75–2) when used as an inert ingredient (acidifying agent) in pesticide formulations applied to animals at a maximum concentration not to exceed 3% by weight and when used as an inert ingredient in antimicrobial pesticide formulations

applied to food-contact surfaces in public eating places, dairy-processing equipment, and food-processing equipment and utensils at a concentration not to exceed 5,000 ppm.

VII. 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).

VIII. 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: August 6, 2015.

Susan Lewis,

Director, Registration Division, Office 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 § 180.930 add alphabetically the inert ingredient ''Methane sulfonic acid'' to the table to read as follows:

§ 180.930 Inert ingredients applied to animals; exemptions from the requirement of a tolerance.

* * * * *

Inert ingredients	Limits	Uses
* *	* * *	* *
Methane sulfonic acid (CAS Reg. No. 75–75–2).	Not to exceed 3.0% by weight in pesticide formulation.	Acidifying agent.
* *	* * *	* *

■ 3. In § 180.940 add alphabetically the inert ingredient ''Methane sulfonic acid'' to the table in paragraph (a) to read as follows:

§ 180.940 Tolerance exemptions for active and inert ingredients for use in antimicrobial formulations (Food-contact surface sanitizing solutions).

(a) * * *

* * * * *

Pesticide chemical	CAS reg. No.	Limits
* *	* * *	* *
Methane sulfonic acid	75–75–2	When ready for use, the end use concentration is not to exceed 5,000 ppm.
* *	* * *	* *

* * * * *

[FR Doc. 2015–20252 Filed 8–18–15; 8:45 am]

BILLING CODE 6560–50–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 1837 and 1852

RIN 2700–AE01 and 2700–AE09

NASA Federal Acquisition Regulation Supplement; Correction

AGENCY: National Aeronautics and Space Administration.

ACTION: Correcting amendments.

SUMMARY: The National Aeronautics and Space Administration (NASA) published a final rule in the **Federal Register** on Thursday, March 12, 2015 (80 FR 12935), as part of the NASA Federal Acquisition Regulation Supplement (NFS) regulatory review. That final rule became effective on April 13, 2015, however the date of effectivity for the affected clauses was inadvertently omitted. This document corrects the final rule by adding the missing clause dates and makes other minor editorial changes.

DATES: *Effective:* August 19, 2015.

FOR FURTHER INFORMATION CONTACT: Manuel Quinones, NASA, Office of Procurement, Contract and Grant Policy Division, via email at *manuel.quinones@nasa.gov,* or telephone (202) 358–2143.

SUPPLEMENTARY INFORMATION:

I. Background

NASA published a final rule in the **Federal Register** on March 12, 2015, which became effective April 13, 2015. This rule is part of the NASA FAR Supplement regulatory review. As published, the rule contains errors due to inadvertent omission of affected clause dates and other errors that need to be corrected. Specifically, clause date of ''APR 2015'' is to be added to NFS 1852.215–77, 1852.219–11, 1852.219–18, 1852.219–75, 252.219–77, 1852.219–79, 1852.223–71, 1852.223–73, 1852.227–11, 1852.227–14, 1852.227–70, 1852.227–71, 1852.227–72, 1852.227–84, 1852.227–85, 1852.227–86, and 1852.227–88. NASA is not altering the text of these NFS clauses, but merely adding the missing clause dates. Additionally, NFS clause prescription at 1809.206–71 was correctly removed. However, the corresponding clause at 1852.209–70 should also have been removed and reserved at amendatory instruction no. 66 on page 12945 (80 FR 12945).

List of Subject in 48 CFR Parts 1837 and 1852

Government procurement.

Manuel Quinones,

Federal Register Liaison.

Accordingly, 48 CFR part 1852 is amended as follows:

PART 1852—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

■ 1. The authority citation for part 1852 continues to read as follows:

Authority: 51 U.S.C. 20113(a) and 48 CFR chapter 1.

1852.215–77, 1852.219–11, 1852.219–18, 1852.219–75, 252.219–77, 1852.219–79, 1852.223–71, 1852.223–73, 1852.227–70, 1852.227–71, 1852.227–72, 1852.227–84, 1852.227–85, 1852.227–86, and 1852.227–88 [Amended]

■ 2. Amend sections 1852.215–77, 1852.219–11, 1852.219–18, 1852.219–75, 252.219–77, 1852.219–79, 1852.223–71, 1852.223–73, 1852.227–70, 1852.227–71, 1852.227–72, 1852.227–84, 1852.227–85, 1852.227–86, and 1852.227–88 by removing ''MONTH/YEAR'' and adding ''APR 2015'' in its place.

1852.209–70 [Removed and Reserved]

■ 3. Remove and reserve section 1852.209–70.

■ 4. Amend section 1852.216–88:

■ a. By removing clause date of ''JAN 1997'' and adding ''APR 2015'' in its place.

■ b. By revising the second sentence in paragraph (a)(1). The revision reads as follows:

1852.216–88 Performance incentive.

* * * * *

(a) * * *

(1) * * * The performance incentive becomes effective when the item is put into service. * * *

* * * * *

1852.223–76 [Amended]

■ 5. Amend section 1852.223–76 by removing ''*http://fastweb.inel.gov/*'' and adding ''*https://fastweb.inel.gov/*'' in its place.

1852.227–11 and 1852.227–14 [Amended]

■ 6. Amend in sections 1852.227–11 and 1852.227–14 by removing ''DATE'' and adding ''APR 2015'' in its place.

[FR Doc. 2015–20418 Filed 8–18–15; 8:45 am]

BILLING CODE 7510–13–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 660

[Docket No. 140904754–5188–02]

RIN 0648–BF27

Magnuson-Stevens Act Provisions; Fisheries Off West Coast States; Pacific Coast Groundfish Fishery; 2015–2016 Biennial Specifications and Management Measures; Inseason Adjustments

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

ACTION: Final rule; inseason adjustments to biennial groundfish management measures.

SUMMARY: This final rule announces inseason changes to management measures in the Pacific Coast groundfish fisheries. This action, which is authorized by the Pacific Coast Groundfish Fishery Management Plan (PCGFMP), is intended to protect overfished and depleted stocks while allowing fisheries to access more abundant groundfish stocks.

DATES: This final rule is effective August 14, 2015.

FOR FURTHER INFORMATION CONTACT: Gretchen Hanshew, phone: 206–526–6147, fax: 206–526–6736, or email: *gretchen.hanshew@noaa.gov.*

SUPPLEMENTARY INFORMATION:

Electronic Access

This rule is accessible via the Internet at the Office of the Federal Register Web site at *https://www.federalregister.gov.* Background information and documents are available at the Pacific Fishery Management Council's Web site at *http://www.pcouncil.org/*. Copies of the final environmental impact statement (FEIS) for the Groundfish Specifications and Management Measures for 2015–2016 and Biennial Periods Thereafter are available from Donald McIsaac, Executive Director, Pacific Fishery Management Council (Council), 7700 NE Ambassador Place, Portland, OR 97220, phone: 503–820–2280.

Background

The PCGFMP and its implementing regulations at title 50 in the Code of Federal Regulations (CFR), part 660, subparts C through G, regulate fishing for over 90 species of groundfish off the coasts of Washington, Oregon, and California. Groundfish specifications

and management measures are developed by the Pacific Fishery Management Council (Council), and are implemented by NMFS.

The final rule to implement the 2015–2016 harvest specifications and management measures for most species of the Pacific coast groundfish fishery was published on March 10, 2015 (80 FR 12567).

The Council—in coordination with Pacific Coast Treaty Indian Tribes and the States of Washington, Oregon, and California—recommended changes to current groundfish management measures at its June 10–16, 2015, meeting. Specifically, the Council recommended an increase to commercial fishery trip limits for sablefish, blackgill rockfish, big skate, Minor Shelf Rockfish, and California scorpionfish. The Council also recommended a decrease to commercial fishery trip limits for black rockfish. NMFS has determined that good cause exists to waive notice and comment for trip limit changes for sablefish, blackgill rockfish, black rockfish and big skate and this action implements those changes. However, NMFS has determined that the Council-recommended increases to trip limits for Minor Shelf Rockfish and California scorpionfish cannot be implemented without a two-meeting process and notice and comment rulemaking. Therefore, those changes are not included in this action.

Fishery Management Measures for the Limited Entry Fixed Gear (LEFG) and Open Access (OA) Sablefish Daily Trip Limit (DTL) Fisheries North of 36° N. lat.

To increase harvest opportunities for the LEFG and OA fixed gear sablefish DTL fisheries north of 36° N. lat., the Council considered increases to trip limits. The Council's Groundfish Management Team (GMT) made model-based landings projections for the LEFG and OA fixed gear sablefish DTL fisheries north of 36° N. lat. for the remainder of the year. These projections were based on the most recent information available. The model predicted harvest of 83 percent (196 mt) of the LEFG harvest guideline (HG) (236 mt) and 62 percent (242 mt) of the OA HG (388 mt) under current trip limits. This indicates that projected catch in both the LEFG and OA fisheries was lower than anticipated when the trip limits were initially established (93 percent (220 mt) of the LEFG HG and 92 percent (358 mt) of the OA HG). With the increase in trip limits, predicted harvest assuming medium ex-vessel price curves is 90 percent (212 mt) of the LEFG HG (236 mt) and 83 percent (323 mt) of the OA HG (388 mt). Projections for the fixed gear sablefish fisheries south of 36° N. lat. were similar to what they were anticipated to be in the biennial harvest specifications and management measures, and no requests were made by industry for changes; therefore, and no inseason actions were considered.

Therefore, the Council recommended and NMFS is implementing trip limit changes for the LEFG and the OA sablefish DTL fisheries north of 36° N. lat. The trip limits for sablefish in the LEFG fishery north of 36° N. lat. increase from ''1,025 lb (465 kg) per week, not to exceed 3,075 lb (1,394 kg) per two months'' to ''1,125 lb (510.3 kg) per week, not to exceed 3,375 lb (1,530 kg) per two months'' beginning during period 4 through the end of the year.

The trip limits for sablefish in the OA sablefish DTL fishery north of 36° N. lat. are increased from ''300 lb (136 kg) per day, or one landing per week of up to 900 lb (408 kg), not to exceed 1,800 lb (817 kg) per two months'' to ''350 lb (159 kg) per day, or one landing per week of up to 1,600 lb (726 kg), not to exceed 3,200 lb (1,452 kg) per two months'' during period 4 through the end of the year.

Fishery Management Measures for Blackgill Rockfish in the Limited Entry Fixed Gear (LEFG) and Open Access (OA) Fisheries South of 40°10′ N. lat.

Blackgill rockfish south of 40°10′ N. lat. was assessed in 2011. The 2011 assessment indicated the stock was in the precautionary zone with spawning biomass depletion estimated to be 30 percent of its unfished biomass at the start of 2011. The Council chose to leave blackgill rockfish as a stock within the Minor Slope Rockfish south complex. Beginning in 2013, the Council recommended, and NMFS established, annual HGs and management measures to keep anticipated catch of blackgill rockfish within its HG, including a species-specific sorting requirement and species-specific sub-limits. Annual HGs and trip limit management in non-IFQ fisheries continue to be utilized for management of blackgill rockfish south of 40°10′ N. lat.

The most recently available information (2013) indicates that the Minor Slope Rockfish trip limit and the blackgill rockfish sub-limit set in 2013 kept catch of Minor Slope Rockfish south of 40°10′ N. lat. at 148 mt, which is less than 25 percent of the 2013 ACL (618 mt). Additionally, catch of blackgill was 18.5 mt, 42 percent of the 44 mt HG (LEFG HG of 26.4 mt and OA HG of 17.6 mt, combined). The same trip limits were in place in 2014, and 2014 inseason estimates indicate that similar catch patters are likely to be seen in the completed 2014 total mortality report. The best available 2015 inseason information at the June Council meeting indicated that catch of blackgill rockfish was approximately half of the amount of catch during that same time period in 2014. The Council recommended that the blackgill rockfish sub-limit be increased modestly to reduce regulatory discards since catch was well below the HG in 2013 and was likely similar in scale in 2014 and because catch in 2015 is below the levels observed in 2014. In addition, a modest increase in the sub-limit will likely reduce regulatory discards of blackgill rockfish when caught incidentally with co-occurring species in the Minor Slope Rockfish complex.

Therefore, the Council recommended, and NMFS is implementing, an increase to blackgill rockfish sub-limits for the LEFG and the OA fisheries south of 40°10′ N. lat. The blackgill rockfish sub-limit, within the overall trip limit for Minor Slope Rockfish complex south of 40°10′ N. lat., is increased in the LEFG fishery from ''40,000 lb (18,144 kg) per two months, of which no more than 1,375 lb (624 kg) may be blackgill rockfish'' to ''40,000 lb (18,144 kg) per two months, of which no more than 1,600 lb (726 kg) may be blackgill rockfish'' beginning during period 4 through the end of the year.

The blackgill rockfish sub-limit, within the overall trip limit for Minor Slope Rockfish complex south of 40°10′ N. lat., is increased in the OA fishery from ''10,000 lb (4,536 kg) per two months, of which no more than 475 lb (216 kg) may be blackgill rockfish'' to ''10,000 lb (4,536 kg) per two months, of which no more than 550 lb (250 kg) may be blackgill rockfish'' beginning during period 4 through the end of the year.

Fishery Management Measures for Black Rockfish in the Limited Entry Fixed Gear (LEFG) and Open Access (OA) Fisheries Between 42° N. lat. and 40°10′ N. lat.

Black rockfish are caught in nearshore commercial and recreational fisheries. Black rockfish is a healthy stock that co-occurs with nearshore overfished rockfish species (*e.g.*, canary rockfish and yelloweye rockfish). Catch of black rockfish is managed, in part, to keep catch of co-occurring overfished species within the management targets for the nearshore fishery and the state of California. The best available information on commercial black rockfish catch in northern California through June 12, 2015, indicates that harvest so far in 2015 (58 mt) is much

higher than what it was in this area for the entire year of 2014 (34 mt).

In 2014, the shoreward boundary of the non-trawl rockfish conservation area (RCA) in this area between 42° N. lat. and 40°10′ N. lat. was the boundary line approximating the 20 fm depth contour. For 2015, the boundary line off northern California was shifted seaward to the boundary line approximating the 30 fm depth contour, opening the area to nearshore fishing between 20 fm line and the 30 fm line for the first time since 2009 (80 FR 12567, March 10, 2015). This change in the depth restriction in the non-trawl commercial fisheries is providing additional access to nearshore stocks, and may be part of the reason for the increased black rockfish landings in 2015 compared to 2014. Additionally, the change in depth restriction may be changing bycatch rates of co-occurring overfished species in the nearshore fishery, but little information is available to inform bycatch rates inseason.

Based on the best available information, catch of black rockfish is much higher in 2015 compared to 2014. To reduce projected catch of co-occurring overfished species and reduce the risk of exceeding HGs for those overfished species, the Council considered reductions to black rockfish trip limits between 42° N. lat. and 40°10′ N. lat. The Council recommended decreasing the black rockfish trip limit to the same limit that was in effect when the northern California non-trawl RCA shoreward boundary was at the 30 fm line, as it is in 2015.

Therefore, the Council recommended and NMFS is implementing decreased black rockfish trip limits for the LEFG and the OA fisheries between 42° N. lat. and 40°10′ N. lat. The black rockfish trip limit, within the overall trip limit for Minor Nearshore Rockfish complex, is decreased in the LEFG and OA fisheries from ''8,500 lb (3,856 kg) per two months of which no more than 1,200 lb (544 kg) may be species other than black rockfish'' to ''6,000 lb (2,722 kg) per two months of which no more than 1,200 lb (544 kg) may be species other than black rockfish'' beginning during period 4 through the end of the year.

Fishery Management Measures for Big Skate in the Shorebased IFQ Program

Before 2015, big skate was managed as a component stock within the Other Fish complex. The big skate OFL estimate, along with the estimated OFLs for the other species in the complex, contributed to the OFL specified in regulation for the Other Fish complex. Species managed in complexes do not have OFLs specified in regulation. Therefore, the best estimate of a sustainable harvest for a single species that is managed in a complex is referred to as an ''OFL contribution,'' since the OFL for the complex is the sum of the contributing OFLs for all the component species.

During development of the 2015–2016 harvest specifications and management measures, best estimates of mortality indicated that harvest of big skate was 18 percent of the big skate OFL contribution and that it was not in need of conservation and management. Big skate was removed from the Other Fish complex and designated as an ecosystem component (EC) species (80 FR 12567, March 10, 2015). If the Council had chosen to keep big skate in the fishery, with species specific harvest specifications, the 2015 big skate OFL endorsed by the Scientific Statistical Committee (SSC) would have been 541 mt. Since the Council chose to designate this species as an EC species, the big skate OFL estimate became unnecessary. Since development and implementation of the 2015–2016 harvest specifications and management measures, new information indicated that mortality of big skate is approaching or exceeding the 2014 big skate OFL contribution.

At its April 2015 meeting, the Council recommended management measures to reduce mortality of big skate and reduce the risk of overfishing the stock. At that time, the best estimate of sustainable harvest for big skate was thought to be the 2014 OFL contribution. The Council recommended and NMFS implemented a trip limit reduction for big skate in the Shorebased IFQ Program and best estimates at that time indicated that total mortality of big skate through the end of 2015 under that trip limit structure would be 441 mt, 17 mt lower than the 2014 OFL contribution of 458 mt (80 FR 31858, June 4, 2015).

The analysis by the Council's GMT assumed 100 percent mortality of discarded big skate and assumed that, once a trip limit was reached, encounters of big skate would cease and no additional landings or discards would occur. The GMT acknowledged several issues with these assumptions, but noted that the April analysis was limited in scope due to time constraints. The Council acknowledged that the mortality estimates and the OFL contribution both have high degrees of uncertainty, and recommended precautionary management measures for conservation of big skate. The Council also acknowledged that additional information and analyses would likely become available, and that management measures for big skate would be considered in light of emerging and improving information.

At its June 2015 meeting, the Council considered additional analysis by the GMT, recommendations of its SSC, as well as updated fishery information, regarding big skate mortality and management measures. The West Coast Observer Program estimates that almost 80 percent of big skate caught in groundfish fisheries are discarded. Following a literature review, the SSC recommended that a 50 percent discard mortality rate for big skate caught with commercial trawl gear was more appropriate. This is consistent with the assumed discard mortality for another skate species for which trip limits are in place (longnose skate). In addition, projected estimates of big skate catch through the end of the year decreased because of reduced inseason estimates. This reduction likely resulted from an increased awareness and avoidance by the fishing fleet, and harvest projection changes resulting from the Council's improved understanding of big skate discard mortality rate.

At its June 2015 meeting, the Council also considered information regarding the best available estimate for a sustainable harvest level of big skate in 2015. In April 2015, the Council aimed to keep mortality of big skate below the 2014 OFL contribution, the best estimate available at that time. In June, the Council was reminded that the SSC endorsed a 2015 big skate OFL in November 2013. Since the Council recommended big skate be designated as an EC species, no harvest specifications were adopted for the 2015–2016 biennial cycle. However, in light of the need to better estimate big skate mortality, as it is approaching the best OFL contribution estimates, the SSC-endorsed estimated 2015 OFL is the best available estimate of sustainable harvest. Therefore, the Council considered projected big skate mortality in 2015 compared to the estimated 2015 OFL, rather than the 2014 OFL contribution. The 541 mt estimated 2015 OFL for big skate is 83 mt higher than the 2014 OFL contribution that was used in the April 2015 GMT analyses. Therefore, the Council considered higher trip limits for big skate than those adopted in April 2015. June 2015 GMT estimates indicate that with higher trip limits for big skate of 35,000 pounds per two months, through the remainder of the year, big skate total mortality will still be below the currently available best estimate of the 2015 OFL (541 mt).

As discussed above, the best estimate of the discard mortality rate decreased from 100 percent to 50 percent and the estimated 2015 OFL that is higher than

the 2014 OFL contribution. Therefore, increases to the big skate trip limits in the IFQ fishery are warranted. The Council considered increasing the trip limit for big skate in the Shorebased IFQ Program, beginning in Period 4 (July-August). A range of trip limits was considered: 25,000 lb (11,340 kg) per two months, 30,000 lb (13,608 kg) per two months, and 35,000 lb (15,876 kg) per two months for Periods 4–6 (July-December). All alternative trip limits are anticipated to bring total mortality below the estimated 2015 OFL of 541 mt, and the estimated 2015 Acceptable Biological Catch (ABC) (assuming the same P* as 2014 of 0.40) of 451 mt.

The Council recommended, and NMFS is implementing, an increase in the big skate trip limit in the Shorebased IFQ Program from ''20,000 lbs (9,072 kg) per two months'' to ''35,000 lb (15,876 kg) per two months'' in periods 4–6 (from July through December). Best estimates indicate that total mortality of big skate through the end of 2015 under this trip limit structure would be between 414 mt and 420 mt, 121–127 mt lower than the estimated 2015 OFL contribution of 541 mt and 21–27 mt lower than the estimated 2015 ABC contribution of 441 mt. The estimated total mortality is considered as a range to account for uncertainty in how fishing behavior will change after the big skate trip limit is reached. The Council recommended a trip limit that would allow approximately a 5 percent increase in total mortality, but would still be below the estimated 2015 ABC. The increase in trip limit is intended to allow vessels opportunistically targeting big skate to continue to do so, while keeping total mortality below the estimated 2015 ABC. The Council-recommended trip limits are codified in Tables 1 (North) and 1 (South) to Subpart C.

Classification

This final rule makes routine inseason adjustments to groundfish fishery management measures, based on the best available information, consistent with the PCGFMP and its implementing regulations.

This action is taken under the authority of 50 CFR 660.60(c) and is exempt from review under Executive Order 12866.

The aggregate data upon which these actions are based are available for public inspection at the Office of the Administrator, West Coast Region, NMFS, during business hours.

NMFS finds good cause to waive prior public notice and comment on the revisions to groundfish management measures under 5 U.S.C. 553(b) because notice and comment would be impracticable and contrary to the public interest. Also, for the same reasons, NMFS finds good cause to waive the 30-day delay in effectiveness pursuant to 5 U.S.C. 553(d)(3), so that this final rule may become effective August 14, 2015.

At the June Council meeting, the Council recommended that these changes be implemented as quickly as possible during the two-month cumulative limit period. There was not sufficient time after that meeting to draft this document and undergo proposed and final rulemaking before these actions need to be in effect. For the actions to be implemented in this final rule, affording the time necessary for prior notice and opportunity for public comment would prevent NMFS from managing fisheries using the best available science to approach, without exceeding, the ACLs for federally managed species in accordance with the PCGFMP and applicable law. The adjustments to management measures in this document affect commercial fisheries in Washington, Oregon and California. These increases to trip limits must be implemented as quickly as possible during the two-month cumulative limit period to allow LEFG and OA fixed gear fishermen an opportunity to harvest higher limits for: Sablefish without exceeding the ACL north of 36° N. lat.; big skate without exceeding the estimated 2015 OFL; and blackgill rockfish without exceeding the HG south of 40°10′ N. lat. The decrease to the black rockfish trip limit must be implemented by the start of the next two-month cumulative limit period, September 1, to keep catch of co-occurring overfished species within their HGs and rebuilding ACLs. It would be contrary to the public interest to delay implementation of these changes until after public notice and comment, because making this regulatory change by August 14, 2015, allows harvest as intended by the Council, consistent with the best scientific information available. These changes allow additional harvest in fisheries that are important to coastal communities while continuing to prevent ACLs of overfished and target species from being exceeded.

No aspect of this action is controversial, and changes of this nature were anticipated in the biennial harvest specifications and management measures established for 2015–2016.

Accordingly, for the reasons stated above, NMFS finds good cause to waive prior notice and comment and to waive the delay in effectiveness.

List of Subjects in 50 CFR Part 660

Fisheries, Fishing, and Indian fisheries.

Dated: August 14, 2015.

Emily H. Menashes,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 660 is amended as follows:

PART 660—FISHERIES OFF WEST COAST STATES

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

Authority: 16 U.S.C. 1801 *et seq.,* 16 U.S.C. 773 *et seq.,* and 16 U.S.C. 7001 *et seq.*

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

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

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

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

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TABLE 1 (North)

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

Selective flatfish trawl gear is required shoreward of the RCA; all bottom trawl gear (large footrope, selective flatfish trawl, and small footrope trawl gear) is permitted seaward of the RCA. Large footrope and small footrope trawl gears (except for selective flatfish trawl gear) are prohibited shoreward of the RCA. Midwater trawl gear is permitted only for vessels participating in the primary whiting season. **Vessels fishing groundfish trawl quota pounds with groundfish non-trawl gears, under gear switching provisions at § 660.140, are subject to the limited entry groundfish trawl fishery landing allowances in this table, regardless of the type of fishing gear used. Vessels fishing groundfish trawl quota pounds with groundfish non-trawl gears, under gear switching provisions at § 660.140, are subject to the limited entry fixed gear non-trawl RCA, as described in Tables 2 (North) and 2 (South) to Part 660, Subpart E.**

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

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

4	**Minor Nearshore Rockfish & Black rockfish**	300 lb/ month					
5	**Whiting[3/]**						
6	midwater trawl	Before the primary whiting season: CLOSED. -- During the primary season: mid-water trawl permitted in the RCA. See §660.131 for season and trip limit details. -- After the primary whiting season: CLOSED.					
7	large & small footrope gear	Before the primary whiting season: 20,000 lb/trip. -- During the primary season: 10,000 lb/trip. -- After the primary whiting season: 10,000 lb/trip.					
8	**Cabezon[4/]**						
9	North of 46°16' N. lat.	Unlimited					
10	46°16' N. lat. - 40°10' N. lat.	50 lb/ month					
11	**Shortbelly**	Unlimited					
12	**Spiny dogfish**	60,000 lb/ month					
13	**Big skate**	Unlimited			15,000 lb/ month	35,000 lb/ 2 months	
14	**Longnose skate**	Unlimited					
15	**Other Fish [4/]**	Unlimited					

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

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

3/ As specificed at §660.131(d), when fishing in the Eureka Area, no more than 10,000 lb of whiting may be taken and retained, possessed, or landed by a vessel that, at any time during the fishing trip, fished in the fishery management area shoreward of 100 fm contour.

4/ "Other Fish" are defined at § 660.11 and include kelp greenling, leopard shark, and cabezon in Washington

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

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

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

Other Limits and Requirements Apply -- Read § 660.10 - § 660.399 before using this table 08012015

		JAN-FEB	MAR-APR	MAY-JUN	JUL-AUG	SEP-OCT	NOV-DEC
	Rockfish Conservation Area (RCA)1/:						
1	South of 40°10' N. lat.	100 fm line[1/] - 150 fm line [1/ 2/]					
	Small footrope trawl gear is required shoreward of the RCA; all trawl gear (large footrope, selective flatfish trawl, midwater trawl, and small footrope trawl gear) is permitted seaward of the RCA. Large footrope trawl gear and midwater trawl gear are prohibited shoreward of the RCA. **Vessels fishing groundfish trawl quota pounds with groundfish non-trawl gears, under gear switching provisions at § 660.140, are subject to the limited entry groundfish trawl fishery landing allowances in this table, regardless of the type of fishing gear used. Vessels fishing groundfish trawl quota pounds with groundfish non-trawl gears, under gear switching provisions at § 660.140, are subject to the limited entry fixed gear non-trawl RCA, as described in Tables 2 (North) and 2 (South) to Part 660, Subpart E.**						
	See § 660.60, § 660.130, and § 660.140 for Additional Gear, Trip Limit, and Conservation Area Requirements and Restrictions. See §§ 660.70-660.74 and §§ 660.76-660.79 for Conservation Area Descriptions and Coordinates (including RCAs, YRCA, CCAs, Farallon Islands, Cordell Banks, and EFHCAs).						
	State trip limits and seasons may be more restrictive than federal trip limits, particularly in waters off Oregon and California.						
2	**Longspine thornyhead**						
3	South of 34°27' N. lat.	24,000 lb/ 2 months					
4	**Minor Nearshore Rockfish & Black rockfish**	300 lb/ month					
5	**Whiting**						
6	midwater trawl	Before the primary whiting season: CLOSED. -- During the primary season: mid-water trawl permitted in the RCA. See §660.131 for season and trip limit details. -- After the primary whiting season: CLOSED.					
7	large & small footrope gear	Before the primary whiting season: 20,000 lb/trip. -- During the primary season: 10,000 lb/trip. -- After the primary whiting season: 10,000 lb/trip.					
8	**Cabezon**	50 lb/ month					
9	**Shortbelly**	Unlimited					
10	**Spiny dogfish**	60,000 lb/ month					
11	**Big skate**	Unlimited		15,000 lb/ month	35,000 lb/ 2 months		
12	**Longnose skate**	Unlimited					
13	**California scorpionfish**	Unlimited					
14	**Other Fish** [3/]	Unlimited					

TABLE 1 (South)

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

2/ South of 34°27' N. lat., the RCA is 100 fm line - 150 fm line along the mainland coast; shoreline - 150 fm line around islands.

3/ "Other Fish" are defined at § 660.11 and include kelp greenling, leopard shark, and cabezon in Washington

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

■ 3. Table 2 (North) and 2 (South) to part 660, subpart E, are revised to read as follows:

Table 2 (North) to Part 660, Subpart E -- Non-Trawl Rockfish Conservation Areas and Trip Limits for Limited Entry Fixed Gear North of 40°10' N. lat.

Other limits and requirements apply -- Read §§660.10 through 660.399 before using this table ########

		JAN-FEB	MAR-APR	MAY-JUN	JUL-AUG	SEP-OCT	NOV-DEC
Rockfish Conservation Area (RCA)[1/]:							
1	North of 46°16' N. lat.	shoreline - 100 fm line[1/]					
2	46°16' N. lat. - 42°00' N. lat.	30 fm line[1/] - 100 fm line[1/]					
3	42°00' N. lat. - 40°10' N. lat.	30 fm line[1/] - 100 fm line[1/]					
See §§660.60 and 660.230 for additional gear, trip limit and conservation area requirements and restrictions. See §§660.70-660.74 and §§660.76-660.79 for conservation area descriptions and coordinates (including RCAs, YRCAs, CCAs, Farallon Islands, Cordell Banks, and EFHCAs).							
State trip limits and seasons may be more restrictive than Federal trip limits or seasons, particularly in waters off Oregon and California.							
4	**Minor Slope Rockfish[2/] & Darkblotched rockfish**	4,000 lb/ 2 months					
5	**Pacific ocean perch**	1,800 lb/ 2 months					
6	**Sablefish[7/]**	1,025 lb/ week, not to exceed 3,075 lb/ 2 months			1,125 lb/ week, not to exceed 3,375 lb/ 2 months		
7	**Longspine thornyhead**	10,000 lb/ 2 months					
8	**Shortspine thornyhead**	2,000 lb/ 2 months			2,500 lb/ 2 months		
9	**Dover sole, arrowtooth flounder, petrale sole, English sole, starry flounder, Other Flatfish[3/]**	5,000 lb/ month South of 42° N. lat., when fishing for "other flatfish," vessels using hook-and-line gear with no more than 12 hooks per line, using hooks no larger than "Number 2" hooks, which measure 0.44 in (11 mm) point to shank, and up to two 1 lb (0.45 kg) weights per line, are not subject to the RCAs.					
10							
11							
12							
13							
14							
15	**Whiting**	10,000 lb/ trip					
16	**Minor Shelf Rockfish[2/], Shortbelly, Widow & Yellowtail rockfish**	200 lb/ month					
17	**Canary rockfish**	CLOSED					
18	**Yelloweye rockfish**	CLOSED					
19	**Minor Nearshore Rockfish & Black rockfish**						
20	North of 42°00' N. lat.	5,000 lb/ 2 months, no more than 1,200 lb of which may be species other than black rockfish or blue rockfish[4/]					
21	42°00' N. lat. - 40°10' N. lat.	8,500 lb/ 2 months, of which no more than 1,200 lb of which may be species other than black rockfish				6,000 lb/ 2 months, of which no more than 1,200 lb of which may be species other than black rockfish	
22	**Lingcod[5/]**	200 lb/2 months		1,200 lb/ 2 months			600 lb/ month / 200 lb/ month
23	**Pacific cod**	1,000 lb/ 2 months					
24	**Spiny dogfish**	200,000 lb/ 2 months		150,000 lb/ 2 months	100,000 lb/ 2 months		
25	**Longnose skate**	Unlimited					
26	**Other Fish[6/]& Cabezon in Oregon and California**	Unlimited					

TABLE 2 (North)

1/ The Rockfish Conservation Area is an area closed to fishing by particular gear types, bounded by lines specifically defined by latitude and longitude coordinates set out at §§ 660.71-660.74. This RCA is not defined by depth contours (with the exception of the 20-fm depth contour boundary south of 42° N. lat.), and the boundary lines that define the RCA may close areas that are deeper or shallower than the depth contour. Vessels that are subject to RCA restrictions may not fish in the RCA, or operate in the RCA for any purpose other than transiting.

2/ Bocaccio, chilipepper and cowcod are included in the trip limits for Minor Shelf Rockfish and splitnose rockfish is included in the trip limits for Minor Slope Rockfish.

3/ "Other flatfish" are defined at § 660.11 and include butter sole, curlfin sole, flathead sole, Pacific sanddab, rex sole, rock sole, and sand sole.

4/ For black rockfish north of Cape Alava (48°09.50' N. lat.), and between Destruction Is. (47°40' N. lat.) and Leadbetter Pnt. (46°38.17' N. lat.), there is an additional limit of 100 lb or 30 percent by weight of all fish on board, whichever is greater, per vessel, per fishing trip.

5/ The minimum size limit for lingcod is 22 inches (56 cm) total length North of 42° N. lat. and 24 inches (61 cm) total length South of 42° N. lat.

6/ "Other Fish" are defined at § 660.11 and include kelp greenling, leopard shark, and cabezon in Washington.

7/ Beginning on January 1, 2016, the following trip limits are in effect for sablefish north of 36° N. lat. from January through December 1,275 lb/week, not to exceed 3,375 lb/ 2 months

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

Table 2 (South) to Part 660, Subpart E -- Non-Trawl Rockfish Conservation Areas and Trip Limits for Limited Entry Fixed Gear South of 40°10' N. lat.

	Other limits and requirements apply -- Read §§660.10 through 660.399 before using this table							########
		JAN-FEB	MAR-APR	MAY-JUN	JUL-AUG	SEP-OCT	NOV-DEC	
Rockfish Conservation Area (RCA)[1/]:								
1	40°10' N. lat. - 34°27' N. lat.	30 fm line[1/] - 150 fm line[1/]						
2	South of 34°27' N. lat.	60 fm line[1/] - 150 fm line[1/] (also applies around islands)						
See §§660.60 and 660.230 for additional gear, trip limit and conservation area requirements and restrictions. See §§660.70-660.74 and §§660.76-660.79 for conservation area descriptions and coordinates (including RCAs, YRCAs, CCAs, Farallon Islands, Cordell Banks, and EFHCAs).								
State trip limits and seasons may be more restrictive than Federal trip limits or seasons, particularly in waters off Oregon and California.								
3	**Minor Slope rockfish[2/] & Darkblotched rockfish**	40,000 lb/ 2 months, of which no more than 1,375 lb may be blackgill rockfish			40,000 lb/ 2 months, of which no more than 1,600 lb may be blackgill rockfish			
4	**Splitnose rockfish**	40,000 lb/ 2 months						
5	**Sablefish[6/]**							
6	40°10' N. lat. - 36°00' N. lat.	1,025 lb/ week, not to exceed 3,075 lb/ 2 months			1,125 lb/ week, not to exceed 3,375 lb/ 2 months			
7	South of 36°00' N. lat.	2,000 lb/ week						
8	**Longspine thornyhead**	10,000 lb/ 2 months						
9	**Shortspine thornyhead**							
10	40°10' N. lat. - 34°27' N. lat.	2,000 lb/ 2 months			2,500 lb/ 2 months			
11	South of 34°27' N. lat.	3,000 lb/ 2 months						
12	**Dover sole, arrowtooth flounder, petrale sole, English sole, starry flounder, Other Flatfish[3/]**	5,000 lb/ month South of 42° N. lat., when fishing for "other flatfish," vessels using hook-and-line gear with no more than 12 hooks per line, using hooks no larger than "Number 2" hooks, which measure 0.44 in (11 mm) point to shank, and up to two 1 lb (0.45 kg) weights per line, are not subject to the RCAs.						
13								
14								
15								
16								
17								
18	**Whiting**	10,000 lb/ trip						
19	**Minor Shelf Rockfish[2/], Shortbelly, Widow rockfish (including Bocaccio and Chilipepper between 40°10' - 34°27' N. lat.)**							
20	40°10' N. lat. - 34°27' N. lat.	Minor shelf rockfish, shortbelly, widow rockfish, bocaccio & chilipepper: 2,500 lb/ 2 months, of which no more than 500 lb may be any species other than chilipepper.						
21	South of 34°27' N. lat.	4,000 lb/ 2 months	CLOSED	4,000 lb/ 2 months				
22	**Chilipepper**							
23	40°10' N. lat. - 34°27' N. lat.	Chilipepper included under minor shelf rockfish, shortbelly, widow rockfish and bocaccio limits - - See above						
24	South of 34°27' N. lat.	2,000 lb/ 2 months, this opportunity only available seaward of the non-trawl RCA						
25	**Canary rockfish**	CLOSED						
26	**Yelloweye rockfish**	CLOSED						
27	**Cowcod**	CLOSED						
28	**Bronzespotted rockfish**	CLOSED						
29	**Bocaccio**							
30	40°10' N. lat. - 34°27' N. lat.	Bocaccio included under Minor shelf rockfish, shortbelly, widow rockfish & chilipepper limits - - See above						
31	South of 34°27' N. lat.	750 lb/ 2 months	CLOSED	750 lb/ 2 months				

TABLE 2 (South)

Table 2 (South). Continued

		JAN-FEB	MAR-APR	MAY-JUN	JUL-AUG	SEP-OCT	NOV-DEC	
32	**Minor Nearshore Rockfish & Black rockfish**							**TABLE 2 (South)**
33	Shallow nearshore	600 lb/ 2 months	CLOSED	800 lb/ 2 months	900 lb/ 2 months	800 lb/ 2 months	1,000 lb/ 2 months	
34	Deeper nearshore							
35	40°10' N. lat. - 34°27' N. lat.	700 lb/ 2 months	CLOSED	700 lb/ 2 months	900 lb/ 2 months		1,000 lb/ 2 months	
36	South of 34°27' N. lat.	500 lb/ 2 months		600 lb/ 2 months				
37	California scorpionfish	1,200 lb/ 2 months	CLOSED	1,200 lb/ 2 months				
38	**Lingcod[4/]**	200 lb/ 2 months	CLOSED	800 lb/ 2 months			400 lb/ month	200 lb/ month
39	**Pacific cod**	1,000 lb/ 2 months						
40	**Spiny dogfish**	200,000 lb/ 2 months		150,000 lb/ 2 months	100,000 lb/ 2 months			
41	**Longnose skate**	Unlimited						
42	**Other Fish[5/] & Cabezon**	Unlimited						

1/ The Rockfish Conservation Area is an area closed to fishing by particular gear types, bounded by lines specifically defined by latitude and longitude coordinates set out at §§ 660.71-660.74. This RCA is not defined by depth contours (with the exception of the 20-fm depth contour boundary south of 42° N. lat.), and the boundary lines that define the RCA may close areas that are deeper or shallower than the depth contour. Vessels that are subject to RCA restrictions may not fish in the RCA, or operate in the RCA for any purpose other than transiting.

2/ POP is included in the trip limits for Minor Slope Rockfish. Blackgill rockfish have a species specific trip sub-limit within the Minor Slope Rockfish cumulative limit. Yellowtail rockfish are included in the trip limits for Minor Shelf Rockfish. Bronzespotted rockfish have a species specific trip limit.

3/ "Other Flatfish" are defined at § 660.11 and include butter sole, curlfin sole, flathead sole, Pacific sanddab, rex sole, rock sole, and sand sole.

4/ The commercial mimimum size limit for lingcod is 24 inches (61 cm) total length South of 42° N. lat.

5/ "Other Fish" are defined at § 660.11 and include kelp greenling, leopard shark, and cabezon in Washington.

6/ Beginning on January 1, 2016, the following trip limits are in effect for sablefish north of 36° N. lat. from January through December 1,275 lb/week, not to exceed 3,375 lb/ 2 months.

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

■ 4. Table 3 (North) and 3 (South) to part 660, subpart F, are revised to read as follows:

Table 3 (North) to Part 660, Subpart F -- Non-Trawl Rockfish Conservation Areas and Trip Limits for Open Access Gears North of 40°10' N. lat.

Other limits and requirements apply -- Read §§660.10 through 660.399 before using this table

########

		JAN-FEB	MAR-APR	MAY-JUN	JUL-AUG	SEP-OCT	NOV-DEC
Rockfish Conservation Area (RCA)[1/]:							
1	North of 46°16' N. lat.	shoreline - 100 fm line[1/]					
2	46°16' N. lat. - 42°00' N. lat.	30 fm line[1/] - 100 fm line[1/]					
3	42°00' N. lat. - 40°10' N. lat.	30 fm line[1/] - 100 fm line[1/]					
See §§660.60, 660.330 and 660.333 for additional gear, trip limit and conservation area requirements and restrictions. See §§660.70-660.74 and §§660.76-660.79 for conservation area descriptions and coordinates (including RCAs, YRCAs, CCAs, Farallon Islands, Cordell Banks, and EFHCAs).							
State trip limits and seasons may be more restrictive than Federal trip limits or seasons, particularly in waters off Oregon and California.							
4	**Minor Slope Rockfish[2/] & Darkblotched rockfish**	Per trip, no more than 25% of weight of the sablefish landed					
5	**Pacific ocean perch**	100 lb/ month					
6	**Sablefish[7/]**	300 lb/ day, or 1 landing per week of up to 900 lb, not to exceed 1,800 lb/ 2 months			350 lb/ day, or 1 landing per week of up to 1,600 lb, not to exceed 3,200 lb/ 2 months		
7	**Shortpine thornyheads and longspine thornyheads**	CLOSED					
8	**Dover sole, arrowtooth flounder, petrale sole, English sole, starry flounder, Other Flatfish[3/]**	3,000 lb/ month, no more than 300 lb of which may be species other than Pacific sanddabs.					
9							
10		South of 42° N. lat., when fishing for "other flatfish," vessels using hook-and-line gear with no more than 12 hooks per line, using hooks no larger than "Number 2" hooks, which measure 0.44 in (11 mm) point to shank, and up to two 1 lb (0.45 kg) weights per line are not subject to the RCAs.					
11							
12							
13							
14	**Whiting**	300 lb/ month					
15	**Minor Shelf Rockfish[2/], Shortbelly, Widow & Yellowtail rockfish**	200 lb/ month					
16	**Canary rockfish**	CLOSED					
17	**Yelloweye rockfish**	CLOSED					
18	**Minor Nearshore Rockfish & Black rockfish**						
19	North of 42°00' N. lat.	5,000 lb/ 2 months, no more than 1,200 lb of which may be species other than black rockfish					
20	42°00' N. lat. - 40°10' N. lat.	8,500 lb/ 2 months, of which no more than 1,200 lb of which may be species other than black rockfish				6,000 lb/ 2 months, of which no more than 1,200 lb of which may be species other than black rockfish	
21	**Lingcod[5/]**	100 lb/ month		600 lb/ month			100 lb/ month
22	**Pacific cod**	1,000 lb/ 2 months					
23	**Spiny dogfish**	200,000 lb/ 2 months		150,000 lb/ 2 months	100,000 lb/ 2 months		
24	**Longnose skate**	Unlimited					
25	**Other Fish[6/] & Cabezon in Oregon and California**	Unlimited					

TABLE 3 (North)

Table 3 (North). Continued

TABLE 3 (North) cont'd

		JAN-FEB	MAR-APR	MAY-JUN	JUL-AUG	SEP-OCT	NOV-DEC
26	**SALMON TROLL** *(subject to RCAs when retaining all species of groundfish, except for yellowtail rockfish and lingcod, as described below)*						
27	North	Salmon trollers may retain and land up to 1 lb of yellowtail rockfish for every 2 lbs of salmon landed, with a cumulative limit of 200 lb/month, both within and outside of the RCA. This limit is within the 200 lb per month combined limit for minor shelf rockfish, widow rockfish and yellowtail rockfish, and not in addition to that limit. Salmon trollers may retain and land up to 1 lingcod per 15 Chinook per trip, plus 1 lingcod per trip, up to a trip limit of 10 lingcod, on a trip where any fishing occurs within the RCA. This limit only applies during times when lingcod retention is allowed, and is not "CLOSED." This limit is within the per month limit for lingcod described in the table above, and not in addition to that limit. All groundfish species are subject to the open access limits, seasons, size limits and RCA restrictions listed in the table above, unless otherwise stated here.					
28	**PINK SHRIMP NON-GROUNDFISH TRAWL** *(not subject to RCAs)*						
29	North	**Effective April 1 - October 31:** Groundfish: 500 lb/day, multiplied by the number of days of the trip, not to exceed 1,500 lb/trip. The following sublimits also apply and are counted toward the overall 500 lb/day and 1,500 lb/trip groundfish limits: lingcod 300 lb/month (minimum 24 inch size limit); sablefish 2,000 lb/month; canary, thornyheads and yelloweye rockfish are PROHIBITED. All other groundfish species taken are managed under the overall 500 lb/day and 1,500 lb/trip groundfish limits. Landings of these species count toward the per day and per trip groundfish limits and do not have species-specific limits. The amount of groundfish landed may not exceed the amount of pink shrimp landed.					

1/ The Rockfish Conservation Area is an area closed to fishing by particular gear types, bounded by lines specifically defined by latitude and longitude coordinates set out at §§ 660.71-660.74. This RCA is not defined by depth contours (with the exception of the 20-fm depth contour boundary south of 42° N. lat.), and the boundary lines that define the RCA may close areas that are deeper or shallower than the depth contour. Vessels that are subject to RCA restrictions may not fish in the RCA, or operate in the RCA for any purpose other than transiting.

2/ Bocaccio, chilipepper and cowcod rockfishes are included in the trip limits for Minor Shelf Rockfish. Splitnose rockfish is included in the trip limits for minor slope rockfish.

3/ "Other flatfish" are defined at § 660.11 and include butter sole, curlfin sole, flathead sole, Pacific sanddab, rex sole, rock sole, and sand sole.

4/ For black rockfish north of Cape Alava (48°09.50' N. lat.), and between Destruction Is. (47°40' N. lat.) and Leadbetter Pnt. (46°38.17' N. lat.), there is an additional limit of 100 lbs or 30 percent by weight of all fish on board, whichever is greater, per vessel, per fishing trip.

5/ The minimum size limit for lingcod is 22 inches (56 cm) total length North of 42° N. lat. and 24 inches (61 cm) total length South of 42° N. lat.

6/ "Other fish" are defined at § 660.11 and include kelp greenling, leopard shark, and cabezon in Washington.

7/ Beginning on January 1, 2016, the following trip limits are in effect for sablefish north of 36° N. lat. 300 lb/ day, or 1 landing per week of up to 1,000 lb, not to exceed 2,000 lb/ 2 months.

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

Table 3 (South) to Part 660, Subpart F -- Non-Trawl Rockfish Conservation Areas and Trip Limits for Open Access Gears South of 40°10' N. lat.

Other limits and requirements apply -- Read §§660.10 through 660.399 before using this table ########

		JAN-FEB	MAR-APR	MAY-JUN	JUL-AUG	SEP-OCT	NOV-DEC
Rockfish Conservation Area (RCA)[1/]:							
1	40°10' N. lat. - 34°27' N. lat.	30 fm line[1/] - 150 fm line[1/]					
2	South of 34°27' N. lat.	60 fm line[1/] - 150 fm line[1/] (also applies around islands)					
See §§660.60 and 660.230 for additional gear, trip limit and conservation area requirements and restrictions. See §§660.70-660.74 and §§660.76-660.79 for conservation area descriptions and coordinates (including RCAs, YRCAs, CCAs, Farallon Islands, Cordell Banks, and EFHCAs).							
State trip limits and seasons may be more restrictive than Federal trip limits or seasons, particularly in waters off Oregon and California.							
3	**Minor Slope Rockfish[2/] & Darkblotched rockfish**	10,000 lb/ 2 months, of which no more than 475 lb may be blackgill rockfish			10,000 lb/ 2 months, of which no more than 550 lb may be blackgill rockfish		
4	**Splitnose rockfish**	200 lb/ month					
5	**Sablefish[6/]**						
6	40°10' N. lat. - 36°00' N. lat.	300 lb/ day, or 1 landing per week of up to 900 lb, not to exceed 1,800 lb/ 2 months			350 lb/ day, or 1 landing per week of up to 1,600 lb, not to exceed 3,200 lb/ 2 months		
7	South of 36°00' N. lat.	300 lb/ day, or 1 landing per week of up to 1,600 lb, not to exceed 3,200 lb/ 2 months					
8	**Shortpine thornyheads and longspine thornyheads**						
9	40°10' N. lat. - 34°27' N. lat.	CLOSED					
10	South of 34°27' N. lat.	50 lb/ day, no more than 1,000 lb/ 2 months					
11	**Dover sole, arrowtooth flounder, petrale sole, English sole, starry flounder, Other Flatfish[3/]**	3,000 lb/ month, no more than 300 lb of which may be species other than Pacific sanddabs.					
12							
13		South of 42° N. lat., when fishing for "other flatfish," vessels using hook-and-line gear with no more than 12 hooks per line, using hooks no larger than "Number 2" hooks, which measure 0.44 in (11 mm) point to shank, and up to two 1 lb (0.45 kg) weights per line are not subject to the RCAs.					
14							
15							
16							
17	**Whiting**	300 lb/ month					
18	**Minor Shelf Rockfish[2/], Shortbelly, Widow rockfish and Chilipepper**						
19	40°10' N. lat. - 34°27' N. lat.	300 lb/ 2 months	CLOSED	200 lb/ 2 months		300 lb/ 2 months	
20	South of 34°27' N. lat.	1500 lb/ 2 months		1500 lb/ 2 months			
21	**Canary rockfish**	CLOSED					
22	**Yelloweye rockfish**	CLOSED					
23	**Cowcod**	CLOSED					
24	**Bronzespotted rockfish**	CLOSED					
25	**Bocaccio**						
26	40°10' N. lat. - 34°27' N. lat.	200 lb/ 2 months	CLOSED	100 lb/ 2 months		200 lb/ 2 months	
27	South of 34°27' N. lat.	250 lb/ 2 months		250 lb/ 2 months			

TABLE 3 (South)

Table 3 (South). Continued

			JAN-FEB	MAR-APR	MAY-JUN	JUL-AUG	SEP-OCT	NOV-DEC
28	**Minor Nearshore Rockfish & Black rockfish**							
29	Shallow nearshore		600 lb/ 2 months	CLOSED	800 lb/ 2 months	900 lb/ 2 months	800 lb/ 2 months	1,000 lb/ 2 months
30	Deeper nearshore							
31	40°10' N. lat. - 34°27' N. lat.		700 lb/ 2 months	CLOSED	700 lb/ 2 months	900 lb/ 2 months		1,000 lb/ 2 months
32	South of 34°27' N. lat.		500 lb/ 2 months		600 lb/ 2 months			
33	California scorpionfish		1,200 lb/ 2 months	CLOSED	1,200 lb/ 2 months			
34	**Lingcod[4/]**		100 lb/ month	CLOSED	400 lb/ month			100 lb/ month
35	**Pacific cod**		1,000 lb/ 2 months					
36	**Spiny dogfish**		200,000 lb/ 2 months		150,000 lb/ 2 months	100,000 lb/ 2 months		
37	**Longnose skate**		Unlimited					
38	**Other Fish[5/] & Cabezon**		Unlimited					
39	**RIDGEBACK PRAWN AND, SOUTH OF 38°57.50' N. LAT., CA HALIBUT AND SEA CUCUMBER NON-GROUNDFISH TRAWL**							
40	**NON-GROUNDFISH TRAWL Rockfish Conservation Area (RCA) for CA Halibut, Sea Cucumber & Ridgeback Prawn:**							
41	*40° 10' N. lat. - 38° 00' N. lat.*		*100 fm line[1/] - 200 fm line[1/]*	*100 fm line[1/] - 150 fm line[1/]*				*100 fm line[1/] - 200 fm line[1/]*
42	*38° 00' N. lat. - 34° 27' N. lat.*		*100 fm line[1/] - 150 fm line[1/]*					
43	*South of 34° 27' N. lat.*		*100 fm line[1/] - 150 fm line[1/] along the mainland coast; shoreline - 150 fm line[1/] around islands*					
44			Groundfish: 300 lb/trip. Species-specific limits described in the table above also apply and are counted toward the 300 lb groundfish per trip limit. The amount of groundfish landed may not exceed the amount of the target species landed, except that the amount of spiny dogfish landed may exceed the amount of target species landed. Spiny dogfish are limited by the 300 lb/trip overall groundfish limit. The daily trip limits for sablefish coastwide and thornyheads south of Pt. Conception and the overall groundfish "per trip" limit may not be multiplied by the number of days of the trip. Vessels participating in the California halibut fishery south of 38°57.50' N. lat. are allowed to (1) land up to 100 lb/day of groundfish without the ratio requirement, provided that at least one California halibut is landed and (2) land up to 3,000 lb/month of flatfish, no more than 300 lb of which may be species other than Pacific sanddabs, sand sole, starry flounder, rock sole, curlfin sole, or California scorpionfish (California scorpionfish is also subject to the trip limits and closures in line 31).					
45	**PINK SHRIMP NON-GROUNDFISH TRAWL GEAR** *(not subject to RCAs)*							
46		South	Effective April 1 - October 31: Groundfish: 500 lb/day, multiplied by the number of days of the trip, not to exceed 1,500 lb/trip. The following sublimits also apply and are counted toward the overall 500 lb/day and 1,500 lb/trip groundfish limits: lingcod 300 lb/ month (minimum 24 inch size limit); sablefish 2,000 lb/ month; canary, thornyheads and yelloweye rockfish are PROHIBITED. All other groundfish species taken are managed under the overall 500 lb/day and 1,500 lb/trip groundfish limits. Landings of all groundfish species count toward the per day, per trip or other species-specific sublimits described here and the species-specific limits described in the table above do not apply. The amount of groundfish landed may not exceed the amount of pink shrimp landed.					

TABLE 3 (South) cont'd

1/ The Rockfish Conservation Area is an area closed to fishing by particular gear types, bounded by lines specifically defined by latitude and longitude coordinates set out at §§ 660.71-660.74. This RCA is not defined by depth contours (with the exception of the 20-fm depth contour boundary south of 42° N. lat.), and the boundary lines that define the RCA may close areas that are deeper or shallower than the depth contour. Vessels that are subject to RCA restrictions may not fish in the RCA, or operate in the RCA for any purpose other than transiting.

2/ POP is included in the trip limits for minor slope rockfish. Blackgill rockfish have a species specific trip sub-limit within the minor slope rockfish cumulative limits. Yellowtail rockfish is included in the trip limits for minor shelf rockfish. Bronzespotted rockfish have a species specific trip limit.

3/ "Other flatfish" are defined at § 660.11 and include butter sole, curlfin sole, flathead sole, Pacific sanddab, rex sole, rock sole, and sand sole.

4/ The commercial mimimum size limit for lingcod is 24 inches (61 cm) total length South of 42° N. lat.

5/ "Other fish" are defined at § 660.11 and includes kelp greenling, leopard shark, and cabezon in Washington.

6/ Beginning on January 1, 2016, the following trip limits are in effect for sablefish north of 36° N. lat. 300 lb/ day, or 1 landing per week of up to 1,000 lb, not to exceed 2,000 lb/ 2 months.

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

[FR Doc. 2015–20491 Filed 8–14–15; 4:15 pm]

BILLING CODE 3510–22–C

Proposed Rules

Federal Register
Vol. 80, No. 160
Wednesday, August 19, 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.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 1222

[Document Number AMS–FV–14–0082]

Paper and Paper-Based Packaging Promotion, Research and Information Order; Late Payment and Interest Charges on Past Due Assessments

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This proposal invites comments on prescribing late payment and interest charges on past due assessments under the Paper and Paper-Based Packaging Promotion, Research and Information Order (Order). The Order is administered by the Paper and Packaging Board (Board) with oversight by the U.S. Department of Agriculture (USDA). Under the Order, assessments are collected from manufacturers and importers and used for projects to promote paper and paper-based packaging. This proposal would implement authority contained in the Order that allows the Board to collect late payment and interest charges on past due assessments. Two additional changes are proposed to reflect current practices and update the Order and regulations. This action would contribute to effective administration of the program and was unanimously recommended by the Board.

DATES: Comments must be received by October 19, 2015.

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

FOR FURTHER INFORMATION CONTACT: Marlene Betts, Marketing Specialist, Promotion and Economics Division, Fruit and Vegetable Program, AMS, USDA, 1400 Independence Avenue SW., Room 1406–S, Stop 0244, Washington, DC 20250–0244; telephone: (202) 720–9915; or electronic mail: *Marlene.Betts@ams.usda.gov.*

SUPPLEMENTARY INFORMATION: This proposal is issued under the Order (7 CFR part 1222). The Order is authorized under the Commodity Promotion, Research and Information Act of 1996 (1996 Act) (7 U.S.C. 7411–7425).

Executive Order 12866 and Executive Order 13563

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

Executive Order 13175

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

Executive Order 12988

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

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

Background

This proposal invites comments on prescribing late payment and interest charges on past due assessments under the Order. The Order is administered by the Board with oversight by USDA. Under the Order, assessments are collected from manufacturers and importers and used for projects to promote paper and paper-based packaging. This proposal would implement authority contained in the Order and the 1996 Act that allows the Board to collect late payment and interest charges on past due assessments. This action was unanimously recommended by the Board and would contribute to effective administration of the program.

Section 1222.52(a) of the Order specifies that the Board's programs and expenses shall be paid by assessments on manufacturers and importers and other income or funds available to the Board. Paragraph (g) of that section specifies further that when a manufacturer or importer fails to pay the assessment within 60 calendar days of the date it is due, the Board may

impose a late payment charge and interest. The late payment charge and rate of interest must be prescribed in regulations issued by the Secretary. All late assessments would be subject to the specified late payment charge and interest.

The Order became effective on January 23, 2014. Assessment collection began on March 1, 2014. Manufacturers and importers must pay their assessments owed to the Board by the 30th calendar day of the month following the end of the quarter in which the paper and paper-based packaging was manufactured or imported. For example, assessments for paper manufactured or imported during the months of January, February and March are due to the Board by April 30.

Entities that domestically manufacture or import to the United States less than 100,000 short tons of paper and paper-based packaging in a year are exempt from paying assessments. If an entity is both a manufacturer and an importer, the entity's combined quantity of paper and paper-based packaging manufactured and imported during a marketing year counts toward the 100,000 short ton exemption.

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

Board Recommendation

At a meeting held September 25, 2014, the Board unanimously recommended implementing the Order authority regarding late payment and interest charges. Specifically, the Board recommended that a late payment charge be imposed on any manufacturer or importer who fails to make timely remittance to the Board of the total assessments for which such manufacturer or importer is liable. The late payment charge would be imposed on any assessments not received within 60 calendar days of the date they are due. This one-time late payment charge would be equal to 10 percent of the assessments due before interest charges have accrued.

The Board also recommended that an interest rate of 1½ percent per month be added to the outstanding balance, including any late payment charge and accrued interest, of any accounts for which payment has not been received within 60 calendar days after the assessments are due. Interest would continue to accrue monthly until the outstanding balance is paid to the Board.

This action is expected to help facilitate program administration by providing an incentive for entities to remit their assessments in a timely manner, with the intent of creating a fair and equitable process among all assessed entities. Accordingly, a new Subpart C would be added to the Order for provisions implementing the paper and paper-based packaging Order, and a new § 1222.520 would be added to Subpart C.

This proposal would also make two additional changes to the Order. This proposed rule would revise the term Board as defined in § 1222.2 from the Paper and Paper-Based Packaging Board to the Paper and Packaging Board. This change would simplify the term and bring the Order in line with current industry use. Conforming changes would also be made to § 1222.40(a) and the heading immediately prior to this section where the term is also referenced. In addition, in § 1222.108, the OMB control number would be changed from 0581–NEW to 0581–0281, the control number assigned by the OMB.

Initial Regulatory Flexibility Act Analysis

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

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

According to the Board, there are 69 manufacturers in the United States that produce the types of paper and paper-based packaging covered under the Order. Using an average price of $806 per short ton,[1] a manufacturer who produces less than about 8,680 short tons of paper and paper-based packaging per year would be considered a small entity. It is estimated that no more than four manufacturers produced less than 8,680 short tons per year. Thus, the majority of manufacturers would not be considered small businesses.

Based on U.S. Customs and Border Protection (Customs) data, it is estimated that in 2014 there were 2,800 importers of paper and paper-based packaging. Ninety importers, or about 3 percent, imported more than $7.0 million worth of paper and paper-based packaging. Thus, the majority of importers would be considered small entities. However, all of the 20 entities that imported 100,000 short tons or more (the Order's exemption threshold) also imported more than $7.0 million worth of paper and paper-based packaging. Therefore, none of the 20 importers covered under the Order would be considered small businesses.

Based on domestic production of approximately 66.1 million short tons in 2014 and an average price of $806 per short ton, the domestic paper and paper-based packaging industry is valued at approximately $53.3 billion. According to Customs data, the value of paper and paper-based packaging imports in 2014 was about $5.9 billion.

This proposal invites comments on prescribing late payment and interest charges on past due assessments under the Order. The Order is administered by the Board with oversight by USDA. Under the Order, assessments are collected from manufacturers and importers and used for projects to promote paper and paper-based packaging. This rule would add a new § 1222.520 that would specify a late payment charge of 10 percent of the assessments due and interest at a rate of 1½ percent per month on the outstanding balance, including any late payment charge and accrued interest. This section would be included in a new Subpart C—Provisions for Implementing the Paper and Paper-Based Packaging Promotion, Research and Information Order. This action was unanimously recommended by the Board and is authorized under § 1222.52(g) of the Order and section 517(e) of the 1996 Act. In addition, two additional changes are proposed to reflect current practices and update the Order and regulations. These changes are: (1) Revising the name of the Board

[1] Industry sources do not publish information on average price for paper and paper-based packaging. A reasonable estimate for average price of paper and paper-based packaging is the value per ton of paper and paper-based packaging exports. According to U.S. Census data, the average value of paper and paper-based packaging exports in 2014 was approximately $806 per short ton.

from the Paper and Paper-Based Packaging Board to the Paper and Packaging Board; and (2) the OMB control number would be changed from 0581–NEW to 0581–0281, the control number assigned by the OMB.

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

Additionally, as previously mentioned, the Order provides for an exemption for entities that domestically manufacture or import less than 100,000 short tons annually. It is estimated that 24 out of the 69 domestic manufacturers, or 35 percent, produce less than 100,000 short tons per year and are thus exempt from paying assessments under the Order. Of the 2,800 importers of paper and paper packaging, it is estimated that 2,780, or 99 percent, import less than 100,000 short tons per year and are also exempt from paying assessments. Thus, about 45 domestic manufacturers and 20 importers pay assessments under the Order.

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

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the information collection and recordkeeping requirements that are imposed by the Order have been approved previously under OMB control number 0581–0281. This proposed rule would not result in a change to the information collection and recordkeeping requirements previously approved and would impose no additional reporting and recordkeeping burden on manufacturers and importers of paper and paper-based packaging.

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

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

Regarding outreach efforts, the Board met on September 25, 2014, and unanimously made its recommendation. The Board's meetings, including meetings held via teleconference, are open to the public and interested persons are invited to participate and express their views.

We have performed this initial RFA regarding the impact of this proposed action on small entities and we invite comments concerning potential effects of this action on small businesses.

While this proposed rule set forth below has not received the approval of USDA, it has been determined that it is consistent with and would effectuate the purposes of the 1996 Act.

A 60-day comment period is provided to allow interested persons to respond to this proposal. All written comments received in response to this proposed rule by the date specified will be considered prior to finalizing this action.

List of Subjects in 7 CFR Part 1222

Administrative practice and procedure, Advertising, Consumer information, Marketing agreements, Paper and paper-based packaging promotion, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR part 1222 is proposed to be amended as follows:

PART 1222—PAPER AND PAPER-BASED PACKAGING PROMOTION, RESEARCH AND INFORMATION ORDER

■ 1. The authority citation for 7 CFR part 1222 continues to read as follows:

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

■ 2. Section 1222.2 is revised to read as follows:

§ 1222.2 Board.

Board means the Paper and Packaging Board established pursuant to § 1222.40, or such other name as recommended by the Board and approved by the Department.

■ 3. Revise the undesignated center heading preceding § 1222.40 to read as follows:

PAPER AND PACKAGING BOARD

■ 4. Amend § 1222.40 by revising the first sentence of paragraph (a) to read as follows:

§ 1222.40 Establishment and membership.

(a) *Establishment of the Board.* There is hereby established a Paper and Packaging Board to administer the terms and provisions of this Order. * * *

* * * * *

■ 5. Section 1222.108 is revised to read as follows:

§ 1222.108 OMB control number.

The control number assigned to the information collection requirement in this subpart by the Office of Management and Budget pursuant to the Paperwork Reduction Act of 1995, 44 U.S.C. is OMB control number 0581–0281.

■ 7. Add subpart C, consisting of § 1222.520, to read as follows:

Subpart C—Provisions Implementing the Paper and Paper-Based Packaging Promotion, Research and Information Order

Sec.
1222.520 Late payment and interest charges for past due assessments.

§ 1222.520 Late payment and interest charges for past due assessments.

(a) A late payment charge shall be imposed on any manufacturer or importer who fails to make timely remittance to the Board of the total assessments for which such manufacturer or importer is liable. The late payment shall be imposed on any assessments not received within 60 calendar days of the date they are due. This one-time late payment charge shall be 10 percent of the assessments due before interest charges have accrued.

(b) In addition to the late payment charge, 1½ percent per month interest on the outstanding balance, including any late payment and accrued interest, will be added to any accounts for which payment has not been received by the Board within 60 calendar days after the assessments are due. Such interest will continue to accrue monthly until the outstanding balance is paid to the Board.

Dated: August 13, 2015.

Rex A. Barnes,

Associate Administrator.

[FR Doc. 2015–20437 Filed 8–18–15; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Food Safety and Inspection Service

9 CFR Part 381

[Docket No. FSIS–2015–0026]

Classes of Poultry

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Food Safety and Inspection Service (FSIS) is proposing to amend the definition and standard of identity for the ''roaster'' or ''roasting chicken'' poultry class to better reflect the characteristics of ''roaster'' chickens in the market today. ''Roasters'' or ''roasting chickens'' are described in terms of the age and ready-to-cook (RTC) carcass weight of the bird. Genetic changes and management techniques have continued to reduce the grow-out period and increased the RTC weight for this poultry class. Therefore, FSIS is proposing to amend the ''roaster'' definition to remove the 8-week minimum age criterion and increase the RTC carcass weight from 5 pounds to 5.5 pounds. This action is being taken in response to a petition submitted by the National Chicken Council.

DATES: Comments must be received on or before October 19, 2015.

ADDRESSES: FSIS invites interested persons to submit comments on this proposed rule. Comments may be submitted by one of the following methods:

Federal eRulemaking Portal: Go to *http://www.regulations.gov.* Follow the online instructions for submitting comments. This Web site provides the ability to type short comments directly into the comment field on this Web page or attach a file for lengthier comments.

Mail, including CD–ROMs, etc.: Send to Docket Clerk, U.S. Department of Agriculture, Food Safety and Inspection Service, Patriots Plaza 3, 1400 Independence Avenue SW., Mailstop 3782, Room 8–163A, Washington, DC 20250–3700.

Hand- or courier-delivered submittals: Deliver to Patriots Plaza 3, 355 E Street SW., Room 8–163A, Washington, DC 20250–3700.

Instructions: All items submitted by mail or electronic mail must include the Agency name and docket number FSIS–2015–0026. Comments received in response to this docket will be made available for public inspection and posted without change, including any personal information, to *http://www.regulations.gov.*

Docket: For access to background documents or comments received, go to the FSIS Docket Room at Patriot's Plaza 3, 355 E St. SW., Room 8–136A, Washington, DC between 8:00 a.m. and 4:30 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Rosalyn Murphy-Jenkins, Director, FSIS Labeling and Program Delivery Division, Phone: (301) 504–0878, Fax: (202) 245–4795.

SUPPLEMENTARY INFORMATION:

Background

The Poultry Products Inspection Act (PPIA) prohibits the distribution of poultry products that are adulterated or misbranded (21 U.S.C. 458). The PPIA also authorizes the Secretary of Agriculture to prescribe, among other things, definitions and standards of identity or composition for poultry products whenever the Secretary determines that such action is necessary for the protection of the public (21 U.S.C. 457(b)). Poultry classes were established by USDA to aid in labeling poultry. The classes were based primarily on the age and sex of the bird. FSIS uses poultry class standards to ensure that poultry products are labeled in a truthful and non-misleading manner.

On November 3, 2011, FSIS published a final rule to amend the definitions and standards for the U.S. classes of poultry listed in 9 CFR 381.170(a)(1)(76 FR 68058). The 2011 final rule lowered the age definitions for five classes of poultry and removed the word ''usually'' from the age designation descriptions, so that the age designations are clear and enforceable (76 FR 68058, 68062). In addition to lowering the age definition for the ''roaster'' class, the final rule also defined a ''roaster'' based on a ready-to-cook (RTC) carcass weight.

A ''roaster'' or ''roasting chicken'' (hereafter referred to as ''roasters'') is defined in 9 CFR 381.170(1)(a)(iii) as ''a young chicken (between 8 and 12 weeks of age), of either sex, with a ready-to-cook carcass weight of 5 pounds or more, that is tender-meated with soft, pliable, smooth-textured skin and breastbone cartilage that is somewhat less flexible than that of a broiler or fryer.'' This definition was informed by data collected by the USDA Agricultural Marketing Service (AMS) from the segment of the industry that routinely produces ''roasters,'' comments received in response to a September 3, 2003, proposed rule to amend the poultry classes (68 FR 55902), and comments received in response to a 2009 supplemental proposed rule in which the Agency re-proposed to amend the ''roaster'' standard to establish an age range from 8 to 12 weeks and to provide for a RTC carcass weight (74 FR 3337, July 13, 2009). The 2011 final rule became effective on January 1, 2014, the uniform compliance date for FSIS labeling regulations issued between January 1 2011 and December 31, 2012 (75 FR 71344, November 23, 2010).

NCC Petition

On November 18, 2013—before the January 1, 2014, effective date for the final rule—the National Chicken Council (NCC) submitted a petition requesting that FSIS amend the definition and standard of identity for the ''roaster'' chicken class to remove the 8-week minimum age requirement and to increase the RTC carcass weight to 5.5 pounds. The petition is available on the FSIS Web site at *http://www.fsis.usda.gov/wps/wcm/connect/adf54579-7a18-4ab2-a9b5-88f1eef65332/Petition-National-Chicken-Council.pdf?MOD=AJPERES.*

The petition specifically asked FSIS to amend 9 CFR 381.170(a)(1)(iii) to define a ''roaster'' as a young chicken (less than 12 weeks of age) of either sex, with an RTC carcass weight of 5.5 pounds or more, that is tender-meated with soft, pliable, smooth-textured skin and breastbone cartilage that may be somewhat less flexible than that of a ''broiler'' or ''fryer.'' The petition also requested that FSIS, as necessary, exercise enforcement discretion or stay the effective date of the ''roaster'' definition scheduled to go into effect on January 1, 2014.

According to the petition, the ''roaster'' standard established in the 2011 final rule would detract from the orderly and efficient marketing of classes of poultry because companies would be unable to label and market chickens with the RTC weight and other physical attributes of a ''roaster'' as ''roasters'' because of the minimum age requirement. The NCC asserted that improvements in breeding and poultry management techniques that have continued since FSIS published the November 2011 final rule have enabled producers to raise chickens with the characteristics of roasters in under 8 weeks.

NCC submitted additional data in support of its petition on December 16,

2013 (available on the FSIS Web site at: *http://www.fsis.usda.gov/wps/portal/fsis/topics/regulations/petitions*). FSIS, in consultation with USDA's AMS conducted a preliminary review of the petition and supporting data. From this preliminary review, FSIS and AMS found that data show that producers are raising chickens with a RTC carcass weight of 5 pounds or more with the other physical characteristics of a ''roaster'' in less than 8 weeks. The data also show that in 2012, the average commercially processed chicken reached a slaughter weight of 5.95 pounds in 47 days. This amount of time is less than the 8-week minimum age for a ''roaster,'' although the bird's weight would exceed the 5 pound RTC minimum weight requirement. Thus, the age of these birds falls within the age range for ''broilers'' (*i.e.,* under 10 weeks), but these birds have the size and other physical attributes of ''roasters.'' On the basis of these findings, FSIS and AMS agreed on the need to address this gap in the regulations.

Therefore, in the December 27, 2013, edition of its *Constituent Update* newsletter, FSIS announced that it would allow chickens younger than 8 weeks of age to continue to be labeled and marketed as ''roasters'' after the new poultry class standards go into effect if these birds meet all of the other characteristics of a ''roaster'' in the standard. That is, they would have to have a RTC carcass weight of 5 pounds or more, be tender-meated, and have soft, pliable, smooth-textured skin that is somewhat less flexible than that of a broiler or fryer.[1] FSIS also stated that it intended to propose to revise the roaster definition or reaffirm the November 2011 definition (*http://www.fsis.usda.gov/wps/portal/fsis/newsroom/meetings/newsletters/constituent-updates/archive/2013/ConstUpdate122713*).

In July 2014, FSIS, in consultation with AMS, completed its review of the NCC petition. AMS verified that the data that NCC submitted to support the petition are consistent with production data that AMS collected from the poultry industry. After reviewing the available information, FSIS and AMS concluded that the data show that chickens younger than 8 weeks are consistently reaching higher average dressed weights in shorter periods of time, and that there is a trend of increasing growth rate of commercially processed chickens between 2009 and 2012, supporting the elimination of a minimum age for the ''roaster'' class. FSIS, in consultation with AMS, also found that the data show that, in those regions of the country where ''roasters'' are marketed, customers value ''roasters'' more highly on a pound-per-pound basis than they do ''broilers,'' demonstrating the need to allow birds with the physical characteristics of ''roasters'' to be accurately labeled as ''roasters.''

Therefore, on July 23, 2014, FSIS sent a letter to the NCC to inform the organization that FSIS had decided to grant its petition to amend the ''roaster'' poultry class (*http://www.fsis.usda.gov/wps/wcm/connect/d6fba22b-271d-4204-adc6-56ab45d7b587/NCC-FSIS-Response-72314.pdf?MOD=AJPERES*).

The Proposed Rule

FSIS is proposing to amend the poultry class standards to define a ''roaster'' or ''roasting chicken'' as a young chicken (less than 12 weeks of age) of either sex, with a ready-to-cook carcass weight of 5.5 pounds or more, that is tender-meated with soft, pliable, smooth-textured skin and breastbone cartilage that may be somewhat less flexible than that of a ''broiler'' or ''fryer.'' Removing the minimum age and increasing the RTC carcass weight for the ''roaster'' class, as requested in the petition, would allow birds younger than 8 weeks that have the physical characteristics of a ''roaster'' to continue to be labeled and marketed as ''roasters.''

As noted above, FSIS is proposing to increase the RTC carcass weight for ''roasters'' from 5 to 5.5 pounds, as requested in the petition. However, FSIS is soliciting comments regarding the merit of increasing the minimum RTC carcass weight from 5 pounds to 5.5 pounds and the effect that such an increase may have on small poultry producers. To be of value, the comments must provide a factual basis for or against increasing the weight requirement for ''roasters.''

Executive Order 12866 and Executive Order 13563

This proposed rule has been designated as a ''non-significant'' regulatory action under section 3(f) of Executive Order (E.O.) 12866. Accordingly, the rule has been not been reviewed by the Office of Management and Budget under E.O. 12866.

Economic Impact Analysis

This rule will not have significant costs because FSIS currently allows birds younger than 8 weeks with the physical attributes of ''roasters'' to be labeled as ''roasters.''[2] The proposed rule would codify present practices and would not impose new requirements on establishments. For consumers, it would ensure that the labels for chickens with the characteristics of ''roaster'' are truthful and not misleading, and, consequently, consumers will be able to make informed purchase decisions.

Regulatory Flexibility Act Assessment

The FSIS Administrator has made a preliminary determination that this proposed rule would not have a significant economic impact on a substantial number of small entities in the United States, as defined by the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*).

FSIS projects that this rule will not result in additional costs to the industry because FSIS currently allows birds younger than 8 weeks with the physical attributes of ''roasters'' to be labeled as ''roasters.''[3]

Paperwork Reduction Act

FSIS has reviewed this rule under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520) and has determined that the information collection related to labeling has been approved by OMB under OMB control number 0583–0092.

FSIS does not anticipate many label changes due to the proposed change to the ''roaster'' definition because establishments that produce chickens that comply with the proposed ''roaster'' poultry class standard are already labeling these birds as ''roasters.''

E-Government Act

FSIS and USDA are committed to achieving the purposes of the E-Government Act (44 U.S.C. 3601, *et seq.*) by, among other things, promoting the use of the Internet and other information technologies, and providing increased opportunities for citizen access to Government information and services, and for other purposes.

Executive Order 12988, Civil Justice Reform

This proposed rule has been reviewed under Executive Order 12988, Civil

[1] Before FSIS published the 2011 final rule, the former poultry class standards stated that roasters are ''usually 3 to 5 months'' but did not prohibit birds younger than 8 weeks from being labeled and marketed as ''roasters.'').

[2] Food Safety and Inspection Service, Correspondence, July 23, 2014. Available at: *http://www.fsis.usda.gov/wps/wcm/connect/d6fba22b-271d-4204-adc6-56ab45d7b587/NCC-FSIS-Response-72314.pdf?MOD=AJPERES.* See Constituent Update, December 27, 2013, available at: *http://www.fsis.usda.gov/wps/portal/fsis/newsroom/meetings/newsletters/constituent-updates/archive/2013/ConstUpdate122713.*

[3] Food Safety and Inspection Service, Correspondence, July 23, 2014. Accessed here: *http://www.fsis.usda.gov/wps/wcm/connect/d6fba22b-271d-4204-adc6-56ab45d7b587/NCC-FSIS-Response-72314.pdf?MOD=AJPERES.*

Justice Reform. Under this rule: (1) All State and local laws and regulations that are inconsistent with this rule will be preempted; (2) no retroactive effect will be given to this rule; and (3) no administrative proceedings will be required before parties may file suit in court challenging this rule.

Executive Order 13175

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

USDA Non-Discrimination Statement

No agency, officer, or employee of the USDA shall, on the grounds of race, color, national origin, religion, sex, gender identity, sexual orientation, disability, age, marital status, family/parental status, income derived from a public assistance program, or political beliefs, exclude from participation in, deny the benefits of, or subject to discrimination any person in the United States under any program or activity conducted by the USDA.

How To File a Complaint of Discrimination

To file a complaint of discrimination, complete the USDA Program Discrimination Complaint Form, which may be accessed online at *http://www.ocio.usda.gov/sites/default/files/docs/2012/Complain_combined_6_8_12.pdf,* or write a letter signed by you or your authorized representative.

Send your completed complaint form or letter to USDA by mail, fax, or email:

Mail: U.S. Department of Agriculture, Director, Office of Adjudication, 1400 Independence Avenue SW., Washington, DC 20250–9410, Fax: (202) 690–7442, Email: *program.intake@usda.gov.*

Persons with disabilities who require alternative means for communication (Braille, large print, audiotape, etc.), should contact USDA's TARGET Center at (202) 720–2600 (voice and TDD).

Additional Public Notification

Public awareness of all segments of rulemaking and policy development is important. Consequently, FSIS will announce this **Federal Register** publication on-line through the FSIS Web page located at: *http://www.fsis.usda.gov/federal-register.*

FSIS also will make copies of this publication available through the FSIS Constituent Update, which is used to provide information regarding FSIS policies, procedures, regulations, **Federal Register** notices, FSIS public meetings, and other types of information that could affect or would be of interest to our constituents and stakeholders. The Update is available on the FSIS Web page. Through the Web page, FSIS is able to provide information to a much broader, more diverse audience. In addition, FSIS offers an email subscription service which provides automatic and customized access to selected food safety news and information. This service is available at: *http://www.fsis.usda.gov/subscribe.* Options range from recalls to export information, regulations, directives, and notices. Customers can add or delete subscriptions themselves, and have the option to password protect their accounts.

List of Subjects in 9 CFR Part 381

Food grades and standards, Poultry and poultry products.

For the reasons set forth in the preamble, FSIS proposes to amend 9 CFR part 381, as follows:

PART 381—POULTRY PRODUCTS INSPECTION REGULATIONS

■ 1. The authority citation for part 381 continues to read as follows:

Authority: 7 U.S.C. 138f; 7 U.S.C. 450; 21 U.S.C. 451–470; 7 CFR 2.18, 2.53.

■ 2. Section 381.170 is amended by revising paragraph (a)(1)(iii) to read as follows:

§ 381.170 Standards for kinds and classes, and for cuts of raw poultry.

(a) * * *

(1) * * *

(iii) *Roaster or roasting chicken.* A ''roaster'' or ''roasting chicken'' is a young chicken (less than 12 weeks of age) of either sex, with a ready-to-cook carcass weight of 5.5 pounds or more, that is tender-meated with soft, pliable, smooth-textured skin and breastbone cartilage that is somewhat less flexible than that of a broiler or fryer.

* * * * *

Done at Washington, DC, on August 12, 2015.

Alfred V. Almanza,

Acting Administrator.

[FR Doc. 2015–20433 Filed 8–18–15; 8:45 am]

BILLING CODE P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2015–3141; Directorate Identifier 2014–NM–242–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 adopt a new airworthiness directive (AD) for all The Boeing Company Model 757 airplanes. This proposed AD was prompted by a report of cracking in the fuselage frame at a certain location. This proposed AD would require inspections for cracking in the fuselage frame, left and right sides, and repair if necessary. We are proposing this AD to detect and correct fuselage frame fatigue cracking that could result in loss of structural integrity and the inability to sustain loading conditions.

DATES: We must receive comments on this proposed AD by October 5, 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. 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–2015–3141.

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–2015–3141; 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: Roger Durbin, Aerospace Engineer, Airframe Branch, ANM–120L, FAA, Los Angeles Aircraft Certification Office (ACO), 3960 Paramount Boulevard, Lakewood, CA 90712–4137; phone: 562–627–5233; fax: 562–627–5210; email: *roger.durbin@faa.gov*.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposal. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2015–3141; Directorate Identifier 2014–NM–242–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD because of those comments.

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

Discussion

We have received reports of cracking in the fuselage frame at Station (STA) 1440, stringer S–24L. The airplane had 36,890 total flight cycles and 78,922 total flight hours. The cracking was discovered during unrelated local repairs. An investigation has determined the cracking may have been caused by fatigue. The cracking initiated in the fuselage frame at the corner radius of the fuselage frame opening for the stringer. It continued to the fastener hole common to the fuselage frame, splice plate, and fail safe chord. The cracking was not visible because it was completely hidden by the splice plate on one side and the fail safe chord on the other side.

Fuselage frame fatigue cracking could result in loss of structural integrity and the inability to sustain loading conditions.

Related Service Information Under 1 CFR part 51

We reviewed Boeing Alert Service Bulletin 757–53A0099, dated September 18, 2014. The service information describes procedures for detailed and high frequency eddy current (HFEC) inspections for cracking in the fuselage frame at stringer 24 and stringer 25, left and right sides. 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.

FAA's Determination

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

Proposed AD Requirements

This proposed AD would require accomplishing the actions specified in the service information described previously, except as discussed under ''Difference Between this Proposed AD and the Service Information.'' Refer to his service information for details on the procedures and compliance times.

Difference Between this Proposed AD and the Service Information

Boeing Alert Service Bulletin 757–53A0099, dated September 18, 2014, specifies to contact the manufacturer for instructions on how to repair certain conditions, but this proposed AD would require repairing those conditions in one of the following ways:

- In accordance with a method that we approve; or
- Using data that meet the certification basis of the airplane, and that have been approved by the Boeing Commercial Airplanes Organization Designation Authorization (ODA) whom we have authorized to make those findings.

Explanation of ''RC'' Steps in Service Information

The FAA worked in conjunction with industry, under the Airworthiness Directive Implementation Aviation Rulemaking Committee (ARC), to enhance the AD system. One enhancement was a new process for annotating which steps in the service information are required for compliance with an AD. Differentiating these steps from other tasks in the service information is expected to improve an owner's/operator's understanding of crucial AD requirements and help provide consistent judgment in AD compliance. The steps identified as Required for Compliance (RC) in any service information identified previously have a direct effect on detecting, preventing, resolving, or eliminating an identified unsafe condition.

For service information that contains steps that are labeled as RC, the following provisions apply: (1) the steps labeled as RC, including substeps under an RC step and any figures identified in an RC step, must be done to comply with the AD, and an AMOC is required for any deviations to RC steps, including substeps and identified figures; and (2) steps not labeled as RC may be deviated from using accepted methods in accordance with the operator's maintenance or inspection program without obtaining approval of an AMOC, provided the RC steps, including substeps and identified figures, can still be done as specified, and the airplane can be put back in an airworthy condition.

Costs of Compliance

We estimate that this proposed AD affects 652 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	68 to 83 work-hours × $85 per hour = Up to $7,055 per inspection cycle.	$0	Up to $7,055 per inspection cycle	Up to $4,599,860 per inspection cycle.

We have received no definitive data that would enable us to provide cost estimates for the on-condition actions specified in this proposed 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 proposed AD would not have federalism implications under Executive Order 13132. This proposed AD would not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government.

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

The Boeing Company: Docket No. FAA–2015–3141; Directorate Identifier 2014–NM–242–AD.

(a) Comments Due Date

We must receive comments by October 5, 2015.

(b) Affected ADs

None.

(c) Applicability

This AD applies to all The Boeing Company Model 757–200, –200CB, –200PF, and –300 airplanes, certificated in any category.

(d) Subject

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

(e) Unsafe Condition

This AD was prompted by a report of cracking in the fuselage frame at Station (STA) 1440, stringer S–24L. We are issuing this AD to detect and correct fuselage frame fatigue cracking that could result in loss of structural integrity and the inability to sustain loading conditions.

(f) Compliance

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

(g) Inspection

At the applicable time specified in paragraph 1.E., ''Compliance,'' of Boeing Alert Service Bulletin 757–53A0099, dated September 18, 2014, except as required by paragraph (h) of this AD, do detailed and high frequency eddy current (HFEC) inspections for cracking in the fuselage frames at stringers S–24 and S–25, left and right sides, in accordance with the Accomplishment Instructions of Boeing Alert Service Bulletin 757–53A0099, dated September 18, 2014.

(1) If cracking is not found, repeat the inspections at intervals not to exceed 12,000 flight cycles.

(2) If any cracking is found, before further flight, repair using a method approved in accordance with the procedures specified in paragraph (i) of this AD. Repeat the inspections at intervals not to exceed 12,000 flight cycles in unrepaired areas.

(h) Exception to Service Information Specifications

Where Boeing Alert Service Bulletin 757–53A0099, dated September 18, 2014, specifies a compliance time ''after the Original Issue date of this Service Bulletin,'' this AD requires compliance within the specified compliance time after the effective date of this AD.

(i) 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 (j)(1) of this AD.

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

(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 Boeing Commercial Airplanes Organization Designation Authorization (ODA) that has been authorized by the Manager, Los Angeles Aircraft Certification Office (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) Except as required by paragraph (h) of this AD: For service information that contains steps that are labeled as Required for Compliance (RC), the provisions of paragraphs (i)(4)(i) and (i)(4)(ii) apply.

(i) The steps labeled as RC, including substeps under an RC step and any figures identified in an RC step, must be done to comply with the AD. An AMOC is required for any deviations to RC steps, including substeps and identified figures.

(ii) Steps not labeled as RC may be deviated from using accepted methods in accordance with the operator's maintenance or inspection program without obtaining approval of an AMOC, provided the RC steps, including substeps and identified figures, can still be done as specified, and the airplane can be put back in an airworthy condition.

(j) Related Information

(1) For more information about this AD, contact Roger Durbin, Aerospace Engineer, Airframe Branch, ANM–120L, FAA, Los Angeles Aircraft Certification Office (ACO), 3960 Paramount Boulevard, Lakewood, CA 90712–4137; phone: 562–627–5233; fax: 562–627–5210; email: *roger.durbin@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 Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221.

Issued in Renton, Washington on August 10, 2015.

Michael Kaszycki,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2015–20265 Filed 8–18–15; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2015–3142; Directorate Identifier 2015–NM–003–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 adopt a new airworthiness directive (AD) for certain The Boeing Company Model 787–8 airplanes. This proposed AD was prompted by reports of hydraulic contamination of the power control unit (PCU) electro-hydraulic servo valves (EHSVs) used in the flight control system; this contamination caused a restriction in the EHSVs resulting in the display of status messages from the engine indication and crew alerting system (EICAS). This proposed AD would require installing markers to limit the hydraulic system fluid used to a specific brand, doing hydraulic fluid tests of the hydraulic systems, replacing hydraulic system fluid if necessary, and doing all applicable related investigative and corrective actions. We are proposing this AD to prevent the failure of flight control hydraulic PCUs, which could lead to reduced controllability of the airplane.

DATES: We must receive comments on this proposed AD by October 5, 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. 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–2015–3142.

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–2015–3142; 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: Fnu Winarto, Aerospace Engineer, Systems and Equipment Branch, ANM–130S, FAA, Seattle Aircraft Certification Office (ACO), 1601 Lind Avenue SW., Renton, WA 98057–3356; phone: 425–917–6659; fax: 425–917–6590; email: *fnu.winarto@faa.gov.*

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposal. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2015–3142; Directorate Identifier 2015–NM–003–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD because of those comments.

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

Discussion

We received reports of the display of status messages from the engine indication and crew alerting system (EICAS). Boeing and the actuation system supplier determined these messages are displayed when electro-hydraulic servo valves (EHSVs) of the power control units (PCUs) of the primary flight control system are restricted due to the accumulation of particle deposits. Failures have only occurred on airplanes operated with Skydrol LD–4 hydraulic fluid. Changing the hydraulic fluid to HyJet V would reduce the rate of particle deposit accumulation. This condition, if not corrected, could result in the eventual failure of flight control hydraulic PCUs, which could lead to reduced controllability of the airplane.

Related Service Information Under 1 CFR Part 51

We reviewed Boeing Alert Service Bulletin B787–81205–SB270026–00, Issue 001, dated November 25, 2014. This service information describes procedures for installing markers to limit the hydraulic system fluid used to a specific brand, doing hydraulic fluid tests of the hydraulic systems, replacing the hydraulic system fluid if necessary, and related investigative and corrective actions. 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.

FAA's Determination

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

Proposed AD Requirements

This proposed AD would require accomplishing the actions specified in the service information described previously. Refer to this service information for details on the procedures and compliance times.

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 actions, 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.

Explanation of "RC" Steps in Service Information

The FAA worked in conjunction with industry, under the Airworthiness Directive Implementation Aviation Rulemaking Committee (ARC), to enhance the AD system. One enhancement was a new process for annotating which steps in the service information are required for compliance with an AD. Differentiating these steps from other tasks in the service information is expected to improve an owner's/operator's understanding of crucial AD requirements and help provide consistent judgment in AD compliance. The steps identified as RC (required for compliance) in any service information identified previously have a direct effect on detecting, preventing, resolving, or eliminating an identified unsafe condition.

For service information that contains steps that are labeled as Required for Compliance (RC), the following provisions apply: (1) The steps labeled as RC, including substeps under an RC step and any figures identified in an RC step, must be done to comply with the AD, and an AMOC is required for any deviations to RC steps, including substeps and identified figures; and (2) steps not labeled as RC may be deviated from using accepted methods in accordance with the operator's maintenance or inspection program without obtaining approval of an AMOC, provided the RC steps, including substeps and identified figures, can still be done as specified, and the airplane can be put back in an airworthy condition.

Costs of Compliance

We estimate that this proposed AD affects 11 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 markers	2 work-hours × $85 per hour = $170	$95	$265	$2,915
Test and replace left, center, and right hydraulic system fluid.	104 work-hours × $85 per hour = $8,840	1,020	9,860	108,460

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

ON-CONDITION COSTS

Action	Labor cost	Parts cost	Cost per product
Replace power control unit of elevator	9 × $85 per hour = $765	$108,000	$108,765
Replace power control unit of aileron	9 × $85 per hour = $765	118,000	118,765

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

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

The Boeing Company: Docket No. FAA–2015–3142; Directorate Identifier 2015–NM–003–AD.

(a) Comments Due Date

We must receive comments by October 5, 2015.

(b) Affected ADs

None.

(c) Applicability

This AD applies to The Boeing Company Model 787–8 series airplanes, certificated in any category, as identified in Boeing Alert Service Bulletin B787–81205–SB270026–00, Issue 001, dated November 25, 2014.

(d) Subject

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

(e) Unsafe Condition

This proposed AD was prompted by reports of hydraulic contamination of the power control unit (PCU) electro-hydraulic servo valves (EHSVs) used in the flight control system. This contamination caused a restriction in the EHSVs resulting in the display of status messages from the engine indication and crew alerting system (EICAS). We are issuing this AD to prevent failure of flight control hydraulic PCUs, which could lead to reduced controllability of the airplane.

(f) Compliance

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

(g) Marker Installation

Within 36 months after the effective date of this AD, install markers to only allow servicing of hydraulic systems with HyJet V hydraulic fluid, in accordance with the Accomplishment Instructions of Boeing Alert Service Bulletin B787–81205–SB270026–00, Issue 001, dated November 25, 2014.

(h) Fluid Tests of the Left, Right, and Center Hydraulic Systems

For airplanes identified by Boeing Alert Service Bulletin B787–81205–SB270026–00, Issue 001, dated November 25, 2014, as Group 1, Configuration 2, Group 2: Within 36 months after the effective date of this AD, do hydraulic fluid tests of the left, right, and center hydraulic systems, replace the hydraulic system fluid, if necessary, and do all applicable related investigative and corrective actions, in accordance with the Accomplishment Instructions of Boeing Alert Service Bulletin B787–81205–SB270026–00, Issue 001, dated November 25, 2014. Do all applicable related investigative and corrective actions within 36 months after the effective date of this AD.

(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) For service information that contains steps that are labeled as Required for Compliance (RC), the provisions of paragraphs (i)(3)(i) and (i)(3)(ii) apply.

(i) The steps labeled as RC, including substeps under an RC step and any figures identified in an RC step, must be done to comply with the AD. An AMOC is required for any deviations to RC steps, including substeps and identified figures.

(ii) Steps not labeled as RC may be deviated from using accepted methods in accordance with the operator's maintenance or inspection program without obtaining approval of an AMOC, provided the RC steps, including substeps and identified figures, can still be done as specified, and the airplane can be put back in an airworthy condition.

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

(j) Related Information

(1) For more information about this AD, contact Fnu Winarto, Aerospace Engineer, Systems and Equipment Branch, ANM–130S, FAA, Seattle Aircraft Certification Office (ACO), 1601 Lind Avenue SW., Renton, WA 98057–3356; phone: 425–917–6659; fax: 425–917–6590; email: *fnu.winarto@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 Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221.

Issued in Renton, Washington, on August 10, 2015.

Michael Kaszycki,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2015–20267 Filed 8–18–15; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2015–1138; Airspace Docket No. 15–AWP–3]

Proposed Amendment of Class D Airspace; Van Nuys, CA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This action proposes to amend Class D airspace and Class E surface area airspace at Van Nuys Airport, Van Nuys, CA. After reviewing the airspace, the FAA found the need to increase the Class D airspace and Class E surface areas for the safety and management of Instrument Flight Rules (IFR) operations for arriving and departing aircraft at the airport. The geographic coordinates of the satellite airports also would be adjusted for Class D airspace and Class E surface area airspace as well as noting a name change for Burbank-Glendale-Pasadena Airport.

DATES: Comments must be received on or before October 5, 2015.

ADDRESSES: Send comments on this proposal 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; telephone (202) 366–9826. You must identify FAA Docket No. FAA–2015–1138; Airspace Docket No. 15–AWP–3, at the beginning of your comments. You may also submit comments through the Internet at *http://www.regulations.gov.* You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office between 9:00 a.m. and 5:00 p.m., Monday through Friday, except Federal holidays. The Docket Office (telephone 1–800–647–5527), is on the ground floor of the building at the above address.

FAA Order 7400.9Y, Airspace Designations and Reporting Points, and subsequent amendments can be viewed online at *http://www.faa.gov/air_traffic/publications/.* The Order is also available for inspection 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/code_of_federal-regulations/ibr_locations.html.*

FAA Order 7400.9, Airspace Designations and Reporting Points, is published yearly and effective on September 15. For further information, you can contact the Airspace Policy and Regulations Group, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; telephone: 202–267–8783.

FOR FURTHER INFORMATION CONTACT: Steve Haga, Federal Aviation Administration, Operations Support Group, Western Service Center, 1601 Lind Avenue SW., Renton, WA 98057; telephone (425) 203–4563.

SUPPLEMENTARY INFORMATION:

Authority for This Rulemaking

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. 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. This rulemaking is promulgated under the authority described in Subtitle VII, Part, A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it would amend Class D and Class E airspace at Van Nuys Airport, Van Nuys, CA.

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments, as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify both docket numbers and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. FAA–2015–1138; Airspace Docket No. 15–AWP–3.'' The postcard will be date/time stamped and returned to the commenter.

Availability of NPRMs

An electronic copy of this document may be downloaded through the Internet at *http://www.regulations.gov.* Recently published rulemaking documents can also be accessed through the FAA's Web page at *http://www.faa.gov/airports_airtraffic/air_traffic/publications/airspace_amendments/.*

You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office (see the ''**ADDRESSES**'' section for the address and phone number) between 9:00 a.m. and 5:00 p.m., Monday through Friday, except federal holidays. An informal docket may also be examined during normal business hours at the Northwest Mountain Regional Office of the Federal Aviation Administration, Air Traffic Organization, Western Service Center, Operations Support Group, 1601 Lind Avenue SW., Renton, WA 98057.

Persons interested in being placed on a mailing list for future NPRMs should contact the FAA's Office of Rulemaking, (202) 267–9677, for a copy of Advisory Circular No. 11–2A, Notice of Proposed Rulemaking Distribution System, which describes the application procedure.

Availability and Summary of Documents Proposed for Incorporation by Reference

This document proposes to amend FAA Order 7400.9Y, Airspace Designations and Reporting Points, dated August 6, 2014, and effective September 15, 2014. FAA Order 7400.9Y is publicly available as listed in the **ADDRESSES** section of this proposed rule. FAA Order 7400.9Y lists Class A, B, C, D, and E airspace areas, air traffic service routes, and reporting points.

The Proposal

The FAA is proposing an amendment to Title 14 Code of Federal Regulations (14 CFR) Part 71 by modifying Class D airspace and Class E surface area airspace at Van Nuys Airport, Van Nuys, CA. A review of the airspace revealed additional Class D airspace and Class E surface area airspace necessary to support instrument arrival procedures at the airport. Class D airspace would extend upward from the surface to but not including 3,000 feet within a 4.3-mile radius of Van Nuys Airport excluding that airspace within the Bob Hope Airport, Burbank, CA, formerly Burbank-Glendale-Pasadena Airport, CA, Class C airspace area, and excluding that airspace within a 1.8-mile radius of Whiteman Airport, Los Angeles, CA. Class E surface area airspace would extend upward from the surface within a 4.3-mile radius of Van Nuys Airport excluding that airspace within the Bob Hope Airport, Burbank, CA, formerly Burbank-Glendale-Pasadena Airport, CA, Class C airspace area, and excluding that airspace within a 1.8-mile radius of Whiteman Airport, Los Angeles, CA. The geographic coordinates for both airports would be adjusted to be in concert with the FAAs aeronautical data base.

Class D and Class E airspace designations are published in paragraph 5000 and 6002, respectively, of FAA Order 7400.9Y, dated August 6, 2014, and effective September 15, 2014, which is incorporated by reference in 14 CFR 71.1. The Class D and Class E airspace designations listed in this document will be published subsequently in the Order.

Regulatory Notices and Analyses

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

Environmental Review

This proposal will be subject to an environmental analysis in accordance with FAA Order 1050.1E, ''Environmental Impacts: Policies and Procedures'' prior to any FAA final regulatory action.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

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

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

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

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of FAA Order 7400.9Y, Airspace Designations and Reporting Points, dated August 6, 2014, and effective September 15, 2014, is amended as follows:

Paragraph 5000: Class D Airspace.

* * * * *

AWP CA D Van Nuys, CA [Modified]

Van Nuys, Van Nuys Airport, CA
(lat. 34°12′35″ N., long. 118°29′24″ W.)
Burbank, Bob Hope Airport, CA
(lat. 34°12′03″ N., long. 118°21′31″ W.)
Los Angeles, Whiteman Airport, CA
(lat. 34°15′34″ N., long. 118°24′48″ W.)

That airspace extending upward from the surface to but not including 3,000 feet MSL within a 4.3-mile radius of Van Nuys Airport, excluding that airspace within the Bob Hope Airport, CA, Class C airspace area, and excluding that airspace within a 1.8-mile radius of Whiteman Airport, CA. This Class D airspace area is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

Paragraph 6002: Class E Airspace Designated as Surface Areas.

* * * * *

AWP CA E2 Van Nuys, CA [Modified]

Van Nuys, Van Nuys Airport, CA
(lat. 34°12′35″ N., long. 118°29′24″ W.)
Burbank, Bob Hope Airport, CA
(lat. 34°12′03″ N., long. 118°21′31″ W.)
Los Angeles, Whiteman Airport, CA
(lat. 34°15′34″ N., long. 118°24′48″ W.)

That airspace extending upward from the surface within a 4.3-mile radius of Van Nuys Airport, excluding that airspace within the Bob Hope Airport, CA, Class C airspace area, and excluding that airspace within a 1.8-mile radius of Whiteman Airport, CA.

Issued in Seattle, Washington, on August 6, 2015

Christopher Ramirez,

Manager, Operations Support Group, Western Service Center.

[FR Doc. 2015–20295 Filed 8–18–15; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2015–1140; Airspace Docket No. 15–AWP–5]

Proposed Revocation of Class E Airspace; Burbank, CA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This action proposes to remove Class E surface area airspace designated as an extension to the Class C airspace at Burbank-Glendale-Pasadena Airport, Burbank, CA. After reviewing the airspace, the FAA found no standard instrument approach procedures requiring Class E surface area airspace designated as an extension to the Class C airspace.

DATES: Comments must be received on or before October 5, 2015.

ADDRESSES: Send comments on this proposal 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; telephone (202) 366–9826. You must identify FAA Docket No. FAA–2015–1140; Airspace Docket No. 15–AWP–5, at the beginning of your comments. You may also submit comments through the Internet at *http://www.regulations.gov.* You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office between 9:00 a.m. and 5:00 p.m., Monday through Friday, except Federal holidays. The Docket Office (telephone 1–800–647–5527), is on the ground floor of the building at the above address.

FAA Order 7400.9Y, Airspace Designations and Reporting Points, and subsequent amendments can be viewed online at *http://www.faa.gov/air_traffic/publications/.* The Order is also available for inspection 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/code_of_federal-regulations/ibr_locations.html.*

FAA Order 7400.9, Airspace Designations and Reporting Points, is published yearly and effective on September 15. For further information, you can contact the Airspace Policy and Regulations Group, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; telephone: 202–267–8783.

FOR FURTHER INFORMATION CONTACT: Steve Haga, Federal Aviation Administration, Operations Support Group, Western Service Center, 1601 Lind Avenue SW., Renton, WA 98057; telephone (425) 203–4563.

SUPPLEMENTARY INFORMATION:

Authority for This Rulemaking

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. 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. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it would remove Class E airspace at Burbank-Glendale-Pasadena Airport, Burbank, CA.

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments, as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify both docket numbers and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. FAA–2015–1140; Airspace Docket No. 15–AWP–5.'' The postcard will be date/time stamped and returned to the commenter.

Availability of NPRMs

An electronic copy of this document may be downloaded through the Internet at *http://www.regulations.gov.* Recently published rulemaking documents can also be accessed through the FAA's Web page at *http://www.faa.gov/airports_airtraffic/air_traffic/publications/airspace_amendments/.*

You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office (see the **ADDRESSES** section for the address and phone number) between 9:00 a.m. and 5:00 p.m., Monday through Friday, except federal holidays. An informal docket may also be examined during normal business hours at the Northwest Mountain Regional Office of the Federal Aviation Administration, Air Traffic

Organization, Western Service Center, Operations Support Group, 1601 Lind Avenue SW., Renton, WA 98057.

Persons interested in being placed on a mailing list for future NPRMs should contact the FAA's Office of Rulemaking, (202) 267–9677, for a copy of Advisory Circular No. 11–2A, Notice of Proposed Rulemaking Distribution System, which describes the application procedure.

Availability and Summary of Documents Proposed for Incorporation by Reference

This document proposes to amend FAA Order 7400.9Y, Airspace Designations and Reporting Points, dated August 6, 2014, and effective September 15, 2014. FAA Order 7400.9Y is publicly available as listed in the **ADDRESSES** section of this proposed rule. FAA Order 7400.9Y lists Class A, B, C, D, and E airspace areas, air traffic service routes, and reporting points.

The Proposal

The FAA is proposing an amendment to Title 14 Code of Federal Regulations (14 CFR) Part 71 by removing Class E airspace designated as an extension to Class C airspace at Burbank-Glendale-Pasadena Airport, Burbank, CA. A review of the airspace revealed removal necessary due to no standard instrument approach procedures requiring Class E surface area airspace designated as an extension to the Class C airspace.

Class E airspace designations are published in paragraph 6003 of FAA Order 7400.9Y, dated August 6, 2014, and effective September 15, 2014, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designations listed in this document will be published subsequently in the Order.

Regulatory Notices and Analyses

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

Environmental Review

This proposal will be subject to an environmental analysis in accordance with FAA Order 1050.1E, ''Environmental Impacts: Policies and Procedures'' prior to any FAA final regulatory action.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

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

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

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

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of FAA Order 7400.9Y, Airspace Designations and Reporting Points, dated August 6, 2014, and effective September 15, 2014, is amended as follows:

Paragraph 6003: The Class E Airspace Areas Listed Below Consist of Airspace Extending Upward From the Surface Designated as an Extension to a Class C Surface Area

* * * * *

AWP CA E3 Burbank-Glendale-Pasadena Airport, CA [Removed]

Issued in Seattle, Washington, on August 6, 2015.

Christopher Ramirez,

Manager, Operations Support Group, Western Service Center.

[FR Doc. 2015–20294 Filed 8–18–15; 08:45 am]

BILLING CODE 4910–13–P

CONSUMER PRODUCT SAFETY COMMISSION

16 CFR Part 1500

[Docket No. CPSC–2015–0022]

Petition Requesting Rulemaking on Products Containing Organohalogen Flame Retardants

AGENCY: Consumer Product Safety Commission.

ACTION: Notice of petition for rulemaking.

SUMMARY: The United States Consumer Product Safety Commission (''CPSC'' or ''Commission'') received a petition requesting that the Commission initiate rulemaking under the Federal Hazardous Substances Act (''FHSA'') to declare several categories of products containing additive organohalogen flame retardants to be ''banned hazardous substances.'' The Commission invites written comments concerning the petition.

DATES: The Office of the Secretary must receive comments on the petition by October 19, 2015.

ADDRESSES: You may submit comments, identified by Docket No. CPSC–2015–0022, by any of the following methods:

Electronic Submissions: Submit electronic comments to the Federal eRulemaking Portal at: *http://www.regulations.gov.* Follow the instructions for submitting comments. The Commission does not accept comments submitted by electronic mail (email), except through *www.regulations.gov.* The Commission encourages you to submit electronic comments by using the Federal eRulemaking Portal, as described above.

Written Submissions: Submit written submissions by mail/hand delivery/courier to: Office of the Secretary, Consumer Product Safety Commission, Room 820, 4330 East West Highway, Bethesda, MD 20814; telephone (301) 504–7923.

Instructions: All submissions received must include the agency name and docket number for this proposed rulemaking. All comments received may be posted without change, including any personal identifiers, contact information, or other personal information provided, to: *http://www.regulations.gov.* Do not submit confidential business information, trade secret information, or other sensitive or protected information that you do not want to be available to the public. If furnished at all, such information should be submitted in writing.

Docket: For access to the docket to read background documents or comments received, go to: *http://www.regulations.gov,* and insert the docket number, CPSC–2015–0022, into the ''Search'' box, and follow the prompts. A copy of the petition is available at *http://www.regulations.gov* under Docket No. CPSC–2015–0022, Supporting and Related Materials.

FOR FURTHER INFORMATION CONTACT: Todd Stevenson, Office of the Secretary, U.S. Consumer Product Safety

Commission, Room 820, 4330 East West Highway, Bethesda, MD 20814; telephone (301) 504–6833.

SUPPLEMENTARY INFORMATION: The Commission received a petition requesting that the Commission initiate rulemaking under the FHSA to declare several categories of products containing additive organohalogen flame retardants to be ''banned hazardous substances.'' Specifically, the request asks the Commission to declare that:

- Any durable infant or toddler product, children's toy, child care article, or other children's product (other than children's car seats) that contains additive organohalogen flame retardants, is a ''banned hazardous substance'';
- Any article of upholstered furniture sold for use in residences and containing additive organohalogen flame retardants is a ''hazardous substance'' and a ''banned hazardous substance'';
- Any mattress or mattress pad with additive organohalogen flame retardants is a ''hazardous substance'' and a ''banned hazardous substance''; and
- Any electronic device with additive organohalogen flame retardants in its plastic casing is a ''hazardous substance'' and a ''banned hazardous substance.''

The petition was filed by Earthjustice and the Consumer Federation of America, which are joined by American Academy of Pediatrics, American Medical Women's Association, Consumers Union, Green Science Policy Institute, International Association of Fire Fighters, Kids in Danger, Philip Landrigan, M.D., M.P.H., League of United Latin American Citizens, Learning Disabilities Association of America, and Worksafe.

Petitioners assert that additive organohalogen flame retardants are used extensively in the consumer products categories that would be covered by their rulemaking request. Petitioners further assert that, based on the physico-chemical properties of additive organohalogen flame retardants, all such chemicals in this class will migrate out of consumer products and persist in the indoor environment. According to petitioners, because organohalogen flame retardants are, as a class, foreign to the human body and inherently toxic due to their physical, chemical, and biological properties, human exposure to these chemicals will result in adverse human health impacts. Finally, petitioners provide data and information regarding adverse human health impacts, which include reproductive impairment, neurological impacts, endocrine disruption and interference with thyroid hormone action, genotoxicity, cancer, and immune disorders.

Petitioners assert that declaring the specified categories of products containing additive organohalogen flame retardants to be ''banned hazardous substances'' is necessary to adequately protect public health and safety. More specifically, petitioners assert that action short of a ban under the FHSA would not adequately protect the public health and safety because warning labeling cannot adequately prevent or control exposure to flame retardants that migrate from products into homes. Furthermore, petitioners argue that the ban must apply to the entire class of additive organohalogen flame retardants because banning only individual chemicals within that class would allow other inherently toxic chemicals within that class to be used.

By this notice, the Commission seeks comments concerning this petition. Interested parties may obtain a copy of the petition by writing or calling the Office of the Secretary, U.S. Consumer Product Safety Commission, Room 820, 4330 East West Highway, Bethesda, MD 20814; telephone (301) 504–7923. A copy of the petition is also available for viewing under ''Supporting and Related Materials'' in *www.regulations.gov* under this docket number, Docket No. CPSC–2015–0022.

Dated: August 14, 2015.

Todd A. Stevenson,

Secretary, U.S. Consumer Product Safety Commission.

[FR Doc. 2015–20454 Filed 8–18–15; 8:45 am]

BILLING CODE 6355–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[REG–108214–15]

RIN 1545–BM69

Exception From Passive Income for Certain Foreign Insurance Companies; Hearing

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of a public hearing on notice of proposed rulemaking.

SUMMARY: This document provides a notice of public hearing on proposed regulations that provide guidance regarding when a foreign insurance company's income is excluded from the definition of passive income under section 1297(b)(2)(B).

DATES: The public hearing is being held on Friday, September 18, 2015, at 10:00 a.m. The IRS must receive outlines of the topics to be discussed at the public hearing by Wednesday, August 26, 2015.

ADDRESSES: The public hearing is being held in the IRS Auditorium, Internal Revenue Service Building, 1111 Constitution Avenue NW., Washington, DC 20224. Due to building security procedures, visitors must enter at the Constitution Avenue entrance. In addition, all visitors must present photo identification to enter the building.

Send Submissions to CC:PA:LPD:PR (REG–108214–15), Room 5205, Internal Revenue Service, P.O. Box 7604, Ben Franklin Station, Washington, DC 20044. Submissions may be hand-delivered Monday through Friday to CC:PA:LPD:PR (REG–108214–15), Couriers Desk, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224 or sent electronically via the Federal eRulemaking Portal at *www.regulations.gov* (REG–108214–15).

FOR FURTHER INFORMATION CONTACT: Concerning the proposed regulations, Josephine Firehock at (202) 317–4932; concerning submissions of comments, the hearing and/or to be placed on the building access list to attend the hearing Oluwafunmilayo Taylor at (202) 317–6901 (not toll-free numbers).

SUPPLEMENTARY INFORMATION: The subject of the public hearing is the notice of proposed rulemaking (REG–108214–15) that was published in the **Federal Register** on Friday, April 24, 2015 (80 FR 22954).

The rules of 26 CFR 601.601(a)(3) apply to the hearing. Persons who wish to present oral comments at the hearing that submitted written comments by July 23, 2015, must submit an outline of the topics to be addressed and the amount of time to be denoted to each topic by Wednesday, August 19, 2015.

A period of 10 minutes is allotted to each person for presenting oral comments. After the deadline for receiving outlines has passed, the IRS will prepare an agenda containing the schedule of speakers. Copies of the agenda will be made available, free of charge, at the hearing or in the Freedom of Information Reading Room (FOIA RR) (Room 1621) which is located at the 11th and Pennsylvania Avenue NW., entrance, 1111 Constitution Avenue NW., Washington, DC 20224.

Because of access restrictions, the IRS will not admit visitors beyond the immediate entrance area more than 30

minutes before the hearing starts. For information about having your name placed on the building access list to attend the hearing, see the **FOR FURTHER INFORMATION CONTACT** section of this document.

Martin V. Franks,

Chief, Publications and Regulations Branch, Legal Processing Division, Associate Chief Counsel (Procedure and Administration).

[FR Doc. 2015–20468 Filed 8–18–15; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[REG–115452–14]

RIN 1545–BM12

Disguised Payments for Services; Correction

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Correction to a notice of proposed rulemaking.

SUMMARY: This document contains corrections to a notice of proposed rulemaking (REG–115452–14) that was published in the **Federal Register** on Thursday, July 23, 2015 (80 FR 43652). The proposed regulations are relating to disguised payments for services under section 707(a)(2)(A) of the Internal Revenue Code. The proposed regulations provide guidance to partnerships and their partners regarding when an arrangement will be treated as a disguised payment for services.

DATES: Written or electronic comments and requests for a public hearing for the notice of proposed rulemaking published at 80 FR 43625, July 23, 2015, are still being accepted and must be received by October 21, 2015.

FOR FURTHER INFORMATION CONTACT: Jaclyn Goldberg at (202) 317–6850 (not a toll free number).

SUPPLEMENTARY INFORMATION:

Background

The notice of proposed rulemaking (REG–115452–14) that is the subject of these corrections is under section 707 of the Internal Revenue Code.

Need for Correction

As published, the notice of proposed (REG–115452–14) contains errors that may prove to be misleading and are in need of clarification.

Correction of Publication

Accordingly, the notice of proposed rulemaking (REG–115452–14), that was the subject of FR Doc. 2015–17828, is corrected as follows:

1. On page 43652, in the preamble, first column, under the caption **ADDRESSES**, the eleventh line of the paragraph, the language ''Washington, DC, or sent electronically, '' is corrected to read ''Washington, DC, 20224 or sent electronically,''.

2. On page 43653, in the preamble, first column, the tenth line from the bottom of the first full paragraph, the language ''gross income allocation in a nonpartner'' is corrected to read ''gross income allocation in a non-partner''.

3. On page 43655, in the preamble, second column, the third line from the bottom of the second full paragraph, the language ''66–95 and revise Rev. Rul. 69–180,'' is corrected to read ''66–95 and Rev. Rul. 69–180,''.

4. On page 43657, in the preamble, third column, under the paragraph heading ''Drafting Information'' the third line of the paragraph, the language ''Goldberg of the Office Assistant Chief'' is corrected to read ''Goldberg of the Office Associate Chief''.

§ 1.707–2 [Corrected]

5. On page 46358, column 3, paragraph (c), the eighth and ninth lines, the language ''arrangement constitutes in whole or in part a payment for services. The'' is corrected to read ''arrangement constitutes (in whole or in part) a payment for services. The.''.

6. On page 43659, column 1, paragraph (d) *Example 1*, the twelfth line, the language ''first two years of partnership's operations.'' is corrected to read ''first two years of the partnership's operations.''.

7. On page 43660, column 1, paragraph (d), *Example 3* (iv), the sixteenth line, the language ''the presence or absence of entrepreneurial'' is corrected to read ''the presence or absence of significant entrepreneurial''.

8. On page 43660, column 1, paragraph (d), *Example 4* (ii), the last line of the column, the language ''entrepreneurial risk. The special allocation to'' is corrected to read ''significant entrepreneurial risk. The special allocation to''.

9. On page 43660, column 3, paragraph (d), *Example 6* (ii), the fourth line from the bottom of the column, the language ''waiver of the partnership. The ABC'' is corrected to read ''waiver of the fee. The ABC''.

Martin V. Franks,

Chief, Publications and Regulations Branch, Legal Processing Division, Associate Chief Counsel (Procedure and Administration).

[FR Doc. 2015–20476 Filed 8–18–15; 8:45 am]

BILLING CODE 4830–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R06–OAR–2006–0131; FRL–9930–17-Region-6]

Approval and Promulgation of Implementation Plans; Louisiana; Major Source Permitting State Implementation Plan

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve portions of revisions to the Louisiana New Source Review (NSR) State Implementation Plan (SIP) submitted by the State of Louisiana designee. These revisions are updates to the Prevention of Significant Deterioration (PSD) and Nonattainment NSR (NNSR) permit programs.

DATES: Written comments must be received on or before September 18, 2015.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R06–OAR–2006–0131, by one of the following methods:

- *http://www.regulations.gov.* Follow the online instructions.
- *Email:* Stephanie Kordzi at *kordzi.stephanie@epa.gov.*
- *Mail or delivery:* Stephanie Kordzi, Air Permits Section (6PD–R), Environmental Protection Agency, 1445 Ross Avenue, Suite 1200, Dallas, Texas 75202–2733.

Instructions: Direct your comments to Docket ID No. EPA–R06–OAR–2006–0131. The EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *http://www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information the disclosure of which is restricted by statute. Do not submit information through *http://www.regulations.gov* or email, if you

believe that it is CBI or otherwise protected from disclosure. The *http://www.regulations.gov* Web site is an ''anonymous access'' system, which means that the EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to the EPA without going through *http://www.regulations.gov,* your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, the EPA recommends that you include your name and other contact information in the body of your comment along with any disk or CD–ROM submitted. If the EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, the EPA may not be able to consider your comment. Electronic files should avoid the use of special characters and any form of encryption and should be free of any defects or viruses. For additional information about the EPA's public docket, visit the EPA Docket Center homepage at *http://www.epa.gov/epahome/dockets.htm.*

Docket: The index to the docket for this action is available electronically at *www.regulations.gov* and in hard copy at EPA Region 6, 1445 Ross Avenue, Suite 700, Dallas, Texas. While all documents in the docket are listed in the index, some information may be publicly available only at the hard copy location (*e.g.,* copyrighted material), and some may not be publicly available at either location (*e.g.,* CBI). To inspect the hard copy materials, please schedule an appointment with the person listed in the **FOR FURTHER INFORMATION CONTACT** paragraph below or Bill Deese at 214–665–7253.

FOR FURTHER INFORMATION CONTACT: Stephanie Kordzi, Telephone (214) 665–7520, email at *kordzi.stephanie@epa.gov.*

SUPPLEMENTARY INFORMATION: Throughout this document wherever ''we,'' ''us,'' or ''our'' is used, we mean the EPA.

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I. Summary of State SIP Submittals for Chapters 5 and 6 Air Permits Program

The Clean Air Act at section 110(a)(2)(C) requires states to develop and submit to the EPA for approval into the state SIP, preconstruction review programs applicable to new and modified stationary sources of air pollutants for attainment and nonattainment areas that cover both major and minor new sources and modifications, collectively referred to as the NSR SIP. The CAA NSR SIP program is composed of three separate programs: PSD, NNSR, and Minor NSR. PSD is established in part C of title I of the CAA and applies in areas that are designated as meeting the National Ambient Air Quality Standards (NAAQS), *i.e.,* ''attainment areas,'' as well as areas designated as ''unclassifiable'' because there is insufficient information to determine if the area meets the NAAQS. The NNSR SIP program is established in part D of title I of the CAA and applies in areas that are designated as not being in attainment of the NAAQS, *i.e.,* ''nonattainment areas.'' The Minor NSR SIP program addresses construction or modification activities that do not emit, or have the potential to emit, beyond certain major source thresholds and thus do not qualify as ''major'' and applies regardless of the designation of the area in which a source is located. This particular SIP proposed action addresses only the PSD and NNSR major permitting programs.

The EPA regulations, 40 CFR 51.160–51.166, contain the criteria that states must satisfy for the EPA to approve the NSR programs as part of the SIP. In addition, there are several provisions in 40 CFR part 51 that apply generally to all SIP revisions. 40 CFR 51.160 establishes the enforceable procedures that must be a part of a NSR program. Sections 51.160–51.164 require a SIP revision to demonstrate that the adopted rules will not interfere with any applicable requirement concerning attainment and reasonable further progress, or any other applicable requirement of the CAA. Based upon our evaluation of the submittals, the EPA has concluded that the regulatory submittals, as ultimately revised, meet the requirements of the CAA section 110(a). Below are summaries of the individual SIP submittals from Secretary of the Louisiana Department of Environmental Quality (LDEQ).

A. July 25, 1997, Submittal

The LDEQ submitted Louisiana Administrative Code (LAC) rule changes made in 1996. It includes final revised regulation LAC 33:III, sections 501, 504, 509, and 517. Section 504 is already part of the Louisiana SIP approved by the EPA on September 30, 2002, 2002 at 67 FR 61270. The EPA will act on section 517 in a separate action in the future.

B. June 22, 1998, Submittal

The LDEQ submitted rule changes made in 1997. It includes changes to sections 501, 509, and 517. The EPA will act on sections 501 and 517 in a separate action in the future.

C. February 2, 2000, Submittal

The LDEQ submitted rule changes made in 1998. It includes sections 509 and 603.

D. January 27, 2003, Submittal

The LDEQ submitted rule changes made from 1999–2001. It includes section 509.B.2., which addresses certain Parishes as nonattainment for ozone. Sections 613 and 615 were already approved as part of the SIP on September 27, 2002, at 67 FR 60877.

E. June 15, 2005, Submittal

The LDEQ submitted rule changes made in 2005 for Baton Rouge in section 504.A.6., covering the nonattainment NSR procedures.

F. December 20, 2005, Submittal

The LDEQ submitted rule changes made in 2005 concerning the NSR Reform Program in sections 504 and 509. The submitted rules include, among other things, provisions for baseline emissions calculations, an actual-to-projected actual methodology for calculating emissions changes, options for plantwide applicability limits, and recordkeeping and reporting requirements. The changes do not include any portion of the Federal NSR Reform rule that was vacated by the US District Court of Appeals for the D.C.

Circuit Court on June 24, 2005, concerning Clean Unit applicability test and Pollution Control Projects.

G. May 5, 2006, Submittal

The LDEQ submitted rule changes made in 2005. It includes sections 501, 504, 505, 507, 509, and 613. The EPA will act on section 501, a minor NSR rule, and section 507, a title V rule that is not part of the SIP, in separate actions in the future. The EPA returned section 505 to LDEQ because it addresses the Acid Rain Program; the Acid Rain Program is not a title I program and therefore should not be included in the Louisiana SIP.

H. July 20, 2007, Submittal

The LDEQ submitted a revision to the SIP's Alternative Emission Reduction Plan (''Bubble'') for Union Carbide Corporation, Taft Plant reflecting LDEQ's rescission of permit no. 1836T, effective on March 12, 2007. The EPA is proposing to approve this revision that codifies LDEQ's rescission of the permit for the alternative emission reduction plan (''Bubble'') for Union Carbide Corporation, Taft Plant.

I. November 9, 2007, Submittal

The LDEQ submitted rule changes made in 2006. It includes sections 501, 504, 509, 513, 531, and 607. The EPA will act on sections 501, 513 and 531 in a separate action in the future because they concern minor NSR. In addition, on October 15, 2014, LDEQ removed from our consideration section 504.M.

J. August 14, 2009, Submittal

The LDEQ submitted rule changes made in 2007, that included sections 501, 504, 505, 506, and 507. The EPA proposes to approve section 504 which contains a revision that requires all information submitted by air permittees be sent to the Office of Environmental Services.

The EPA will act on section 501 in a separate action in the future because it concerns minor NSR. The EPA will return section 505 to LDEQ because it addresses the Acid Rain Program Permitting Requirements, which are not part of a SIP. The approved the revisions to Section 506 on April 17, 2014 are found at 79 FR 21631. The EPA will act on section 507 in a separate action in the future because it concerns the title V program that is not part of a SIP.

The submittal also contains a rulemaking petition for the repeal of section 510, which was never part of the SIP. The repeal affects sections 603, 605, 607, 613, and 615 because those sections reference to LAC 33:III.510. In addition, to be consistent with the change to section 504, a change was made to section 613, which dictates that reports be submitted to the Office of Environmental Services.

K. May 16, 2011, Submittal

The LDEQ submitted rule changes to sections 504 and 509 to address the $PM_{2.5}$ NSR Implementation Rule. The rule submittal also revises the regulatory definition of ''regulated pollutant'' to address any pollutant for which there is a NAAQS and precursors to the formation of such pollutant when identified for regulation by the EPA. For NSR Reform purposes, LDEQ also repealed the definition of malfunction in response to the EPA's concerns expressed in our January 24, 2008, letter. The repeal of the definition addressed our concerns.

L. February 27, 2013, Submittal

The LDEQ submitted revisions to section 509 that update the PSD rule to implement the Particulate Matter Less Than 2.5 Micrometers ($PM_{2.5}$) Increments.

Table 1 below summarizes the changes that are in the SIP revision submittals. A summary of our evaluation of each section and the basis for our proposed approval is included in this rulemaking. The accompanying Technical Support Document (TSD) includes a detailed evaluation of the submittals and our rationale. The TSD may be accessed online at *www.regulations.gov,* Docket No. EPA–R06–OAR–2006–0131.

TABLE 1—SUMMARY OF EACH NSR SIP SUBMITTAL AFFECTED BY THIS ACTION

Title of SIP submittal	Date submitted to EPA	Date of State adoption	Regulations affected
Air Permit Procedure Revisions	7/25/1997	1996	Sections 501, and 509. Section 504 was approved by EPA into the SIP on 09/30/2002 (67 FR 61270).
Air Permit Procedure Revisions	6/22/1998	1997	Section 509.
Air Permit Procedure and ERC Banking Revisions.	2/2/2000	1998	Sections 509 and 603.
Air Permit Procedure and ERC Banking Revisions.	1/27/2003	1999–2001	Sections 509, 613, and 615. Sections 613 and 615 were approved by EPA into the SIP on 09/27/2002 (67 FR 60877).
Baton Rouge Severe Area Rule Update	6/15/2005	4/20/2004	Section 504.
Air Permit Procedure Revisions and New Source Review Reform.	12/20/2005	12/20/2005	Sections 504 and 509.
Air Permit Procedure and ERC Banking Revisions.	5/5/2006	2005	Sections 504, 509, and 613.
Rescission of Alternative Emission Reduction Plan for Union Carbide Corporation, Taft Plant.	7/20/2007	3/12/2007	EPA approved the Union Carbide permit as part of the SIP. See 07/18/1990, 55 FR 29205. On 3/12/07, LDEQ rescinded the permit.
Air Permit Procedure and ERC Banking Revisions.	11/9/2007	2006	Sections 504, 509, and 607. On 10/15/2014, LDEQ requested that EPA not take action on LAC 33:III.504.M. Therefore, it is not before EPA for action.
Air Permit Procedure Revisions	8/14/2009	2007	Sections 504, 603, 605, 607, 613, and 615.
Air Permit Procedure Revisions for $PM_{2.5}$ NAAQS.	5/16/2011	2011	Sections 504 and 509.
LA SIP Update, $PM_{2.5}$ Increments	2/27/2013	12/20/2012	Section 509.

II. Evaluation

A. Revisions to the NNSR and PSD Programs Air Permit Procedures

We evaluated and are proposing to approve the Chapter 5 amendments contained in the July 25, 1997, June 22, 1998, February 2, 2000, January 27, 2003, June 15, 2005, May 5, 2006, July 20, 2007, November 9, 2007, August 14, 2009, submittals. These amendments, if approved by the EPA, would provide clarity to the SIP-approved rules and correct contradictory language. Specific proposed revisions address the assessment and validation of a facility's emissions inventory values. Further, the amendments would revise the SIP rules to conform to the latest changes to Louisiana laws. The changes also define, for NNSR purposes, the parishes that have been designated as non-attainment for ozone. The EPA's evaluation of the Louisiana SIP submittals include a line-by-line comparison, which can be found in the TSD, of the proposed revisions with the federal requirements. We find that in most cases, the state regulatory language is identical to that of the federal rule. Where the rules are not identical, we find they are consistent with the federal rules and definitions and meet their intent. The EPA is therefore proposing to approve the submitted rules as part of the Louisiana NNSR and PSD SIP.

B. Revisions to the NNSR and PSD Programs for the NSR Reform Rule

We evaluated and are proposing to approve the December 20, 2005, as revised through the May 16, 2011 submittal that contains changes to the Louisiana NNSR and PSD permitting programs reflecting the requirements found in the federal NSR Reform Program SIP rules.

Our evaluation of the Louisiana SIP submittals included a line-by-line comparison, which can be found in the TSD, of the proposed revisions with the federal requirements. State agencies may deviate from the specific definitions of 40 CFR part 51, and the 2002 NSR Reform Rules, only if the States specifically demonstrate that the submitted definitions are more stringent or at least as stringent as the corresponding federal definitions in accordance with 40 CFR 51.165(b)(2).

The State of Louisiana elected to incorporate by reference (IBR) most of the federal rules but adopted some with differences. As part of its December 20, 2005, submittal, Louisiana provided the EPA with an Equivalency Determination that addresses the differences with the federal rules regarding emissions defined that are associated with startup, shutdown and malfunction emissions. The Secretary of the LDEQ also submitted on June 9, 2015 a letter containing further clarification. In addition, LDEQ provided follow up SIP submittals that are summarized above and discussed in further detail in the Technical Support Document. We find that the LDEQ has adopted the necessary elements of NSR Reform rule for both the NNSR and PSD programs.

As discussed in I. F., Louisiana's submitted rules do not include the Clean Unit applicability test and Pollution Control Projects vacated by the Court.[1] Further, ''reasonable possibility'' provisions that were promulgated in the EPA's NSR Reform SIP rules were remanded back to EPA for further consideration on June 24, 2005.[1]

The U.S. Court of Appeals for the DC Circuit in New York v. EPA, 413 F.3d 3 (D.C. Cir. 2005) (New York) ordered the EPA either to provide an acceptable explanation for its ''reasonable possibility'' standard or to devise an appropriately supported alternative. The Court held, ''[b]ecause EPA has failed to explain how it can ensure NSR compliance without the relevant data, we will remand for it either to provide an acceptable explanation for its ''reasonable possibility'' standard or to devise an appropriately supportive alternative.'' Initially, in promulgating the ''reasonable possibility'' standard, we intended to limit recordkeeping requirements to those projects for which variability in calculating emissions creates an interest in obtaining additional information in order to confirm that the appropriate applicability outcome is reached.

To satisfy the Court's remand, the EPA has clarified what constitutes ''reasonable possibility'' and when the ''reasonable possibility'' recordkeeping requirements apply. We adopted a bright-line test at 50 percent that will capture projects that have a higher probability of variability and/or error in projected emissions. Projects with projected increases below the 50-percent threshold, especially when emissions from demand growth are included in projections, are, we believe, sufficiently small that any variability or error in calculations is less likely to be large enough for the change to have increased emissions to the significant level. This requirement is based on authority in circumstances such as these that allows agencies to establish a bright-line test, as opposed to making case-by-case determinations. See, *e.g., Time Warner Entertainment Co. L.P.* v. *F.C.C.,* 240 F.3d 1126, 1141 (D.C. Cir. 2001).

We also state ''[s]ome State or local authorities may be able to adopt these changes through a change in interpretation of the term ''reasonable possibility'' without the need to revise the SIP. For any State or local authority that can implement the changes without revising its approved SIP, the changes will become effective when the reviewing authority publicly announces that it accepts these changes by interpretation. In the case of NSR SIP revisions that include the term ''reasonable possibility'' but that we have not yet approved, we will approve the SIP revision if the State or local authority commits to implementing the ''reasonable possibility'' standard in a manner consistent with our final rule.''

The EPA Region 6 requested in a letter of January 24, 2008, that LDEQ submit a commitment to implement the ''reasonable possibility provisions in Sections 504.D.9 and 509.R.6 in a manner consistent with EPA's revised rules. On October 6, 2008, LDEQ committed to implement the provisions in a manner consistent with the EPA's ''Reasonable Possibility in Recordkeeping'' rule.

In addition, on February 22, 2013, the EPA identified seven Louisiana SIP-approved citations that could allow emissions that were either automatically or through director's discretion, exempted from compliance with otherwise applicable emission limitations. *State Implementation Plans: Response to Petition for Rulemaking; Findings of Substantial Inadequacy; and SIP Calls to Amend Provisions Applying to Excess Emissions During Periods of Startup, Shutdown, and Malfunction; Proposed Rule,* (78 FR 12522, February 22, 2013). On May 22, 2015, the EPA issued a final action requiring Louisiana to ensure it has a plan in place that is fully consistent with the CAA and recent court decisions regarding startup, shutdown, and malfunction (SSM) for the named Louisiana rule citations.

In this proposal action, we are addressing the eight rule changes for baseline actual emissions and projected actual emissions definitions. These submitted definitions include the phrase ''authorized emissions associated with startup, shutdown, and malfunction (SSM).'' Because the term ''authorized emissions'' as used could encompass the exempted emissions subject to the SSM SIP Call if Louisiana fails to appropriately respond to the SSM SIP Call within 18 months from the issuance of the final action, the EPA will have to revisit its approval of these

[1] The EPA promulgated the revised provisions on December 21, 2007 at 72 FR 72607.

revisions. In the interim, the LDEQ sent us a letter on June 9, 2015, that clarifies the definition of authorized emissions and also clarifies LDEQ's use of variances and emergency orders for permitted sources which temporarily allow emissions greater than those provided under a specific permit condition or temporarily replace an emissions unit that cannot operate without being in violation of an underlying permit condition or would be a danger to operate. See discussion in the following Section II.C. below.

We are proposing to approve the December 20, 2005, submittal, as revised by the May 16, 2011, submittal as part of the Louisiana SIP for Major NSR reform.

C. LDEQ's Clarification Letter

LDEQ provided a clarification letter (Clarification) on June 9, 2015, which was requested by the EPA to clarify perceived inconsistencies in certain provisions in the SIP submission. The full text of the letter can be found in the Docket for this action. This letter clarifies the following aspects of the Major NSR Air Permit Program.

The EPA asked for clarification on how the state provisions utilize the term ''authorized'' in the context of emissions associated with start-ups, shutdowns, and malfunctions, a term not found in the federal rules. We also asked for clarification on how variances and emergency orders affect permit actions.

LDEQ explained in its clarification letter that the term ''authorized'' does not expand the meaning of ''baseline actual emissions'' or ''projected actual emissions'' in a manner to render the submitted revisions to LAC 33:III.504 and 509 less stringent than their corresponding federal provisions. Accordingly, a permittee cannot circumvent what would otherwise be applicable NSR requirements when issuing either a new or modified (*i.e.,* a physical change or change in the method of operation) permit that is subject to PSD review or improperly establishes a plantwide applicability limit by means of an LDEQ-issued variance or Emergency Order. In the context of LAC 33:III.504 and 509, the term ''authorized emissions'' refers to emissions authorized through only a valid air permit issued pursuant to LAC 33:III.Chapter 5. LDEQ emphasized that should it calculate baseline actual emissions using its definition in LAC 33:III.504.K or 509.B, the result would be no different than if the federal definition at 40 CFR 51.165(a)(1)(xxxv) or 51.166(b)(47) was utilized.

Next, LDEQ responded that a variance is not a permit, but rather a waiver issued prospectively by LDEQ to allow emissions from an emissions unit to temporarily exceed permitted limitations or to authorize the use of a temporary emissions unit not addressed by an air permit. Baseline actual emissions cannot exceed permitted limits, even if additional emissions have been approved by means of a variance or Declaration of Emergency and Administrative Order.

In addition, LDEQ expanded on its use of the term ''authorized'' in relation to its context of LAC 33:III.919 (Emissions Inventory) and the reporting of actual emissions to LDEQ's Emissions Reporting and Inventory Center. LDEQ stated it would amend its ''Louisiana Guidance for Air Permitting Actions'' to clarify that, for purposes of baseline actual emissions and projected actual emissions, ''authorized'' emissions cannot exceed the limitations imposed by an air permit issued pursuant to LAC 33:III.Chapter 5.

D. Revisions to the NNSR and PSD Programs for $PM_{2.5}$ Implementation

We evaluated and are proposing to approve the revisions to the Louisiana PSD and NNSR programs submitted on May 16, 2011, and to the PSD program submitted on February 27, 2013, finding that the Louisiana NNSR and PSD permitting programs comply with the federal regulatory requirements for implementation of the $PM_{2.5}$ NAAQS as required through the May 16, 2008 NSR $PM_{2.5}$ Implementation Rule and the October 20, 2010 $PM_{2.5}$ PSD SILs—SMC and Increments Rule. *See* 73 FR 28321 and 75 FR 64864.

E. Emission Reduction Credits (ERC) Banking Revisions

We evaluated and are proposing to approve revisions to the existing SIP-approved Louisiana Regulations on Control of Emissions through the Use of ERC Banking. The submittals containing Chapter 6 rules that are a part of this action are dated February 2, 2000, January 27, 2003, May 5, 2006, November 9, 2007, and August 14, 2009, found that the Louisiana ERC banking revisions comply with the federal regulatory requirements for implementation of the control of emissions through the use of ERC Banking. The changes include: (1) Establishing emission banking for all parishes designated as ozone nonattainment areas in the state; (2) revising submittal dates for banking credits; (3) revising references after department reorganization to reflect new organization structure; and (4) replacing the 1-hour ozone standard with the 8-hour standard. Our evaluation of the Louisiana SIP submittal included a line-by-line comparison, which is provided in the TSD, of the proposed revisions with the federal requirements. Most of the changes contained in the Chapter 6 submittals were not substantial. Our analysis shows that in most cases, the state regulatory language is identical to the federal rule. Where the rules are not identical, they are consistent with and support the intent of the federal rules and definitions. The EPA is therefore proposing to approve these submittals. Note that the revisions we are addressing update the existing SIP-approved requirements to address current nonattainment areas. These revisions do not change the underlying purpose of the emissions bank, which is to provide nonattainment offsets.

F. Does the proposed approval of the Louisiana Air Permit Procedure Revisions or ERC Banking Revisions interfere with attainment, reasonable further progress, or any other applicable requirement of the Act?

We have determined that the regulations submitted to EPA for approval as SIP revisions meet the requirements of section 110(l). We have determined that their implementation will not interfere with any applicable requirement concerning attainment and reasonable further progress, or any other applicable requirement of the CAA. The EPA's evaluation of the Louisiana SIP submittals included a line-by-line comparison, which can be found in section VI of the TSD, of the proposed revisions with the federal requirements. If the rules are new, including the NSR Reform rules contained in the December 20, 2005 submittal, then they were determined to be consistent with the federal SIP rules. Therefore, as discussed above and in the TSD, the revisions to the Louisiana NNSR and PSD programs are substantively the same as the 2002 NSR Reform Rules, without including any vacated provisions, we conclude that these rules do not interfere with attainment, reasonable further progress, or any other applicable requirement of the Act. See 67 FR 80186 and 68 FR 63021 for EPA's detailed explanation of the legal basis for the 2002 NSR Reform Rules. The EPA has concluded that the regulatory submittals, as ultimately revised, meet the requirements of the CAA section 110(l).

Additionally, the rescission of the Bubble for Union Carbide Corporation Taft Plant also meets CAA section 110(l). On July 18, 1990, the EPA approved the Bubble, as a revision to the Louisiana SIP (55 FR 29203). The

original SIP revision was based on an Alternative Emission Reduction Plan as requested by the Governor of Louisiana on October 19, 1983, for St. Charles Parish due to the area being located in a nonattainment area for ozone. The permit was incorporated by reference into the SIP at 40 CFR 52.970(d). The submittal incorrectly identified the regulation citation as 40 CFR 52.970(c)(55)(i)(a). The rescission was a result of changed circumstances regarding the two tanks (Tanks 2635 and 2102) originally regulated by the Bubble permit 1836T. Tank 2635 is no longer in service and the regulation of Tank 2102 was moved to Logistics Title Permit No. 2656–V0 which is subject to Reasonably Available Control Technology (RACT) emission control requirements, resulting in significantly lower VOC emission. The annual emission limit of 0.51 tons per year of VOC, is roughly a 95% decrease in the VOC emission limit from the 1983 permit of 9.5 tpy. The emission reductions gained through the use of RACT and requiring compliance with an annual emission limit for Tank 2102 negate the need for use of emission reductions identified in 55 FR 29203, from the shutdown of Glyoxal Reactor Column vent and the storage of compounds with a lower vapor pressure in 5 tanks (2201 (removed from service), and the other four tanks, 2202, 2212, 2206, and 2315) as identified, which provided credits to allow Tanks 2102 and 2635 to obtain exemptions. All of the tanks in service are now regulated under Logistics Title Permit No. 2656–V0). Therefore, less emissions vented to the atmosphere ensure attainment and reasonable progress.

III. Proposed Action

In this action, the EPA proposes to approve severable revisions to the major air permitting procedures in sections 501, 504, 509, 523, 603, 605, 607, 613, and 615 as submitted to the EPA to revise the Louisiana Major NSR SIP Permit program on July 25, 1997, June 22, 1998, February 2, 2000, January 27, 2003, June 15, 2005, December 20, 2005, May 5, 2006, July 20, 2007, November 9, 2007, August 14, 2009, May 16, 2011, and February 27, 2013. In addition, the EPA is proposing to remove the alternative emission reduction plan (''Bubble'') for Union Carbide Corporation, Taft Plant to reflect LDEQ's rescission of the permit, from the SIP. Table 2 in Section III summarizes each regulatory citation that is affected by this action. Note, Table 2 does not include the rescission of the Union Carbide bubble, submitted on July 20, 2007, which is also being proposed for approval. We have made the preliminary determination that the revisions were developed and submitted in accordance with the requirements of the CAA and the EPA's regulations regarding SIP development at 40 CFR part 51. Additionally, we have determined that the submitted revisions to the Louisiana PSD and NNSR programs, as clarified by LDEQ, are consistent with our major source permitting regulations at 40 CFR 51.160–51.166 and the associated policy and guidance. Therefore, under section 110 and parts C and D of the Act, and for the reasons presented above and in our accompanying TSD, the EPA proposes to fully approve the specific revisions to the Louisiana SIP identified in Table 2 below:

TABLE 2—SUMMARY OF EACH REGULATION THAT IS AFFECTED BY THIS ACTION

Section	Date submitted to EPA as SIP amendment	Affected regulation
Section 501—Scope and Applicability		
Section 501	7/25/1997	Section 501—Authority.
Section 504—Nonattainment New Source Review (NNSR) Procedures and Offset Requirements in Specified Parishes		
Section 504.A	6/15/2005	Section 504.A.6.
	12/20/2005	Sections 504.A., 504.A.1., 504.A.3., 504.A.3.a.–d., 504.A.4, 504.A.5., 504.A.5.a.–b., 504.A.6., 504.A.6.a.–f., 504.A.7., 504.A.7.a.–c., 504.A.8.
	11/9/2007	Sections 504.A.1., 504.A.2., 504.A.3., 504.A.4, 504.A.8.
Section 504.C	5/5/2006	Section 504.C., Section 504.F.7., Section 504.F.7.a—Table 1, PM_{10}.
	8/14/2009	Section 504.C.
Section 504.D	6/15/2005	Section 504.D.3.
	12/20/2005	Sections 504.D.4., 504.D.9, 504.D.9.a.–e., 504.D.10., 504D.11., 504.D.11.a–b.
	11/9/2007	Sections 504.D.5
Section 504.F	12/20/2005	Sections 504.F.11., and 504.F.12.
	5/5/2006	Section 504.F.7, 504.F.7.a.—Table 1, Footnote $PM_{10.}$
	11/09/2007	Sections 504.F.1., 504.F.8.a.–c., 504.F.9.L Table 1.
	8/14/2009	Section 504.F.7.
	5/16/2011	Section 504.F.1.
Section 504.G	12/20/2005	Sections 504.G., 504.G.1., 504.G.2., 504.G.2.a.–e., 504.G.3., 504.G.3.a.–c., 504.G.4., 504.G.4.a.–b., 504.G.5., 504.G.5.a.–b., 504.G.6., 504.G.6.a.–f., 504.G.7., 504.G.7.a.–c., 504.G.8., 504.G.9.
Section 504.H	12/20/2005	Sections 504.H.1., 504.H.2., 504.H.2.a.–d., 504.H.3., 504.H.3.a.–d., 504.H.4., 504.H.4.a.–c., 504.H.5., 504.H.6., 504.H.7., 504.H.8., 504.H.8.a.–f., 504.H.9., 504.H.9.a.–e., 504.H.10., 504.H.11.
Section 504.I	12/20/2005	Sections 504.I.1., 504.I.2., 504.I.2.a.–b., 504.I.3., 504.I.3.a.–e., 504.I.4., 504.I.5., 504.I.6., 504.I.6.a.–d.
Section 504.J	12/20/2005	Sections 504.J.1., 504.J.1.a.–d., 504.J.2., 504.J.2.a.–k., 504.J.3., 504.J.3.a.–c., 504.J.4., 504.J.4.a.–b., 504.J.5., 504.J.6., 504.J.6.a.–b., 504.J.7., 504.J.7.a.–j., 504.J.8., 504.J.8.a.–b., 504.J.9., 504.J.9.a.–e., 504.J.10., 504.J.10.a.–e., 504.J.11., 504.J.11.a.–c., 504.J.12., 504.J.12.a.–i., 504.J.13., 504.J.13.a.–b., 504.J.14., 504.J.14.a.–c., 504.J.15., 504.J.15.a.–b.
	5/16/2011	Section 504.J.5.

TABLE 2—SUMMARY OF EACH REGULATION THAT IS AFFECTED BY THIS ACTION—Continued

Section	Date submitted to EPA as SIP amendment	Affected regulation
Section 504.K	12/20/2005	Sections 504.K. Definitions. Beginning with *Act*—repealed, *Administrator, Adverse Impact on Visibility, Allowable Emissions, Baseline Actual Emissions, Begin Actual Construction, Best Available Control Technology, Clean Air Act, Clean Coal Technology, Clean Coal Technology Demonstration Project, Clean Unit, Commence, Construction, Continuous Emissions Monitoring System, Continuous Emissions Rate Monitoring System, Continuous Parameter Monitoring System, Electric Utility Steam Generating Unit, Emissions Unit, Federal Class I Area, Federal Land Manager, Federally Enforceable, Fugitive Emissions, Lowest Achievable Emission Rate, Major Modification, Major Stationary Source, Mandatory Federal Class I Area, Natural Conditions, Necessary Preconstruction Approvals, or Permits,* and *Net Emissions Increase.*
	5/16/2011	Section 504.K. Definition. *Malfunction*—repealed, *Regulated Pollutant, Significant.*
Section 504.L	11/09/2007	Section 504.L Table 1 and footnotes.
	5/16/2011	Section 504 L Table 1 and footnotes for *Major Stationary Source.*
Section 504.M	11/09/2007	Sections 504.M. and 504.M.1.–3. EPA is not taking action on this section based on LDEQ 10/15/2014, request for EPA to ''not take action''.
		Section 509—Prevention of Significant Deterioration
Section 509.A	12/20/2005	Sections 509.A.1., 509.A.2., 509.A.3., 509.A.4., 509.A.4.a–f., 509.A.5., 509.A.6.
	5/5/2006	Section 509.A.3.
	11/09/2007	Section 509.A.4.f.
	5/16/2011	Reference to previously SIP approved submittal $PM_{2.5}$ NAAQS.
Section 509.B	7/25/1997	Section 509.B. Definitions. *Baseline Area.2.*
	6/22/1998	Section 509.B. Definitions. *Reconstruction.*
	1/27/2003	Section 509.B.2.
	12/20/2005	Sections 509.B. Definitions. *Actual Emissions, Adverse Impact on Visibility, Allowable Emissions, Baseline Area, Baseline Concentration, Baseline Date, Begin Actual Construction, Best Available Control Technology, Building, Structure, Facility or Installation, Clean Air Act, Clean Coal Technology, Clean Coal Technology Demonstration Project, Clean Unit, Commence, Complete, Construction, Continuous Emissions Monitoring System, Continuous Emissions Rate Monitoring System, Continuous Parameter Monitoring System, Electric Utility Steam Generating Unit, Emissions Unit, Federal Land Manager, Federally Enforceable, Fugitive Emissions High Terrain, Indian Governing Body, Indian Reservation Innovative Control Technology, Low Terrain, Lowest Achievable Emission Rate, Major Modification, Major Stationary Source, Necessary Preconstruction Approvals, Pollution Control Project, Pollution Prevention, Potential to Emit, Predictive Emissions Monitoring System, Prevention of Significant Deterioration, Project, Reactivation of a Very Clean Coal-Fired Electric Utility Steam Generating Unit, Reasonably Available Control Technology, Regulated NSR Pollutant, Replacement Unit, Repowering, Reviewing Authority, Significant, Significant Emissions Increase Stationary Source, and Temporary Clean Coal Technology Demonstration Project.*
	11/9/2007	Sections 509.B. definitions *Major Modification, Major Stationary Source, Regulated NSR Pollutant, and Significant.*
	5/16/2011	Section 509.B. Definitions—*Malfunctions*—repeal, *Regulated New Source Review (NSR) Pollutant, Significant a.*
	2/27/2013	Section 509.B. Definitions. *Baseline Area*, *Baseline Date*, *Minor Source Baseline Date.*
Section 509.C	12/20/2005	Sections 509.C.
	2/27/2013	Sections 509.C. Ambient Air Increments.
Section 509.D	6/22/1998	Section 509.D.17.
	12/20/2005	Sections 509.D., 509.D.1.–2.
Section 509.E	12/20/2005	Sections 509.E., 509.E.1.–4.
Section 509.G	12/20/2005	Sections 509.G., 509.G.1.–4.
Section 509.H	12/20/2005	Sections 509.H., 509.H.1.–2.
Section 509.I.	12/20/2005	Sections 509.I., 509.I.1.–9.
	11/9/2007	Sections 509.I.5.a., approving renumbering only because substantively it has already been addressed.
	2/27/2013	Sections 509.I.5., 509.I.5.a., 509.I.8., 509.I.9., 509.I.9.b.
Section 509.J	12/20/2005	Sections 509.J., 509.J.1.–4.
	2/27/2013	Sections 509.J., 509.J.5., 509.J.5.a.,
Section 509.K	12/20/2005	Sections 509.K., 509.K.1.–2.
	2/27/2013	Sections 509.K., 509.K.1., 509.K.1.a.–b.
Section 509.L	12/20/2005	Sections 509.L., 509.L.1.–2.
Section 509.M	12/20/2005	Sections 509.M., 509.M.1–3.
Section 509.N	12/20/2005	Sections 509.N., 509.N.1.–2.
Section 509.O	12/20/2005	Sections 509.O.1.–3.
	5/5/2006	Section 509.O.3.
Section 509.P	12/20/2005	Sections 509.P, 509.P. 1.–8.
	2/27/2013	Section 509.P.5.
Section 509.Q	2/2/2000	Sections 509.Q.7., 509.Q.8.b.
	12/20/2005	Sections 509.Q., 509.Q.1.–2.
Section 509.R	12/20/2005	Sections 509.R., 509.R.1.–7.
Section 509.V	12/20/2005	Sections 509.V., 509.V.1.–4.

TABLE 2—SUMMARY OF EACH REGULATION THAT IS AFFECTED BY THIS ACTION—Continued

Section	Date submitted to EPA as SIP amendment	Affected regulation
Section 509.W	12/20/2005	Sections 509.W., 509.W.1.–4.
Section 509.X	12/20/2005	Sections 509.X., 509.X.1.–9.
Section 509.Y	12/20/2005	Sections 509.Y., 509.Y.1.–11.
Section 509.Z	12/20/2005	Sections 509.Z., 509.Z.1.–6.
Section 509.AA	12/20/2005	Sections 509.AA., 509.AA.1.–15.
Section 603—Applicability		
Section 603	2/2/2000	Section 603, no longer in front of EPA—superseded.
Section 603.A	8/14/2009	Section 603.A.
Section 605		
Section 605.A	8/14/2009	Section 605.A. Definitions *Offset*.
Section 607—Determination of Creditable Emission Reductions		
Section 607.C	11/9/2007 8/14/2009	Sections 607.C.1, 607.C.4.a.i, and 607.C.4.a.ii. Section 607.C.4.b
Section 613—ERC Balance Sheet		
Section 613.B	5/5/2006	Section 613.B.
Section 613.B	5/5/2006	Section 613.B. (repealed).
Section 613.D	1/27/2003	Section 613.D.
Section 615—Schedule for Submitting Applications		
Section 615.B	1/27/2003	Section 615.B.
Section 615.C	8/14/2009	Sections 615.C., and 615.D.

We also are proposing to approve the December 25, 2005, submittal, as revised by the May 16, 2011, submittal. as part of the Louisiana NSR SIP because they meet the Major NSR reform requirements. The LDEQ also provided an October 6, 2008, letter, and a June 9, 2015, providing further clarification.

The EPA is proposing to find that the May 16, 2011, revisions to the Louisiana NNSR program at LAC 33:III.504 address all required NNSR elements for the implementation of the 1997 and 2006 $PM_{2.5}$ NAAQS. We note that the Louisiana NNSR program does not include regulation of VOCs and ammonia as $PM_{2.5}$ precursors. However, as section 189(e) of the Act requires regulation of $PM_{2.5}$ precursors that significantly contribute to $PM_{2.5}$ levels ''which exceed the standard in the area'' and Louisiana does not have a designated $PM_{2.5}$ nonattainment area; the revisions addressing only SO_2 and NO_X are not inconsistent with the requirements of the CAA. In the event that an area is designated nonattainment for the 2012 $PM_{2.5}$ NAAQS or any other future $PM_{2.5}$ NAAQS, Louisiana will have a deadline under section 189(a)(2) of the CAA to make a submission addressing the statutory requirements as to that area, including the requirements in section 189(e) that apply to the regulation of $PM_{2.5}$ precursors.

The EPA invites the public to make comments on all aspects of our proposed full approval of the Louisiana Air Permit Procedure Program, and to submit them by the Date listed above. We are accepting comments on this proposed action for 30 days. After reviewing the comments received, we will make a final determination of the approvability of the specified revisions to the Louisiana Major Air Permit Procedures and Regulations and Control of Emissions through the Use of Emission Reduction Credits (ERC) Banking Revisions in the **Federal Register**.

IV. Incorporation by Reference

In this action, we are proposing to include in a final rule regulatory text that includes incorporation by reference. In accordance with the requirements of 1 CFR 51.5, we are proposing to incorporate by reference revisions to the Louisiana regulations as described in the Proposed Action section above. We have made, and will continue to make, these documents generally available electronically through *www.regulations.gov* and/or in hard copy at the EPA Region 6 office.

V. Statutory and Executive Order Reviews.

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

- Is not a ''significant regulatory action'' subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- 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, 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 proposed 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).

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, and Volatile organic compounds.

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

Dated: August 5, 2015.

Ron Curry,

Regional Administrator, Region 6.

[FR Doc. 2015–20504 Filed 8–18–15; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R06–OAR–2012–0205; FRL–9931–37–Region 6]

Approval and Promulgation of Implementation Plans; Texas; El Paso Particulate Matter Contingency Measures

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve under the Federal Clean Air Act (CAA) State Implementation Plan (SIP) revisions submitted by the State of Texas. These revisions pertain to contingency measures for particulate matter in the City of El Paso. The affected contingency measures are the paving of alleys and sweeping of streets.

DATES: Written comments must be received on or before September 18, 2015.

ADDRESSES: Submit your comments, identified by Docket No. EPA–R06–OAR–2012–0205, by one of the following methods:

• *www.regulations.gov.* Follow the online instructions.

• *Email:* Jeffrey Riley at *riley.jeffrey@epa.gov.*

• *Mail or delivery:* Mr. Guy Donaldson, Chief, Air Planning Section (6PD–L), Environmental Protection Agency, 1445 Ross Avenue, Suite 1200, Dallas, Texas 75202–2733.

Instructions: Direct your comments to Docket ID No. EPA–R06–OAR–2012–0205. The EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information the disclosure of which is restricted by statute. Do not submit electronically any information that you consider to be CBI or other information whose disclosure is restricted by statute. The *www.regulations.gov* Web site is an ''anonymous access'' system, which means that the EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to the EPA without going through *www.regulations.gov,* your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, the EPA recommends that you include your name and other contact information in the body of your comment along with any disk or CD–ROM submitted. If the EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, the EPA may not be able to consider your comment. Electronic files should avoid the use of special characters and any form of encryption and should be free of any defects or viruses. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.* on the web, cloud, or other file sharing system). For additional information on submitting comments, please visit *http://www2.epa.gov/dockets/commenting-epa-dockets.*

Docket: The index to the docket for this action is available electronically at *www.regulations.gov* and in hard copy at EPA Region 6, 1445 Ross Avenue, Suite 700, Dallas, Texas. While all documents in the docket are listed in the index, some information may be publicly available only at the hard copy location (*e.g.,* copyrighted material), and some may not be publicly available at either location (*e.g.,* CBI).

FOR FURTHER INFORMATION CONTACT: Jeffrey Riley, 214–665–8542, *riley.jeffrey@epa.gov.* To inspect the hard copy materials, please schedule an appointment with Mr. Riley or Mr. Bill Deese at 214–665–7253.

SUPPLEMENTARY INFORMATION: Throughout this document wherever ''we'', ''us'', or ''our'' is used, we mean the EPA.

I. Background

A. El Paso PM_{10} History

Under the 1990 CAA Amendments, the City of El Paso, Texas was designated by operation of law as nonattainment of the 1987 National Ambient Air Quality Standard (NAAQS) for particulate matter (PM) with an aerodynamic diameter less than or equal to a nominal ten micrometers (PM_{10}) and classified as a moderate nonattainment area. The EPA approved on January 18, 1994 at 59 FR 02532, the El Paso PM_{10} Attainment Demonstration SIP revision. The SIP included, among other things, PM control measures and a Memorandum of Understanding between the City of El Paso and the State of Texas (MOU). The EPA approved three types of PM control measures as contingency measures because they went beyond reasonably available control measures and were not relied upon to show attainment or reasonable further progress (RFP). The three types of PM control measures approved as contingency measures were prescribed burning, residential burning, and fugitive dust control measures. The fugitive dust measures include not only controls for roads, streets, alleys,

parking lots, construction and demolition sites, and materials handling, but also a requirement that existing unpaved alleys be paved at a rate of 15 miles per year and mechanical sweepers remove soil from roads four times per year in the city limits and six times per week in the central business district. The SIP MOU between the City of El Paso and the State of Texas outlines the responsibilities and regulatory requirements for both parties in implementing the dust control methods.

B. Texas' Submittals

On March 7, 2012, the Texas Commission on Environmental Quality (TCEQ) submitted revisions to remove the requirement to pave alleys at the rate of 15 miles per year, and replace it with the following requirements: (1) All new alleys must be paved; (2) unpaved alleys cannot be used for residential garbage and recycling collection; and (3) recycled asphalt product (RAP) may be used as an alternate means of control for unpaved alleys. The revisions also changed the street sweeping frequency requirement from four times per year to three times per year in the city limits and from six times per week to four times per week in the central business district. TCEQ provided supplemental information dated December 3, 2014 updating the unpaved alleys inventory between 2010 through 2014.

II. The EPA's Evaluation

Section 110(l) of the CAA states that the EPA cannot approve a SIP revision if the revision would interfere with any applicable requirement concerning attainment and RFP, or any other applicable requirement of the CAA. Contingency Measures are a required element of an attainment demonstration, to be implemented if the area fails to attain. In this case, the City implemented early the contingency measures for paving of alleys and street sweeping on an on-going basis since 1991, even though not required by the EPA. Implementation of these measures has continued even after the 1994 attainment date. To demonstrate noninterference, Texas provided a qualitative analysis of the emission reductions achieved by these measures coupled with evaluation of air quality data to show that the level of emissions provided for by the revised early implemented contingency measures would not interfere with attainment or RFP.

At the time of the EPA's approval of the paving of alleys as a contingency measure, there were an estimated 89 miles of unpaved alleys, and all unpaved roads in the city of El Paso were required to be paved in order to reduce this source category's projected 1994 PM_{10} emissions by 0.5 percent. The State documents that the inventory of unpaved alleys in El Paso has decreased from 66% of total alley miles in 1991, to 16% of total alley miles in 2010, with approximately 23 miles of unpaved alleys remaining. The supplemental information provided to the EPA shows that between 2010 through 2014, the percentage of unpaved alleys has continued to decrease to 13% of the total inventory, with approximately 17 miles of unpaved alleys remaining. A total of 72 alley miles have been paved, the estimated emissions reductions for 1994 were met in 1994, and emissions reductions continued after that date. In the SIP submittal, the City commits to continue paving alleys. The additional compliance option of using RAP as a paving material helps ensure continued reduction of the inventory of uncontrolled alleys. The EPA agrees that RAP can be effective in suppressing dust.

The overall inventory of unpaved alleys in El Paso has continued to decrease, and thereby further reductions in PM_{10} levels have occurred well beyond the decrease in inventory of unpaved alleys approved as the contingency measures. Furthermore, there will be no increase in unpaved alleys because the SIP revision requires that all new alleys be paved. As a practical matter, the EPA recognizes that a rate of 15 miles of paving per year could not be maintained unless the City were to create unpaved alleys in order to pave them.

As additional support for the change to the rate of paving of alleys, the submitted revision prohibits garbage collection in unpaved alleys; the City since 1997 stopped garbage collection in paved and unpaved alleys. The significant paving progress, the requirement to pave new alleys, and prohibition of garbage collection in alleys have reduced the overall amount of fugitive dust in the El Paso area. In the SIP submittal, the City commits to continue sweeping on a different schedule. Because the emissions reductions from paving and street sweeping are from already-implemented contingency measures, thus above what was needed to show attainment, and the reductions continue, the PM reductions from these measures are above and beyond what is required to show continued maintenance of the NAAQS.

The State's submittal also relied upon ambient monitoring data for the years 2007 through 2009 to demonstrate there will be no interference with attainment. The El Paso area continues to monitor attainment of the PM_{10} NAAQS based on data for all three years from 2011 through 2013. See the TSD for additional information on the monitoring data.

Because the fugitive dust controls are early implemented contingency measures, they were not relied upon for demonstrating attainment or RFP; paving of new alleys is required; the inventory of pre-existing unpaved alleys has been reduced from 66% of total alleys to 13%; and paving continues using the effective RAP, the EPA finds that the SIP revision will not interfere with the area's ability to continue to attain or maintain the affected NAAQS or other CAA requirements.

III. Proposed Action

We are proposing to approve revisions to the Texas SIP that pertain to changes to the PM_{10} contingency measures in the City of El Paso. The State's revisions submitted on March 7, 2012 amend rule 30 TAC § 111.147(1)(E) by removing the requirement to pave alleys at the rate of 15 miles/year, and replace it with the following requirements:

(1) All new alleys must be paved;

(2) Alleys may not be used for trash pickup; and

(3) The use of recycled asphalt product as defined in § 111.145 and § 111.147(1) may be used as an alternate means of particulate matter control for alleys.

We also are proposing to approve 30 TAC § 111.145 and § 111.147(1) that define RAP, and 30 TAC § 111.147(2) that changes the sweeping frequency requirement from four to three time per year in the city limits and from six to four times per week in the El Paso central business district. We have evaluated the State's submittals and have determined that they meet the applicable requirements of the Clean Air Act and EPA regulations, and are consistent with EPA policy.

IV. Incorporation by Reference

In this action, we are proposing to include in a final rule regulatory text that includes incorporation by reference. In accordance with the requirements of 1 CFR 51.5, we are proposing to incorporate by reference revisions to the Texas regulations as described in the Proposed Action section above. We have made, and will continue to make, these documents generally available electronically through *www.regulations.gov* and/or in hard copy at the EPA Region 6 office.

V. Statutory and Executive Order Reviews

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

- Is not a ''significant regulatory action'' subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- Does not provide the EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the proposed 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).

List of Subjects in 40 CFR part 52

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

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

Dated: August 5, 2015.

Ron Curry,

Regional Administrator, Region 6.

[FR Doc. 2015–20499 Filed 8–18–15; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 56

[EPA–HQ–OAR–2014–0616; FRL–9929–98–OAR]

RIN 2060–AS53

Amendments to Regional Consistency Regulations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The U.S. Environmental Protection Agency (EPA) is proposing to revise its Regional Consistency regulations to ensure the EPA has the flexibility necessary to implement Clean Air Act (CAA or Act) programs on a national scale while addressing court rulings that concern certain agency actions under the Act. In addition, the proposed revisions would help to foster overall fairness and predictability regarding the scope and impact of judicial decisions under the CAA.

DATES: Comments must be received on or before October 19, 2015.

Public hearing. If requested by September 3, 2015, then we will hold a public hearing. Additional information about the hearing, if requested, will be published in a subsequent **Federal Register** document.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–HQ–OAR–2014–0616, to the *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or withdrawn. The EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. If you need to include CBI as part of your comment, please visit *http://www.epa.gov/dockets/comments.html* for instructions. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. For additional submission methods, the full EPA public comment policy, and general guidance on making effective comments, please visit *http://www.epa.gov/dockets/comments.html.*

FOR FURTHER INFORMATION CONTACT: For technical information, contact Greg Nizich, Air Quality Policy Division, Office of Air Quality Planning and Standards (C504–03), Environmental Protection Agency, Research Triangle Park, North Carolina 27711; telephone number (919) 541–3078; fax number (919) 541–5509; email address: *nizich.greg@epa.gov.*

To request a public hearing or information pertaining to a public hearing on this document, contact Ms. Pamela Long, Air Quality Policy Division, Office of Air Quality Planning and Standards (C504–01), Environmental Protection Agency, Research Triangle Park, North Carolina 27711; telephone number (919) 541–0641; fax number (919) 541–5509; email address: *long.pam@epa.gov.*

SUPPLEMENTARY INFORMATION:

Regulated entities. The Administrator determined that this action is subject to the provisions of CAA section 307(d). *See* CAA section 307(d)(1)(V) (the provisions of CAA section 307(d) apply to ''such other actions as the Administrator may determine). These are amendments to existing regulations and could affect your facility if it is the subject of a CAA-related ruling by a federal court.

The information in this **SUPPLEMENTARY INFORMATION** section of this preamble is organized as follows:

I. General Information
  A. Does this action apply to me?
  B. What should I consider as I prepare my comments for the EPA?
  C. Where can I get a copy of this document and other related information?
  D. How can I find information about a possible public hearing?
  E. What acronyms, abbreviations and units are used in this preamble?
II. Purpose
III. Background
  A. Purpose of the Regional Consistency Regulations
  B. Establishing the Regional Consistency Regulations
  C. Reasons for Revising the Regional Consistency Regulations
IV. Proposed Revisions to the Regional Consistency Rule

A. What are the proposed revisions to the 40 CFR part 56 Regional Consistency Regulations?
B. What is the basis for the EPA's approach?
V. Environmental Justice Considerations
VI. Statutory and Executive Order Reviews
A. Executive Order 12866: Regulatory Planning and Review and Executive Order 13563: Improving Regulation and Regulatory Review
B. Paperwork Reduction Act
C. Regulatory Flexibility Act
D. Unfunded Mandates Reform Act
E. Executive Order 13132: Federalism
F. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments
G. Executive Order 13045: Protection of Children From Environmental Health and Safety Risks
H. Executive Order 13211: Actions That Significantly Affect Energy Supply, Distribution or Use
I. National Technology Transfer and Advancement Act
J. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations
K. Determination Under Section 307(d)
VII. Statutory Authority

I. General Information

A. Does this action apply to me?

Entities potentially affected directly by this proposal include the EPA and other governments that are delegated administrative authority to assist the EPA with the implementation of air program federal regulations. Entities potentially affected indirectly by this proposal include owners and operators of sources of air emissions that are subject to CAA regulations.

B. What should I consider as I prepare my comments for the EPA?

1. Submitting CBI

Do not submit this information to the EPA through *http://www.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 the EPA, mark the outside of the disk or CD ROM as CBI and then identify electronically within the disk or CD ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed 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. Send or deliver information identified as CBI only to the following address: Tiffany Purifoy, OAQPS Document Control Officer (C404–02), Environmental Protection Agency, Research Triangle Park, NC 27711, Attention: Docket ID No. EPA–HQ–OAR–2014–0616.

2. Tips for Preparing Your Comments

When submitting comments, remember to:

- Identify the rulemaking by docket number and other identifying information (subject heading, **Federal Register** date and page number).
- Follow directions—The agency may ask you to respond to specific questions or organize comments by referencing a Code of Federal Regulations (CFR) part or section number.
- Explain why you agree or disagree; suggest alternatives and substitute language for your requested changes.
- Describe any assumptions and provide any technical information and/or data that you used.
- If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.
- Provide specific examples to illustrate your concerns, and suggest alternatives.
- Explain your views as clearly as possible, avoiding the use of profanity or personal threats.
- Make sure to submit your comments by the comment period deadline identified.

C. Where can I get a copy of this document and other related information?

In addition to being available in the docket, an electronic copy of this proposed rule will also be available on the World Wide Web. Following signature by the EPA Administrator, a copy of this proposed rule will be posted in the regulations and standards section of our New Source Review (NSR) Web site, under Regulations & Standards, at *http://www.epa.gov/nsr.*

D. How can I find information about a possible public hearing?

To request a public hearing or information pertaining to a public hearing on this document, contact Ms. Pamela Long, Air Quality Policy Division, Office of Air Quality Planning and Standards (C504–03), Environmental Protection Agency, Research Triangle Park, North Carolina 27711; telephone number (919) 541–0641; fax number (919) 541–5509; email address: *long.pam@epa.gov.*

E. What acronyms, abbreviations and units are used in this preamble?

The following acronyms, abbreviations and units are used in this preamble:

CAA or Act Clean Air Act
EPA U.S. Environmental Protection Agency
FIP Federal Implementation Plan
ICR Information Collection Request
NSR New Source Review
NTTAA National Technology Transfer and Advancement Act
OMB Office of Management and Budget
PSD Prevention of Significant Deterioration
RFA Regulatory Flexibility Act
SBA Small Business Administration
SIP State Implementation Plan
UMRA Unfunded Mandates Reform Act

II. Purpose

The purpose of this rulemaking is to revise the EPA's Regional Consistency regulations—40 CFR part 56. Specifically, we are proposing to add a provision to the Regional Consistency regulations to accommodate the implications of federal court decisions that result from challenges to locally or regionally applicable actions. As explained more fully below, revising the Regional Consistency regulations to accommodate the implications of such federal court decisions is consistent with general principles of common law, the judicial review provisions of the CAA, and CAA section 301(a)(2). Furthermore, the proposed revisions will help to foster overall fairness and predictability regarding the scope and impact of judicial decisions under the CAA.

III. Background

A. Purpose of the Regional Consistency Regulations

The CAA calls for the EPA to implement the Act in partnership with state, local and tribal governments. *See Mountain States Legal Found.* v. *Costle,* 630 F.2d 754, 757 (10th Cir. 1980). While the roles of that partnership vary depending on the nature of the air pollution problem, generally the EPA issues national standards or federal requirements to address air pollution, and state, local and tribal air agencies (hereinafter referred to simply as ''air agencies'') assume primary responsibility for implementing those standards and requirements. For example, the Act requires the EPA to establish, review and revise national ambient air quality standards (NAAQS) for certain common air pollutants. The Act then assigns air agencies responsibility for developing enforceable state implementation plans (SIPs) to meet those standards. The EPA is required to review each SIP to

determine if it meets all of the applicable requirements of the CAA. If the SIP is approved, the air agency will implement the SIP in order to provide for attainment and maintenance of the NAAQS in areas under its jurisdiction. The EPA will provide technical and policy assistance to the air agency and also maintain an oversight role to ensure that the program is adequately implemented and enforced. If the EPA finds that an air agency has failed to submit a required SIP, or that an air agency's SIP is incomplete, or if the EPA disapproves a SIP in whole or in part, the CAA requires that the EPA promulgate a federal implementation plan (FIP) to provide for attainment and maintenance of the NAAQS in the corresponding area. The Act also requires preconstruction permits for major new and modified stationary sources of air pollution. In most areas, air agencies serve as the CAA permitting authority under an approved SIP; some air agencies implement the federal program under a delegation agreement; elsewhere, the EPA is the permitting authority under a FIP.

How the EPA carries out its role in this cooperative partnership under the CAA is influenced by how the EPA is organized. The EPA is composed of various headquarters offices, each of which is responsible for nationwide execution of our programs, and ten regional offices, each of which is responsible for the execution of our programs within several states and territories. *See* 40 CFR part 1, subparts A and C (for more information, *see* the EPA Organizational Chart located at *http://www2.epa.gov/aboutepa/epa-organization-chart*). In carrying out responsibilities under the CAA, the EPA Administrator relies on input from various offices in headquarters, especially those within the Office of Air and Radiation, and in the regional offices. In fact, the CAA provides the EPA Administrator with the authority to delegate powers and duties necessary to carry out the Act to EPA officials in both the headquarters and regional offices (CAA section 301(a)(1)). Returning to the NAAQS example, headquarters offices take the lead in promulgating the NAAQS, while regional offices are primarily responsible for working directly with air agencies to assist them in their SIP submissions and approval or disapproval of such SIPs. In certain circumstances, headquarters and regional offices consult in developing a proposed and/or final decision regarding approval or disapproval of the SIP.

B. Establishing the Regional Consistency Regulations

In the 1977 CAA Amendments, Congress added section 301(a)(2) (42 U.S.C. 7601) in recognition of the role that staff from both headquarters and regions played in carrying out the Act's programs. CAA section 301(a)(2) required the EPA Administrator to promulgate regulations ''establishing general applicable procedures and policies'' for the EPA regional officers and employees to follow when carrying out activities delegated to them under the Act. Among other things, the CAA stated that these regulations should ''assure fairness and uniformity in the criteria, procedures, and policies applied'' by the EPA regional offices in their CAA activities and ''provide a mechanism'' to identify and standardize any inconsistent or varying criteria, procedures, and policies used by the EPA employees.

Thereafter, the EPA took a number of actions to promulgate the Regional Consistency regulations required in CAA section 301(a)(2). In 1978, the EPA issued an Advanced Notice of Proposed Rulemaking seeking comment on a number of consistency issues and inviting interested persons to participate in a series of public workshops to discuss the development of the Regional Consistency regulations (43 FR 4872). In 1979, after receiving those comments and listening to input provided at the public workshops from representatives of industry, state, and public interest groups, the EPA issued its Notice of Proposed Rulemaking for the Regional Consistency regulations (44 FR 13043). Finally, in 1980, the EPA promulgated its final Regional Consistency regulations in 40 CFR part 56.

As the EPA explained when it finalized the regulations, the ''intended effect'' of these regulations was ''to assure fair and consistent application of rules, regulations and policy throughout the country by assuring that the action of each individual EPA Regional Office is consistent with one another and national policy'' (45 FR 85400). Generally, the Regional Consistency regulations: (1) State the EPA policy of assuring ''fair and uniform'' application of the EPA rules, procedures, and policies necessary to implement and enforce the Act (*see* 56 CFR 56.3); (2) provide mechanisms for such application by headquarters and regional office employees (*see* 56 CFR 56.4 and 56.5, respectively); (3) require various headquarters offices to establish systems to disseminate policy and guidance relating to air programs (*see* 56 CFR 56.6); and (4) utilize the existing grants program for yearly evaluations of state performance in implementing and enforcing the Act (*see* 56 CFR 56.7).

The EPA has been acting under these regulations for more than 30 years to address consistency issues regarding various CAA programs, policy, and guidance. In this document, we are proposing to revise the rules to address a very specific consistency issue—how to treat Federal court decisions regarding locally or regionally applicable actions that may affect consistent application of national programs, policy, and guidance.

C. Reasons for Revising the Regional Consistency Regulations

The EPA is undertaking this proposed revision to the Regional Consistency regulations, in part, as a result of a recent decision of the U.S. Court of Appeals for the District of Columbia Circuit (D.C. Circuit Court) in *National Environmental Development Association's Clean Air Project* v. *EPA,* No. 13–1035 (D.C. Cir., May 30, 2014). That litigation involved a December 2012 memorandum from EPA headquarters to the EPA regions regarding the limited scope of a court decision issued by the Sixth Circuit Court of Appeals addressing the EPA's interpretation of national permitting regulations as applied to a specific, local permitting decision.[1] *See* Memorandum from Stephen D. Page, Director of the EPA's Office of Air Quality Planning and Standards, to Regional Air Division Directors, titled *Applicability of the Summit Decision to the EPA Title V and NSR Source Determinations* (December 21, 2012; available at *http://www.epa.gov/region7/air/title5/t5memos/inter2012.pdf*) (hereinafter, ''December 2012 memorandum''). The December 2012 memorandum reflected the EPA application of a widely recognized legal doctrine referred to as intercircuit nonaquiescence, a practice in which a decision by a federal circuit

[1] That decision, *Summit Petroleum Corp.* v. *EPA et al.,* Consolidated Case Nos. 09–4348 and 10–4572 (6th Cir. Aug. 7, 2012), addressed the scope of the term ''adjacent'' as used in the EPA's source determination regulations in the title V permitting program, which are similar to the source determination regulations used in the new source review and prevention of significant deterioration permitting programs, *see* 40 CFR 52.21(b)(6) and 71.2. The EPA is currently planning a separate rulemaking to address the term ''adjacent'' in those permitting regulations, and we direct any commenters wishing to address the *Summit* decision or those regulations to do so in that separate action. *See http://resources.regulations.gov/public/component/main?_dmfClientId=1434045425242&_dmfTzoff=240* for the EPA's Spring 2015 Regulatory Agenda item titled, *Source Determination for Certain Emissions Units in the Oil and Natural Gas Sector,* RIN 2060–AS06.

court is binding only in those areas (in this case, specific states and the associated EPA regions) subject to the direct jurisdiction of the ruling circuit court. Intercircuit nonaquiescence is a practice that the EPA has historically followed with regard to decisions issued by both circuit and district courts and arising in local, non-nationwide actions.[2] Therefore, in the December 2012 memorandum, the EPA continued that historic practice and noted that while the agency would follow the Sixth Circuit's decision in those states under the jurisdiction of the Sixth Circuit, the agency's longstanding interpretation of the permitting regulations addressed by the Sixth Circuit decision would continue to apply nationwide outside the Sixth Circuit.

On February 19, 2013, the National Environmental Development Association's Clean Air Project (NEDACAP) filed a petition for review with the D.C. Circuit Court on the December 2012 memorandum. NEDACAP alleged that the December 2012 memorandum violated both CAA section 301(a)(2) and the EPA's Regional Consistency regulations by establishing inconsistent permit criteria in different parts of the country.

In May 2014, the D.C. Circuit Court issued a decision vacating the December 2012 memorandum. The D.C. Circuit Court agreed with NEDACAP that the memorandum was inconsistent with the EPA's Regional Consistency regulations located at 40 CFR part 56.[3] The court found that the Regional Consistency regulations ''strongly articulate the EPA's firm commitment to national uniformity in the applications of its permitting rules'' without any indication that ''EPA intended to exempt variance created by a judicial decision.'' Slip op. at 17. The D.C. Circuit concluded that the EPA's current regulations ''preclude EPA's intercircuit nonaquiescence in this instance. . . .'' Slip op. at 19.

The D.C. Circuit Court presented three options that the EPA could pursue in response to an adverse decision: Revise the underlying regulation; appeal the decision; or revise the Regional Consistency regulations. By making the revisions proposed in this rulemaking, the EPA is following one of the options suggested by the court. Slip op. at 18.

First, the court suggested that the EPA consider revising the underlying regulations at issue in the Sixth Circuit decision. *Id* While this approach may resolve the narrow issue that is the subject of the Sixth Circuit decision, and the EPA is in fact in the process of revising the permitting regulations that were the subject of the Sixth Circuit Court decision and the December 2012 memorandum, this approach generally would require a new rulemaking following each adverse court decision regarding an issue of local applicability. Each national rulemaking of this nature would likely take more than a year—and possibly several years—to complete. By revising the EPA's Regional Consistency regulations to fully allow for intercircuit nonaquiescence, the agency can through one rulemaking save the considerable time and resources potentially required by several narrow rulemakings.

Second, the court suggested that the EPA could have appealed the Sixth Circuit decision to the U.S. Supreme Court. Slip op. at 18. However, because the U.S. Supreme Court grants only about one percent of the petitions for certiorari (*i.e.,* a petition requesting review of a lower court's decision) filed each year, there is a strong likelihood that the U.S. Supreme Court would decline to review a lower court's decision.[4] Were we to rely solely on this option, absent review by the U.S. Supreme Court, a single federal court decision regarding an action of local applicability could change the EPA's policy nationwide unless and until the EPA undertook a rulemaking (*see* first option above). As discussed further below, this outcome would be inconsistent with the judicial review provisions of CAA section 307(b)(1).

Third, the court suggested that the EPA could revise the Regional Consistency regulations ''to account for regional variances created by judicial decisions or circuit splits.'' Slip op. at 18. This proposed rulemaking follows this option because we believe it most effectively addresses the issue presented by an adverse federal court decision addressing an action of local or regional applicability. As discussed further below, this proposed revision also would accommodate the EPA's proper and longstanding application of the doctrine of intercircuit nonaquiescence in future cases while eliminating the need for several lengthy, narrow rulemakings or review of a lower court's decision by the U.S. Supreme Court.

IV. Proposed Revisions to the Regional Consistency Rule

This section discusses the proposed revisions to the Regional Consistency regulations and our rationale for proposing those changes. We solicit public comment on the changes being proposed and will consider those comments in developing the final rule.

A. What are the proposed revisions to the 40 CFR part 56 Regional Consistency Regulations?

In this action, we propose three specific revisions to the general consistency policy put forward in the existing Regional Consistency regulations, 40 CFR part 56, to accommodate the implications of judicial decisions addressing ''locally or regionally applicable'' actions. Specifically, we propose to revise 40 CFR 56.3 to add a provision to acknowledge an exception to the ''policy'' of uniformity to provide that a decision of a federal court that arises from a challenge to ''locally or regionally applicable'' actions would not apply uniformly nationwide, and that only decisions of the U.S. Supreme Court and decisions of the D.C. Circuit Court that arise from challenges to ''nationally applicable regulations . . . or final action'' would apply uniformly nationwide. We also propose to revise 40 CFR 56.4 to add a provision to clarify that EPA headquarters offices' employees would not need to issue mechanisms or revise existing mechanisms developed under 40 CFR 56.4(a) to address federal court decisions arising from challenges to ''locally or regionally applicable'' actions. Lastly, we propose to revise 40 CFR 56.5(b) to clarify that EPA regional offices' employees would not need to seek headquarters office concurrence to act inconsistently with national policy or interpretation if such action is required by a federal court decision arising from challenges to ''locally or regionally applicable'' actions. In other words, through this rulemaking, the agency would be authorizing a region to act inconsistently with nationwide policy or interpretation to the extent that the region must do so in order to act consistently with a decision issued by a federal court that has direct jurisdiction over the region's action.

The manner in which the proposed revisions would affect the EPA's operational consistency may be explained by way of example related to a challenge to the title V applicability determination made by EPA Region 5

[2] While intercircuit nonaquiescence is generally focused on circuit court decisions, the general principle also applies to decisions issued by district courts, which are by their very nature limited in scope, as discussed later in this preamble. For ease of discussion, this preamble will generally use ''intercircuit nonaquiescence'' to address locally and regionally applicable decisions issued by both circuit and district federal courts.

[3] The D.C. Circuit Court did not reach NEDACAP's argument that the memorandum was also inconsistent with the CAA.

[4] *See http://dailywrit.com/2013/01/likelihood-of-a-petition-being-granted/* which cites the following statistics: Petitions granted overall in the 2011–2012 term: .862 percent, and in the 2012–2013 term: 1.03 percent.

for Summit Petroleum's oil and gas operations on tribal land in Michigan. This challenge led to the December 2012 memorandum reviewed in the D.C. Circuit Court's *NEDACAP* decision. In the course of a source-specific title V permitting action, EPA Region 5 had determined that Summit Petroleum's oil and gas production wells and gas sweetening plant should be considered adjacent, based on their proximity and interrelatedness to one another, and thus emissions from these units were aggregated into a single source for title V permitting purposes (*see* 40 CFR 71.2). Summit Petroleum challenged that determination in the Sixth Circuit, and the court ultimately issued a decision that vacated and remanded Region 5's determination. *Summit Petroleum Corp.* v. *U.S. EPA,* 690 F3d 733 (6th Cir. 2012). Although the EPA argued that its longstanding interpretation of ''adjacent'' as used in the source determination regulations included consideration of an activities' functional interrelatedness, *see id.* at 744–75 (noting the EPA's citation to nine such source determinations spanning more than 30 years), the Sixth Circuit found that the term ''adjacent'' as used in the EPA's source determination regulations was unambiguous and related only to physical proximity, and thus could not include consideration of functional interrelatedness, *see id.* at 741–744. The EPA sought rehearing of the *Summit* case, but the request was ultimately denied on October 29, 2012.

Thereafter, a number of EPA regional offices sought guidance from headquarters offices regarding the impact of the *Summit* decision on various permitting actions, sometimes in an effort to answer questions they were receiving from state permitting authorities and permittees. Accordingly, in December 2012, an official in EPA headquarters issued a memorandum to the Air Division Directors at the EPA's regional offices explaining the applicability of the *Summit* decision to other EPA title V and NSR source determinations.[5] The December 2012 memorandum described briefly the determination at issue in the *Summit* case, and the Sixth Circuit's decision. It explained that under the court's decision, the EPA could no longer consider interrelatedness in determining the adjacency of different emissions units in title V or NSR permitting decisions within the Sixth Circuit's jurisdiction (*i.e.,* Michigan, Ohio, Tennessee and Kentucky). The December 2012 memorandum noted that the agency was ''still assessing how to implement this decision in its permitting actions in the 6th Circuit,'' and explained that outside the Sixth Circuit, the EPA intended to continue to apply its longstanding approach of considering both the proximity and interrelatedness of operations in determining whether emissions units are ''adjacent'' for permitting purposes.

If the proposed revisions to the Regional Consistency regulations had already been in place, this type of memorandum from EPA headquarters would not have been necessary because regions, states, and other potentially affected entities would have had certainty and predictability regarding the application of such a judicial decision—they would have known that this type of permit-specific, local and regional decision would only apply in the areas under the jurisdiction of the Sixth Circuit. Accordingly, with the changes proposed, it would have been clear to everyone that EPA regions would not be bound to apply the findings of the *Summit* decision in states outside the Sixth Circuit, and could continue to apply the longstanding practice that had not been successfully challenged in other federal circuit courts in their regions or decided nationally by the D.C. Circuit Court or U.S. Supreme Court.

If the proposed revisions to the Regional Consistency regulations are finalized, it will be clear that an adverse federal court decision in a case regarding locally or regionally applicable actions does not apply nationwide. As soon as these regulatory changes are effective, the EPA regional offices that are outside of the jurisdiction of a court will be able to apply the agency's nationwide practices in a consistent manner in any actions they take going forward, and they will not need to seek concurrence from headquarters offices for that continued application. Likewise, under the revised regulations, it would be clear that any such adverse decision that is or has been issued would be applied to those areas or parties that are under the issuing court's jurisdiction in any regional actions going forward. Moreover, those regions would not need to seek concurrence from EPA headquarters offices in order to follow the relevant decision, even if doing so would mean they were acting inconsistently with other EPA regional offices or national policy.

Note that these proposed regulatory changes, if finalized, would only apply to activities conducted at EPA offices (both regional and headquarters) and also to states delegated to implement EPA rules. The proposed revisions would not affect a state implementing its SIP-approved program, as they are bound to follow their own regulations.

B. What is the basis for the EPA's approach?

In this rulemaking action, we are proposing to revise 40 CFR part 56 to ''account for regional variances created by a judicial decision or circuit splits'' by creating a specific accommodation to the general policy of uniformity of EPA actions. As explained more fully below, revising the Regional Consistency regulations to accommodate federal circuit and district court decisions that result from challenges to locally or regionally applicable actions, and thus providing for intercircuit nonaquiescence, is consistent with general principles of common law, CAA sections 301(a)(2) and 307(b)(1). It will also help to foster overall fairness and predictability regarding the scope and impact of judicial decisions under the CAA, and is a reasonable extension of the EPA's existing part 56 regulations.

1. Accommodating Intercircuit Nonaquiescence in the Regional Consistency Regulations Is Consistent With General Principles of Common Law

Federal courts are courts of limited jurisdiction; they have only the authority to hear and decide cases granted to them by Congress. *See generally* U.S. Constitution, Article II, Section 1 (''The judicial Power of the United States, shall be vested in one supreme Court, and in such inferior Courts as the Congress may from time to time ordain and establish.''). Thus, Congress must grant a federal court subject matter jurisdiction over the type of dispute in question.

A court of appeals generally hears appeals from the district courts located within its circuit, and the circuit is delineated by the states it contains. *See generally* 28 U.S.C. 41 (establishing the number and composition of the thirteen circuits; the composition is denoted by the names of states in a circuit).[6] As a general matter, while an opinion from one circuit court of appeals may be persuasive precedent, it is not binding on other courts of appeals. *See Hart* v. *Massanari,* 266 F. 3d 1155, 1172–73 (9th

[5] Memorandum from Stephen Page, Director of the EPA's Office of Air Quality Planning and Standards to the Air Division Directors. (Titled, *Applicability of the Summit Decision to the EPA Title V and NSR Source Determinations;* available at *http://www.epa.gov/region7/air/title5/t5memos/inter2012.pdf*)

[6] The exception is the Federal Circuit, which hears certain types of cases from anywhere in the country.

Cir. 2001). As the Ninth Circuit explained, ''[T]here are also very important differences between controlling and persuasive authority. As noted, one of these is that, if a controlling precedent is determined to be on point, it must be followed. Another important distinction concerns the scope of controlling authority. Thus, an opinion of our court is binding within our circuit, not elsewhere in the country. The courts of appeals, and even the lower courts of other circuits, may decline to follow the rule we announce—and often do. *This ability to develop different interpretations of the law among the circuits is considered a strength of our system. It allows experimentation with different approaches to the same legal problem, so that when the Supreme Court eventually reviews the issue it has the benefit of ''percolation'' within the lower courts.'' Id.* (emphasis added). This last point is critical to an effective federal judiciary. By revising the regulations in part 56 to fully accommodate intercircuit nonaquiescence, the EPA is acting consistently with the purpose of the federal judicial system by allowing the robust percolation of case law through the circuit courts until such time as U.S. Supreme Court review is appropriate. The vast majority of cases that the U.S. Supreme Court hears arise from circuit splits.[7] Thus, revising the Regional Consistency regulations to accommodate intercircuit nonaquiescence advances the federal judiciary's ability to experiment with different approaches to similar legal problems, and the development of a circuit split that could eventually lead to U.S. Supreme Court review of important issues under the CAA.

As the U.S. Supreme Court has explained, circuit splits are a common and acknowledged aspect of the federal legal system. *E. I. du Pont de Nemours & Co.* v. *Train,* 430 U.S. 112, 135 n.26 (1977) (there is wisdom in ''allowing difficult issues to mature through full consideration by the courts of appeals''). With regard to judicial consideration of the actions and decisions of federal agencies, a judge on the D.C. Circuit Court has noted that ''after one circuit has disagreed with its position, an agency is entitled to maintain its independent assessment of the dictates of the statutes and regulations it is charged with administering, in the hope that other circuits, the U.S. Supreme Court, or Congress will ultimately uphold the agency's position.'' *Indep. Petroleum Ass'n of Am.* v. *Babbitt,* 92 F.3d 1248, 1261 (D.C. Cir. 1996) (J. Rogers, dissenting). Likewise, legal scholars have explained that ''compel[ling] an agency to follow the adverse ruling of a particular court of appeals would be to give that court undue influence in the intercircuit dialogue by diminishing the opportunity for other courts of proper venue to consider, and possibly sustain, the agency's position.'' S. Estreicher & R. Revesz, Nonaquiescence by Federal Administrative Agencies, 98 Yale L. J. 679, 764 (Feb.1989). As the U.S. Supreme Court has noted, preventing the government from addressing an issue in more than one forum ''would substantially thwart the development of important questions of law by freezing the first final decision rendered on a particular legal issue.'' *United States* v. *Mendoza,* 464 U.S. 154, 160 (1984). In light of this important function, the U.S. Supreme Court has sought to preserve government discretion to relitigate an issue across different circuits. *Id.* at 163. Thus, though circuit conflict may undermine national uniformity of federal law to some degree for some period of time, it also advances the quality of decisions interpreting the law over time. *See generally Atchison, Topeka & Santa Fe Ry. Co.* v. *Pena,* 44 F.3d 437, 446 (7th Cir. 1994) (J. Easterbrook, concurring) (agencies and courts balance whether ''it is more important that the applicable rule of law be settled'' or ''that it be settled right'') (internal quotation and citation omitted).

2. Accommodating Intercircuit Nonaquiescence in the Regional Consistency Regulations Is Consistent With the CAA's Judicial Review Provisions

We are also proposing these revisions to ensure that the Regional Consistency regulations are in harmony with the CAA's judicial review provisions. Congress specifically addressed in the CAA the ability of the various courts of appeals to hear appeals of decisions of the EPA. Congress created a very specific system of judicial review to address how the CAA is implemented. Specifically, Congress granted the authority to review agency actions of nationwide applicability under the CAA only to the D.C. Circuit Court. In 1977, at the same time it added the directive for the EPA to promulgate what would ultimately become the Regional Consistency regulations, Congress amended the Act to ensure that the D.C. Circuit Court, and no other circuit courts, would review nationally applicable regulations. Specifically, CAA section 307(b)(1) states that ''A petition for review of action of the Administrator in promulgating any national primary or secondary ambient air quality standard, any emission standard or requirement under section 112, any standard of performance or requirement under section 111, any standard under section 202 (other than a standard required to be prescribed under section 202(b)(1)), any determination under section 202(b)(5), any control or prohibition under section 211, any standard under section 231, any rule issued under section 113, 119, or under section 120, *or any other nationally applicable regulations promulgated, or final action taken, by the Administrator under this Act may be filed only in the United States Court of Appeals for the District of Columbia.''* CAA section 307(b)(1) (emphasis added). Congress then declared that other final CAA actions of the Administrator that are ''locally or regionally applicable may be filed only in the United States Court of Appeals for the appropriate circuit.'' *Id.* For example, under this system, challenges to the EPA's regulations addressing prevention of significant deterioration (PSD)—which are nationally applicable—would be heard in the D.C. Circuit Court, while challenges to application of those PSD regulations to specific permitting actions—which are locally applicable—would be heard in the appropriate circuit court. *See, e.g., Alabama Power* v. *Costle,* 636 F.2d 323 (D.C. Cir. 1979) (challenge to the EPA's PSD rules) and *Sierra Club* v. *EPA,* 499 F.3d 653 (7th Cir. 2007) (challenge to the application of those rules to a specific permitting action).

The Committee Report accompanying the bill that ultimately became the CAA Amendments of 1977 states that the amendments to section 307(b)(1) make ''it clear that any nationally applicable regulations promulgated by the Administrator under the Clean Air Act could be reviewed only in the U.S. Court of Appeal for the District of Columbia.'' H.R.Rep. No. 95–294, p. 323 (1977). *See also Harrison* v. *PPG Industries, Inc. et al.,* 100 S.Ct. 1889, 1896 (1980) (noting that the legislative history focused on the proper venue between the D.C. Circuit Court and other federal courts). Only ''essentially locally, statewide, or regionally applicable rules or orders are to be reviewed in U.S. court of appeals for the circuit in which such locality, State or region is located.'' H.R.Rep. No. 95–294,

[7] *See* Ryan Stephenson, Federal Circuit Case Selection at the U.S. Supreme Court: An Empirical Analysis, 102 Georgetown L.J. 272, 273 (2013) (''As many as 70% of the cases before the Court where certiorari has been granted present clear conflicts between either the federal courts of appeals or state courts of last resort.'').

at 323. The legislative history notes that in adopting this revision, the committee was largely approving portions of recommendation 305.76–4(A) of the Administrative Conference of the United States, which deals with venue, as well as the separate statement of G. William Frick that accompanied the Administrative Conference's views. *Id.* at 324. In his statement, Mr. Frick stated that ''Congress intended review in the D.C. Circuit of 'matters on which national uniformity is desirable.' Among the reasons for this are the D.C. Circuit's obvious expertise in administrative law matters and its sensitivity to Congressional mandates.'' 41 FR 56767, 56769 (1976). Mr. Frick went on to note that the D.C. Circuit Court had become quite familiar with the CAA, while other circuit courts lacked frequent exposure to the Act and its legislative history.

By placing review of nationally applicable decisions in the D.C. Circuit Court alone, Congress struck the balance between the countervailing values of improved development of the law on the one hand and national uniformity on the other. By consolidating review of nationally applicable final agency actions in the D.C. Circuit Court, Congress advanced the objective of ''even and consistent national application'' of certain EPA regulations (and other ''final'' actions) that are national in scope. *Oljato Chapter of Navajo Tribe* v. *Train,* 515 F.2d 654, 660 (D.C. Cir. 1975) (quoting S. Rep. No. 91–1196, 91st Cong., 2d Sess., 41(1970)). At the same time, Congress left the door open to intercircuit conflicts by granting jurisdiction over locally or regionally applicable ''final'' actions—like the applicability determination discussed in the example below—to the regionally-based courts of appeal. There is nothing in the legislative history to suggest that at the same time, Congress intended for the Regional Consistency provisions to somehow upset this careful balance and require the EPA to apply a locally or regionally applicable decision in all regions in order to maintain consistency.

This proposal would firmly reestablish the balance that Congress struck in CAA section 307(b)(1), to the extent the current Regional Consistency regulations upset that balance. Thus, this proposal would ensure that only the U.S. Supreme Court and the D.C. Circuit Court would issue decisions with mandatory nationwide effect, which is consistent with the clear statutory language of CAA section 307(b)(1), as well as its legislative history. As explained below, there is nothing in the language or intent of CAA section 301(a)(2) that trumps the clear statutory directive of CAA section 307(b)(1) establishing which courts have jurisdiction over which final agency actions.[8] Therefore, we believe it is reasonable for the EPA to revise the Regional Consistency regulations to provide a specific accommodation for locally and regionally applicable court decisions.

3. Accommodating Intercircuit Nonaquiescence in the Regional Consistency Regulations Is Consistent With CAA Section 301(a)(2)

A specific accommodation for locally and regionally applicable court decisions also is compatible with the statutory language and Congressional intent of CAA section 301(a)(2). As described above, those provisions require the EPA Administrator to develop regulations to ''assure fairness and uniformity'' of agency actions. Notably, there is nothing in the text of CAA section 301(a)(2) or in the limited legislative history of that provision that would suggest Congress intended for the requirement to promulgate fairness and uniformity regulations under CAA section 301 to either upset the balance Congress struck when establishing judicial review provisions in CAA section 307, or disrupt the general principles of common law that have allowed for the percolation of issues up through the various circuit courts, as discussed above. Section 301(a)(2) of the Act does not specifically discuss whether the fairness and uniformity objectives must be applied to all court decisions; nor does it address how the agency should respond to adverse court decisions. Congress also did not include language in CAA section 301 that would expressly prohibit the EPA from promulgating regulations that accommodate intercircuit nonaquiescence, consistent with CAA section 307.

In addition, the text of CAA section 301(a)(2)(A) necessitates a balance between uniformity *and* fairness; however, one does not always guarantee the other in all circumstances. These revisions would ensure the EPA has the flexibility to maintain that balance, as appropriate.

Fairness is defined by one source as ''agreeing with what is thought to be right or acceptable; treating people in a way that does not favor some over others'' (*http://www.merriam-webster.com/dictionary/fairness*). As we have already discussed, it is generally acceptable to apply a Circuit Court decision only in those states over which the circuit has jurisdiction. And, as explained using an example below, there are circumstances under which applying the decision of a lower court nationwide could favor sources located in the applicable lower court's jurisdiction over those located in other circuits. As such, a standard that would specifically allow for intercircuit nonaquiescence for all CAA decisions other than those issued by the D.C. Circuit Court in response to challenges of nationwide actions would provide a uniform standard for the EPA's application of court decisions that could be anticipated by those who implement the regulations and the regulated community.

It is not clear that the automatic, immediate nationwide application of one court's decision based on the specific facts of a locally-applicable decision would always be ''fair'' in the absence of the type of accommodation proposed here. For example, consider widget factories that have been diligently complying with the EPA's longstanding interpretation that the Act supports permit limits of 1.00 ppm or lower (*i.e.,* more stringent) at widget extrusion units at major sources. However, in a challenge by a community group to a single widget factory permit in New England containing a limit of 1.00 ppm for the extrusion units, the First Circuit Court of Appeals issues a ruling with a different interpretation of the Act than the EPA's that supports a limit of 0.50 ppm or lower. A reasonable person might not find it fair to require then that all widget factories nationwide get permit revisions to establish limits of 0.50 ppm. Those factories would have been relying on the 1.00 ppm limit for years when planning budgets and making business decisions, and would likely find complying with the lower limit costly and disruptive. Arguably, fairness might be better served by limiting the impact of the First Circuit decision to the source whose permit was before the First Circuit and any other widget factories within the jurisdiction of the First Circuit, while the EPA determines how best to proceed.

While CAA section 301(a)(2) directed the EPA to create mechanisms for identifying and standardizing various criteria, there is nothing to suggest that

[8] Moreover, to the extent there is a conflict, a canon of statutory construction states that the specific—such as the language in CAA section 307(b)(1) addressing which courts may rule on issues of national applicability—trumps the general—such as the language in section 301(a)(2) regarding regulations on fairness and uniformity. *See RadLAX Gateway Hotel, LLC* v. *Amalgamated Bank,* 132 S. Ct. 2065, 2070–71 (2012) (''[I]t is a commonplace of statutory construction that the specific governs the general.''' *quoting Morales* v. *Trans World Airlines, Inc.,* 504 U.S. 374, 384 (1992)).

such standardization requires exact duplication by all EPA regions in all circumstances, including regional responses to court decisions. CAA section 301 generally relates to procedures to be followed by the EPA employees in carrying out a delegation of authority from the Administrator. Paragraph 301(a)(1) of the Act authorizes the Administrator to delegate certain powers to other EPA officials, while section 301(a)(2) of the Act requires the Administrator to establish ''general applicable procedures and policies for regional officers and employees'' to follow in carrying out delegated authorities. CAA section 301(a)(1)–(2). While the statute further directs that such regulations shall be designed to, among other requirements, ''assure fairness and uniformity in the criteria, procedures, and policies applied by the various regions in implementing and enforcing the chapter,'' on its face, CAA section 301(a)(2) does not impose a standalone requirement to attain uniformity. *Cf. Air Pollution Control Dist.* v. *EPA,* 739 F.2d 1071, 1085 (6th Cir. 1984) (rejecting claim that CAA section 301(a)(2) establishes a substantive standard that requires similar or uniform emission limitations for all sources). In addition, the section does not direct the Administrator to revise an existing regulation following an adverse court decision in a local or regional case, or otherwise constrain the EPA's existing regulatory authority. Instead, the provision requires the EPA to establish *procedures* that apply to its regional officers and employees, but it does not address whether or how the EPA should address judicial decisions in those procedures. To the extent that Congress prioritized judicially-created uniformity, this was expressed in CAA section 307(b)(1)—which, as discussed above, allows for regional divergence among circuit courts—not CAA section 301(a)(2)(A).

4. Accommodating Intercircuit Nonaquiescence in the Regional Consistency Regulations Fosters Overall Fairness and Predictability Regarding the Scope and Impact of Judicial Decisions Under the CAA

Revising the Regional Consistency regulations to include a specific accommodation for intercircuit nonaquiescence in appropriate circumstances would also help to assure fairness and predictability in the implementation of the CAA overall. Such an accommodation would foster predictability by ensuring that, unless there is an affirmative nationwide and deliberate change in the EPA's rules or policies, lower court decisions would apply only in those states/areas within the jurisdiction of the lower court, with the exception of the D.C. Circuit Court reviewing final agency actions of national applicability, consistent with CAA section 307(b)(1). Under the revised Regional Consistency regulations, as proposed, a source subject to the CAA would, as usual, need to know and follow the law in the circuit where it is located, and the law of the D.C. Circuit Court and the U.S. Supreme Court. It would not be required to follow every CAA case in every court across the country to ensure compliance with the Act.

By revising the regulations, the EPA also accommodates the possibility that a split in the circuits could preclude the EPA from complying with both court decisions at once. Consider the following example: In a case involving a permit issued in New York, the Second Circuit upholds the EPA's longstanding position and, in doing so, confirms that the EPA's interpretation is compelled by the Act under Step One of *Chevron.*[9] As a result, the EPA continues to apply its longstanding interpretation, consistent with the Second Circuit's decision, in a permit issued in Alabama, an Eleventh Circuit state. In an appeal of that permit, however, the Eleventh Circuit holds that not only is the EPA's interpretation not compelled by the CAA, it is prohibited by the CAA. There are now two court decisions with conflicting *Chevron* Step One holdings—how could the EPA apply both of those decisions uniformly across the country? While the U.S. Supreme Court could review the issue, it might not. Further, even if the U.S. Supreme Court eventually resolved the conflict, there could be a multi-year period during which both decisions would remain applicable case law. This proposed revisions would acknowledge and address those instances in which the EPA may not be able to comply with two, conflicting decisions at the same time.

Moreover, sometimes court decisions reviewing a regulation or statute are reversed on appeal. In other cases, a court decision may contain a ruling that appears to invalidate a national rule in the context of a source-specific action, which is inconsistent with CAA section 307(b)(1), as explained above. When either outcome occurs, intercircuit nonaquiescence allows the EPA to limit the impact of the court's ruling while it undertakes other actions. For example, in *Environmental Defense* v. *Duke Energy Corp.,* 549 U.S. 561 (2007), the U.S. Supreme Court reversed the Fourth Circuit's implicit invalidation of the EPA's regulations in the context of an enforcement action. In that case, the U.S. Supreme Court found that the court of appeals had been too rigid in its insistence that the EPA interpret the term ''modification'' in its PSD regulations in the same way that the agency interpreted that term under the New Source Performance Standards program. *Id.* at 572–577. While it is true the U.S. Supreme Court eventually reversed the lower court, there was a 2-year period during which the Fourth Circuit's decision remained in place. Under the D.C. Circuit Court's interpretation of the existing Regional Consistency regulations, the EPA arguably would have been required to follow that later-reversed Fourth Circuit interpretation of its regulations nationwide during that 2 year period, even though that interpretation ''read those PSD regulations in a way that seems to [the Supreme Court] too far a stretch for the language used.'' *Id.* at 577.

As discussed earlier, since the U.S. Supreme Court only grants a very limited number of petitions for certiorari, it is highly likely that an adverse court of appeals decision could remain in place indefinitely. This possibility is exacerbated if the EPA is prohibited by its own regulations governing consistency from seeking to create a circuit split on the issue by non-acquiescing to the first adverse decision, and maintaining its national position before other courts. Moreover, if the lower court decision is based on an interpretation of the CAA statutory language, the EPA may not be able to ''fix'' the problem by revising the underlying regulation because the agency could arguably be required to follow the statutory construction set forth in the lower court's decision. Such a result would be inconsistent with the general structure of the federal judiciary, the specific structure of the Act's judicial review provision, and the general directive to assure both fairness and uniformity in CAA section 301(a)(2).

5. Accommodating Intercircuit Nonaquiescence in the Regional Consistency Regulations is a Reasonable Extension of the EPA's Part 56 Regulations

As noted above, because there is nothing in the statutory text of CAA section 301(a)(2) that would prohibit the

[9] *Chevron U.S.A. Inc.* v. *Natural Resources Defense Council, Inc., 467 U.S. 837 (1984)* (Step one of *Chevron* refers to cases where the intent of Congress is clear, and therefore a court, as well as the agency, must give effect to the unambiguously expressed intent of Congress).

EPA from revising the Regional Consistency regulations to specifically accommodate intercircuit nonaquiescence, we wish to evaluate that approach. Nothing in the preambles to the proposed and final Regional Consistency regulations indicates that either commenters or the EPA considered the question whether or how the rules would be applied following judicial decisions (*see generally* 44 FR 13043–048 and 45 FR 85400–405, respectively). In addition, while the D.C. Circuit Court's *NEDACAP* decision relied heavily on the general policy statements contained in 40 CFR 56.3 of the existing regulations—which broadly endorse the fair and uniform application of criteria, policy, and procedures by EPA regional office employees—there is nothing in those general statements or any other provisions of the regulations that mandate that the EPA adopt nationwide the interpretation of the court that first addresses a legal matter in all circumstances. The lack of such a mandate shows that the focused revisions we are proposing in this rulemaking are a natural extension of the agency's existing regulations.

The Regional Consistency regulations generally establish certain mechanisms with the goal of ''identifying, preventing, and resolving regional inconsistencies'' (45 FR 85400). For the EPA headquarters office employees, the regulations do this by targeting particular aspects of the Act that have the potential to present consistency problems—any rule or regulation proposed or promulgated under part 51, which sets forth requirements for the preparation, adoption and submittal of state implementation plans, and part 58, which contains requirements for measuring, monitoring, and reporting ambient air quality. However, the consistency regulations do not state a requirement for headquarters offices to apply these parts consistently in all circumstances. Instead the regulations direct headquarters office employees to develop mechanisms to assure that such rules or regulations are implemented and enforced fairly and uniformly by the regional offices. In so doing, the regulations do not state that headquarters employees are required to assure that a decision of one judicial circuit is always applied consistently in all EPA regions.

Likewise, the provisions of the Regional Consistency regulations that apply to the EPA regional office employees also do not contain a requirement that all regional officials act the same way in all circumstances, nor do they address judicial decisions. While the EPA could change any such requirement if it did exist in our regulations, we do not need to make such a change because the narrow revisions we are proposing in this rulemaking are a natural extension of the existing regulations, which state that regional officials must assure that actions are ''carried out fairly and in a manner that is *consistent with the Act* and Agency policy'' and are ''*as consistent as reasonably possible* with the activities of other Regional Offices'' 40 CFR 56.5(a)(1)–(2) (emphasis added).

As discussed above, Congress specifically addressed the role of and allowed for regional office divergence among circuit courts in CAA section 307(b)(1), and it would be both reasonable and fair to allow for inconsistencies among the actions of regional officials to respect those directives. Perhaps more importantly, the Regional Consistency regulations already allow for some variation between the regional offices. Specifically, 40 CFR 56.5(b) provides that regional officials ''seek concurrence'' from the EPA headquarters with respect to any interpretations of the Act, rule, regulation, or guidance that ''may result in inconsistent application among the regional Offices.'' Thus, the EPA has already acknowledged that certain regions may in some instances act inconsistently with others, and the revisions proposed in this action would simply be identifying and authorizing such inconsistency specifically when necessitated by a federal court decision reviewing an action of local or regional applicability.

In fact, the proposed revisions would further the overall goals of the existing Regional Consistency regulations by specifically identifying the possibility of potential inconsistent actions across the EPA regions, especially where multiple courts have already addressed an issue in different ways, and standardizing a response that can be followed by all the regions, such that regions only have to apply local and regional decisions issued by courts in those areas in which the court has jurisdiction.

6. Accommodating District Court Decisions in the Regional Consistency Regulations Is Also Appropriate

As we have explained above, revising the Regional Consistency regulations to specifically accommodate circuit court decisions via intercircuit nonaquiescence is consistent with general principles of common law, and CAA sections 307(b)(1) and 301(a)(2). In addition, it will help to foster overall fairness and predictability regarding the scope and impact of judicial decisions under the CAA, and is a reasonable extension of the EPA's existing part 56 regulations. To the extent one could read the *NEDACAP* decision to imply that the Regional Consistency regulations would also require the EPA to apply district court decisions uniformly across the nation, the revisions also appropriately accommodate district court decisions, which are by their very nature even more limited in scope.

The federal district courts are the general trial courts of the federal judiciary system. *See generally* 28 U.S.C. 81–131 (establishing district courts for each of the 50 states and the District of Columbia). The district courts only have the authority to hear cases in a specific geographic area that raise specific claims for which Congress has granted the court jurisdiction. *See generally* 28 U.S.C. 1390–1431 (discussing the venue of the district courts) and 1330–1369 (discussing the jurisdiction of the district courts). A district court decision is based on the application of the law to the specific facts of a case, involving the parties to the case. Thus, while a decision from a circuit court is binding on those district courts located in the circuit, as a general matter, a decision from a district court is applicable only to those parties in the specific case in which it is issued and has no binding precedential effect on any other parties, courts or even other judges in the same district. *See Hart* v. *Massanari*, 266 F.3d at 1174. Given this very limited scope of district court decisions, it is reasonable to revise the Regional Consistency regulations to clearly accommodate district court decisions that result from specific locally or regionally cases in which the EPA is a party. Without such a revision, a party may try to argue that, pursuant to the Regional Consistency regulations, a single district court decision based on the specific facts in one case forms the basis for a uniform nationwide EPA position, elevating the impact of that district court decision well beyond the scope that is usually provided to district court decisions, and thus upsetting the general principles of U.S. common law upon which our federal judiciary is based.

Likewise, as noted above, Congress created a very specific system of judicial review to address how the Act is implemented, and that system is focused on challenges to specific final actions in the circuit courts. There is nothing in CAA section 307(b)(1) or in the statutory language requiring the EPA to promulgate regional consistency rules that would suggest that Congress intended district court decisions in

specific cases to have a potentially broad binding effect on the agency. Not only would such an outcome elevate a district court decision to the same level of a D.C. Circuit Court decision under CAA section 307(b)(1), but it would be directly opposed to the idea of ''fairness'' put forward by Congress in CAA section 301(a)(2). If the Regional Consistency regulations cannot accommodate various district court decisions, a fundamental unfairness would arise when a district court decision applying its interpretation of an agency rule to the specific facts of one EPA case in Alaska could impact how the agency would address the same rule but with very different facts in Florida. Given the various reasons set forth above for limiting application of circuit court decisions resulting from challenges to locally or regionally applicable actions, and the fact that the scope of district court decisions in the federal court system is even more narrowly defined than that of circuit court decisions, it is only reasonable to revise the Regional Consistency regulations to clearly limit the application of district court decisions only to the specific parties and facts addressed in the decision.

7. Accommodating Intercircuit Nonaquiescence in the Regional Consistency Regulations Maintains EPA's Ability To Exercise Discretion

Although the proposed rule revisions would make clear that the EPA is not obligated to follow judicial decisions of a federal circuit court addressing ''locally or regionally applicable'' actions in other circuits (or district court decisions in instances that do not involve parties to such decision), the proposal is not intended to preclude anyone from advocating that the agency exercise its discretion to follow such decisions in appropriate cases. The EPA recognizes that national policy can be influenced by insights and reasoning from judicial decisions and we do not mean to imply through this proposal that the agency would ignore persuasive judicial opinions issued in cases involving ''locally or regionally applicable'' actions. Such opinions may address issues of nationwide importance and could, in appropriate circumstances, lead the agency to adopt new national policy.

V. Environmental Justice Considerations

This document is proposing a rule revision to give the EPA flexibility to implement court decisions of a limited scope (*i.e.*, those having local or regional applicability) while also allowing us to implement our national program under the CAA. The EPA did not conduct an environmental analysis for this rule because this rule would not directly affect the air emissions of particular sources. Because this rule will not directly affect the air emissions of particular sources, it does not affect the level of protection provided to human health or the environment. Therefore, this action will not have potential disproportionately high and adverse human health or environmental effects on minority, low-income or indigenous populations.

VI. Statutory and Executive Order Reviews

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

This action is not a ''significant regulatory action'' under the terms of Executive Order 12866 (58 FR 51735, October 4, 1993) and is therefore not subject to review under Executive Orders 12866 and 13563 (76 FR 3821, January 21, 2011) because it does not result in an impact greater than $100 million in any one year or raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in this Executive Order.

B. Paperwork Reduction Act

This action does not impose any new information collection burden. The proposed rule would not create any new requirements for regulated entities, but rather provides flexibility to EPA in implementing numerous programs on a national basis.

C. Regulatory Flexibility Act

The Regulatory Flexibility Act generally requires an agency to prepare a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements under the Administrative Procedures Act or any other statute unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small organizations and small governmental jurisdictions.

For purposes of assessing the impacts of this proposed action on small entities, small entity is defined as: (1) A small business as defined in the U.S. Small Business Administration size standards at 13 CFR 121.201; (2) a small governmental jurisdiction that is a government of a city, county, town, school district or special district with a population of less than 50,000; or (3) a small organization that is any not-for-profit enterprise that is independently owned and operated and is not dominant in its field.

After considering the economic impacts of this proposed rule on small entities, I certify that this action will not have a significant economic impact on a substantial number of small entities. This proposed rule will not impose any requirements directly on small entities. Entities potentially affected directly by this proposal include federal, state, local and tribal governments, none of which qualify as small entities.

We continue to be interested in the potential impacts of the proposed rule on small entities and welcome comments on issues related to such impacts.

D. Unfunded Mandates Reform Act

This action contains no federal mandates under the provisions of Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), 2 U.S.C. 1531–1538 for state, local or tribal governments or the private sector. The action imposes no enforceable duty on any state, local or tribal governments or the private sector. Therefore, this action is not subject to the requirements of sections 202 and 205 of the UMRA.

This rule is also not subject to the requirements of section 203 of UMRA because it contains no regulatory requirements that might significantly or uniquely affect small governments. As noted previously, the effect of the proposed rule would be neutral or relieve regulatory burden.

E. Executive Order 13132: Federalism

This proposed rule does not have federalism implications. It will not have substantial direct effects on the states, on the relationship between the national government and the states or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132. This proposed rule would revise regulations that apply to the EPA, and any delegated state/local governments, only, and would not, therefore, affect the relationship between the national government and the states or the distribution of power and responsibilities among the various levels of government.

In the spirit of Executive Order 13132 and consistent with the EPA policy to promote communications between the EPA and state and local governments, the EPA specifically solicits comment on this proposed rule from state and local officials.

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

This proposed rule does not have tribal implications, as specified in Executive Order 13175 (65 FR 67249, November 9, 2000). It will not have substantial direct effects on tribal governments, on the relationship between the federal government and Indian tribes or on the distribution of power and responsibilities between the federal government and Indian tribes, as specified in Executive Order 13175. This proposed rule only affects our flexibility regarding judicial decisions as they apply to implementing air programs on a national basis. Thus, Executive Order 13175 does not apply to this rule.

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

The EPA interprets Executive Order 13045 (62 FR 19885, April 23, 1997) as applying only to those regulatory actions that concern health or safety risks, such that the analysis required under section 5–501 of the Executive Order has the potential to influence the regulation. This action is not subject to Executive Order 13045 because it does not establish an environmental standard intended to mitigate health or safety risks.

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

This action is not subject to Executive Order 13211 (66 FR 28355, May 22, 2001), because it is not a significant regulatory action under Executive Order 12866.

I. National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104–113, 12(d) (15 U.S.C. 272 note) directs the EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (*e.g.*, materials specifications, test methods, sampling procedures and business practices) that are developed or adopted by voluntary consensus standards bodies. The NTTAA directs the EPA to provide Congress, through the OMB, explanations when the agency decides not to use available and applicable voluntary consensus standards.

This proposed rulemaking does not involve technical standards. Therefore, the EPA did not consider the use of any voluntary consensus standards.

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

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

The EPA has determined that this proposed rule will not have disproportionately high and adverse human health or environmental effects on minority or low-income populations because it does not affect the level of protection provided to human health or the environment. The proposed rule would provide flexibility to the EPA in issuing guidance to implement its regulations with respect to judicial decisions. The results of this evaluation are contained in section V of the preamble titled ''Environmental Justice Considerations.''

K. Determination Under Section 307(d)

Pursuant to section 307(d)(1)(V) of the CAA, the Administrator determines that this action is subject to the provisions of section 307(d). Section 307(d)(1)(V) provides that the provisions of section 307(d) apply to ''such other actions as the Administrator may determine.''

VII. Statutory Authority

The statutory authority for this action is provided by section 301 of the CAA as amended (42 U.S.C. 7601).

List of Subjects in 40 CFR Part 56

Environmental protection, Air pollution control.

Dated: August 5, 2015.

Gina McCarthy,

Administrator.

For the reasons stated in the preamble, title 40, chapter I of the Code of Federal Regulations is proposed to be amended as follows:

PART 56—REGIONAL CONSISTENCY

■ 1. The authority citation for part 56 continues to read as follows:

Authority: Sec. 301(a)(2) of the Clean Air Act as amended (42 U.S.C. 7601).

■ 2. Section 56.3 is amended by adding paragraph (d) to read as follows:

§ 56.3 Policy.

* * * * *

(d) Recognize that only the decisions of the U.S. Supreme Court and decisions of the U.S. Court of Appeals for the D.C. Circuit Court that arise from challenges to ''nationally applicable regulations . . . or final action,'' as discussed in Clean Air Act section 307(b) (42 U.S.C. 7607(b)), shall apply uniformly, and to provide for exceptions to the general policy stated in paragraphs (a) and (b) of this section with regard to decisions of the Federal courts that arise from challenges to ''locally or regionally applicable'' actions, as provided in Clean Air Act section 307(b) (42 U.S.C. 7607(b)).

■ 3. Section 56.4 is amended by adding paragraph (c) to read as follows:

§ 56.4 Mechanisms for fairness and uniformity—Responsibilities of Headquarters employees.

* * * * *

(c) The Administrator shall not be required to issue new mechanisms or revise existing mechanisms developed under paragraph (a) of this section to address the inconsistent application of any rule, regulation, or policy that may arise in response to the limited jurisdiction of either a Federal circuit court decision arising from challenges to ''locally or regionally applicable'' actions, as provided in Clean Air Act section 307(b) (42 U.S.C. 7607(b)), or a Federal district court decision.

■ 4. Section 56.5 is amended by adding a sentence at the end of paragraph (b) and paragraphs (b)(1) and (2) to read as follows:

§ 56.5 Mechanisms for fairness and uniformity—Responsibilities of Regional Office employees.

* * * * *

(b) * * * However, the responsible official in a regional office will not be required to seek such concurrence from the appropriate EPA headquarters office for actions that may result in inconsistent application if such inconsistent application is required in order to act in accordance with a Federal court decision:

(1) Issued by a Circuit Court in challenges to ''locally or regionally applicable'' actions, as provided in Clean Air Act section 307(b) (42 U.S.C. 7607(b)), if that Circuit Court has direct jurisdiction over the geographic areas that the regional office official is addressing, or

(2) Issued by a District Court in a specific case if the party the regional office official is addressing was also a party in the case that resulted in the decision.

* * * * *

[FR Doc. 2015–20506 Filed 8–18–15; 8:45 am]

BILLING CODE 6560–50–P

Notices

Federal Register

Vol. 80, No. 160

Wednesday, August 19, 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

Agricultural Marketing Service

[Document Number AMS–FV–14–0016, FV–14–326]

United States Standards for Grades of Canned Baked Beans

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Notice and request for comments.

SUMMARY: The Agricultural Marketing Service (AMS) of the Department of Agriculture (USDA) proposes to revise the United States Standards for Grades of Canned Baked Beans. AMS is proposing to replace process-specific language ''Product description'' in the standard with language reflective of current canned baked bean manufacturing practices. Additionally, AMS proposes separating the canned dried beans, canned pork and beans, and canned baked beans grade standards from one shared standard document into three separate standard documents. These changes would bring the grade standards for canned baked beans in line with the present quality levels being marketed today and would provide guidance in the effective use of these products.

DATES: Comments must be submitted on or before October 19, 2015.

ADDRESSES: Written comments may be submitted via the Internet: *http://www.regulations.gov;* by email *brian.griffin@ams.usda.gov;* or by mail to Brian E. Griffin, Standardization Branch, Specialty Crops Inspection Division, Fruit and Vegetable Program, Agricultural Marketing Service, U.S. Department of Agriculture, 1400 Independence Avenue SW., Room 0709, South Building; STOP 0247, Washington, DC 20250; fax: (202) 690–1527. Copies of the proposed revised United States Standards for Grades of Canned Baked Beans are available at the addresses cited above and at the AMS Web site at: *http://www.ams.usda.gov/scihome.* All comments should reference the document number, date, and page number of this issue of the **Federal Register**. All comments will be posted without change, including any personal information provided. All comments submitted in response to this notice will be included in the public record and will be made available to the public on the Internet via *http://www.regulations.gov.* Comments will be made available for public inspection at the above address during regular business hours or can be viewed at: *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Contact Brian E. Griffin at the address above, phone (202) 720–5021, or fax (202) 690–1527.

SUPPLEMENTARY INFORMATION: AMS is proposing to revise the U.S. Standards for Grades of Canned Baked Beans using the procedures that appear in part 36 of Title 7 of the Code of Federal Regulations (7 CFR part 36). Section 203(c) of the Agricultural Marketing Act of 1946 (7 U.S.C. 1621–1627), as amended, directs and authorizes the Secretary of Agriculture ''to develop and improve standards of quality, condition, quantity, grade, and packaging, and recommend and demonstrate such standards in order to encourage uniformity and consistency in commercial practices.'' AMS is committed to carrying out this authority in a manner that facilitates the marketing of agricultural commodities and makes copies of official standards available upon request. The U.S. standards for grades of fruits and vegetables that are not connected with Federal marketing orders or U.S. import requirements no longer appear in the Code of Federal Regulations, but are maintained by USDA, AMS, Fruit and Vegetable Program, and are available on the Internet at: *http://www.ams.usda.gov/scihome.*

Background: In September 2013, AMS received a petition from a professor emeritus in food science from Michigan State University asking AMS to consider revising the current U.S. grade standards for canned baked beans to account for advances in industry processing technology. The petitioner requested the removal of the following text from the text of the Product description: ''The product is prepared by washing, soaking, and baking by the application of dry heat in open or loosely covered containers in a closed oven at atmospheric pressure for sufficient prolonged time to produce a typical texture and flavor'' and replacing it with the following text, ''The product is prepared by heating beans and sauce in a closed or open container for a period of time sufficient to provide texture, flavor, color and consistency attributes that are typical for this product.''

AMS believes the text ''washing, soaking'' needs to be retained and proposes the following revision to the text of the Product description: ''The product is prepared by washing, soaking, and heating beans and sauce in a closed or open container for a period of time sufficient to provide texture, flavor, color, and consistency attributes that are typical for this product.''

A copy of the petitioner's request and supporting documentation is located on the Internet at *http://www.regulations.gov* along with the current U.S. Standards for Grades of Canned Baked Beans together with the revisions proposed in this notice. The proposed revisions to these grade standards would provide a common language for trade and better reflect the current marketing of canned baked beans.

Additional proposed changes to the U.S. Standards for Grades of Canned Baked Beans include separating the canned dried beans grade standards, canned pork and beans grade standards, and the canned baked beans grade standards into individual standard documents. These grade standards are currently recognized as three individual standards, but are contained in one document. No changes to content are recommended at this time for the canned dried beans or canned pork and beans grade standards.

In December 2013, AMS developed a discussion draft of the revised canned baked bean grade standards that included the proposed changes. This draft was distributed to the U.S. Dry Bean Council (USDBC), a trade association representing U.S. growers, shippers, processors, packagers, and canners of dry beans; and to the Grocery Manufacturers Association (GMA), a trade association of the food industry. Members of the USDBC and GMA

reviewed the discussion draft. Responding members supported the proposed changes to the Product description, and the proposed change to separate the canned dried beans, canned pork and beans, and the canned baked beans grade standards into the documents.

Additionally, AMS submitted the discussion draft to the U.S. Food and Drug Administration (FDA) for guidance on the proposed changes. The FDA expressed concern over the removal of the term ''baking'' from the process while continuing to use the term ''baked'' as part of the name of the food. The FDA did not object to a name that appropriately describes the food as per the regulations in 21 CFR 101.3.

AMS discussed further FDA's concerns with the petitioner. A second discussion draft was developed and submitted to the FDA and received a positive response. The second discussion draft was then submitted to the aforementioned industry groups for a second round of comments. Both groups responded positively to the changes.

The proposed revised text for Section 52.6461 Product description reads as follows: ''The product is prepared by washing, soaking, and baking beans and sauce through the application of heat in a closed or open container for a period of time sufficient to provide texture, flavor, color, and consistency attributes that are typical for this product.''

Agricultural Marketing Service

AMS is soliciting comments on the proposed revision of the U.S. Standards for Grades of Canned Baked Beans. In particular, AMS would welcome comments and information regarding the possible impact on processors and growers. Further details are provided in the petition and are available from Brian E. Griffin at the previously mentioned address in the **FOR FURTHER INFORMATION CONTACT** section or can be found on the Internet at *http://www.regulations.gov.* This notice provides for a 60-day comment period for interested parties to comment on the proposed revision of the U.S. Standards for Grades of Canned Baked Beans.

Authority: 7 U.S.C. 1621–1627.

Dated: August 13, 2015.

Rex A. Barnes,

Associate Administrator, Agricultural Marketing Service.

[FR Doc. 2015–20445 Filed 8–18–15; 8:45 am]

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DEPARTMENT OF AGRICULTURE

Food Safety and Inspection Service

[Docket No. FSIS–2015–0033]

Availability of Updated FSIS Food Standards and Labeling Policy Book

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Notice of availability and opportunity for comment.

SUMMARY: The Food Safety and Inspection Service (FSIS) is announcing the Agency's intent to revise the Food Standards and Labeling Policy Book. The Agency has stopped adding policy guidance to it; however, FSIS will continue to amend or remove items in the book, as necessary, to remain consistent with Agency policies and regulations. The revised Food Standards and Labeling Policy Book will provide updated information for establishments to use when creating new labels and when modifying existing labels for meat and poultry products.

DATES: Submit comments on or before October 19, 2015.

ADDRESSES: A downloadable version of the Food Standards and Labeling Policy Book is available for viewing and printing at *http://www.fsis.usda.gov/wps/portal/fsis/topics/regulatory-compliance/labeling/Labeling-Policies.* No hard copies have been published.

FSIS invites interested persons to submit comments on this notice. Comments may be submitted by one of the following methods:

Federal eRulemaking Portal: This Web site provides the ability to type short comments directly into the comment field on this Web page or attach a file for lengthier comments. Go to *http://www.regulations.gov/.* Follow the on-line instructions at that site for submitting comments.

Mail, including CD–ROMs: Send to Docket Clerk, U.S. Department of Agriculture, Food Safety and Inspection Service, Patriots Plaza 3, 1400 Independence Avenue SW., Mailstop 3782, Room 8–163B, Washington, DC 20250–3700.

Hand- or courier-delivered submittals: Deliver to Patriots Plaza 3, 355 E Street SW., Room 8–163A, Washington, DC 20250–3700.

Instructions: All items submitted by mail or electronic mail must include the Agency name and docket number FSIS–2015–0033. Comments received in response to this docket will be made available for public inspection and posted without change, including any personal information, to *http://www.regulations.gov.*

Docket: For access to background documents or to comments received, go to the FSIS Docket Room at Patriots Plaza 3, 355 E Street SW., Room 164–A, Washington, DC 20250–3700 between 8:00 a.m. and 4:30 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Daniel L. Engeljohn, Ph.D., Assistant Administrator, Office of Policy and Program Development; Telephone: (202) 205–0495, or by Fax: (202) 720–2025.

SUPPLEMENTARY INFORMATION:

Background

FSIS is responsible for ensuring that the Nation's commercial supply of meat and poultry is safe, wholesome, and properly labeled and packaged.

On November 7, 2013, FSIS published the final rule ''Prior Label Approval Systems: Generic Label Approval.'' This final rule amended the meat and poultry products inspection regulations to expand the circumstances under which labels of meat and poultry products would be deemed to be generically approved by the Agency (78 FR 66826).

Effective January 6, 2014, FSIS regulations (9 CFR 412.1(c)) require only four categories of labels to be submitted to the Labeling and Program Delivery Staff (LPDS) for approval. One category requiring the submission of labels is special statements and claims (9 CFR 412.1(c)(3)), as described in 9 CFR 412.1(e). Under this paragraph, special statements and claims that are defined in FSIS's regulations or in its Food Standards and Labeling Policy Book, except for ''natural'' and negative claims, and that comply with those regulations and policies, are deemed to be approved by the Agency without being submitted for evaluation and approval.

Comments that FSIS had received in response to the December 5, 2011, proposal (76 FR 75809) that preceded the final rule asked the Agency to update its Food Standards and Labeling Policy Book. In response to these comments, FSIS decided to stop adding new policy guidance to the book but to continue to amend or remove items in the book, as necessary.

FSIS has revised the ''Chicken Cordon Bleu'' entry in response to a petition submitted to the Agency and removed the entry for ''Ham, Smithfield'' to ensure consistency with the regulations on the use of geographic terminology on labeling (9 CFR 317.8(b)(1). FSIS announced these changes in its *Constituent Update.*[1] This calendar year

[1] See *http://www.fsis.usda.gov/wps/portal/fsis/newsroom/meetings/newsletters/constituent-*

Continued

FSIS will revise the ''Caddies'' entry in the Food Standards and Labeling Policy Book in response to a petition submitted to the Agency to reflect current industry practice. Also, this calendar year, FSIS will update the entry for ''Heart Meat'' to reflect the regulatory definition for meat in 9 CFR 301.2 and will modify the entry for ''Quality Grade Terms and Subjective Terms on Labels'' to make it consistent with the Agricultural Marketing Service policy on such terms. FSIS will announce these changes and all other future revisions of the book in the FSIS *Constituent Update*, which is accessible on the Agency's Web site at: *http://www.fsis.usda.gov/wps/portal/fsis/newsroom/meetings/newsletters/constituent-updates/constituent-updates-2015.* The Agency will convey new labeling guidance by other means, such as compliance policy guides and will announce them through the Constituent Update or other appropriate means.

USDA Nondiscrimination Statement

No agency, officer, or employee of the USDA shall, on the grounds of race, color, national origin, religion, sex, gender identity, sexual orientation, disability, age, marital status, family/parental status, income derived from a public assistance program, or political beliefs, exclude from participation in, deny the benefits of, or subject to discrimination any person in the United States under any program or activity conducted by the USDA.

To file a complaint of discrimination, complete the USDA Program Discrimination Complaint Form, which may be accessed online at *http://www.ocio.usda.gov/sites/default/files/docs/2012/Complain_combined_6_8_12.pdf*, or write a letter signed by you or your authorized representative.

Send your completed complaint form or letter to USDA by mail, fax, or email:

Mail

U.S. Department of Agriculture, Director, Office of Adjudication, 1400 Independence Avenue SW., Washington, DC 20250–9410.

Fax

(202) 690–7442.

Email

program.intake@usda.gov.

Persons with disabilities who require alternative means for communication (Braille, large print, audiotape, etc.) should contact USDA's TARGET Center at (202) 720–2600 (voice and TDD).

Additional Public Notification

Public awareness of all segments of rulemaking and policy development is important. Consequently, FSIS will announce this **Federal Register** publication on-line through the FSIS Web page located at: *http://www.fsis.usda.gov/federal-register.*

FSIS also will make copies of this publication available through the FSIS Constituent Update, which is used to provide information regarding FSIS policies, procedures, regulations, **Federal Register** notices, FSIS public meetings, and other types of information that could affect or would be of interest to our constituents and stakeholders. The Update is available on the FSIS Web page. Through the Web page, FSIS is able to provide information to a much broader, more diverse audience. In addition, FSIS offers an email subscription service which provides automatic and customized access to selected food safety news and information. This service is available at: *http://www.fsis.usda.gov/subscribe.* Options range from recalls to export information, regulations, directives, and notices. Customers can add or delete subscriptions themselves, and have the option to password-protect their accounts.

Done at Washington, DC on: August 12, 2015.

Alfred V. Almanza,

Acting Administrator.

[FR Doc. 2015–20435 Filed 8–18–15; 8:45 am]

BILLING CODE 3410–DM–P

updates/archive/2015/ConstUpdate040315; *http://www.fsis.usda.gov/wps/portal/fsis/newsroom/meetings/newsletters/constituent-updates/archive/2015/ConstUpdate050115.*

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–001]

Potassium Permanganate From the People's Republic of China: Final Results of Antidumping Duty Administrative Review; 2013

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: In response to a request by Pacific Accelerator Limited (''PAL''), the Department of Commerce (the ''Department'') is conducting an administrative review of the antidumping duty order on potassium permanganate from the People's Republic of China (''PRC'') for the period of review (''POR'') January 1, 2013, through December 31, 2013.[1] The Department has determined that PAL had no entries of subject merchandise during the POR.

DATES: *Effective Date:* August 19, 2015.

FOR FURTHER INFORMATION CONTACT: Paul Walker, AD/CVD Operations, Office V, Enforcement and Compliance, International Trade Administration, Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482–0413.

SUPPLEMENTARY INFORMATION:

Scope of the Order

Imports covered by the order are shipments of potassium permanganate, an inorganic chemical produced in free-flowing, technical, and pharmaceutical grades. Potassium permanganate is currently classifiable under item 2841.61.00 of the Harmonized Tariff Schedule of the United States (''HTSUS''). Although the HTSUS item number is provided for convenience and customs purposes, the written description of the merchandise remains dispositive.

Background

On February 10, 2015, the Department published the *Preliminary Results* of this administrative review.[2] On March 12, 2015, PAL submitted a case brief.[3] On March 17, 2015, the petitioner, Carus Corporation (''Carus'') submitted a rebuttal brief.[4] On June 2, 2015, we extended the final results to August 10, 2015.[5]

Final Determination of No Reviewable Transactions

As noted in the *Preliminary Results,* PAL made only one sale of subject merchandise on the last day of the POR, which entered the United States five months after the end of the review period. On July 17, 2014, in response to the Department's Section C Supplemental, PAL reported having no entries during the POR,[6] which we

[1] *See Antidumping Duty Order; Potassium Permanganate from the People's Republic of China*, 49 FR 3897 (January 31, 1984).

[2] *See Potassium Permanganate from the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review; 2013*, 80 FR 7413 (February 10, 2015) (''*Preliminary Results*'').

[3] *See* PAL's March 12, 2015 submission.

[4] *See* Petitioner's March 17, 2015 submission.

[5] *See* Memorandum to Christian Marsh, Deputy Assistant Secretary, through James Doyle, Office Director, from Paul Walker, Case Analyst, ''Potassium Permanganate from the People's Republic of China: Extension of Deadline for the Final Results of Antidumping Duty Administrative Review,'' dated June 2, 2015.

[6] *See* PAL's July 17, 2014, submission at 11.

confirmed with U.S. Customs and Border Protection (CBP).[7] For these final results, because the record contains no evidence to the contrary, we continue to find that PAL did not have any entries during the POR.

Consistent with the Department's assessment practice in non-market economy (''NME'') cases,[8] where a respondent has no entries during the period of review, it is appropriate not to rescind the review in part in this circumstance but, rather, to complete the review with respect to that respondent and issue appropriate instructions to CBP based on the final results of the review.[9] Therefore, the Department finds that it is appropriate not to rescind the review in these circumstances, but rather to complete the review with respect to PAL and issue appropriate instructions to CBP based on the final results of the review.[10]

Analysis of Comments Received

All issues raised in the case brief and the rebuttal brief filed in this review are addressed in the Issues and Decision Memorandum.[11] The issue parties raised and to which we responded in the Issues and Decision Memorandum follows as an appendix to this notice. The Issues and Decision Memorandum is a public document and is on file electronically *via* Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (''ACCESS''). ACCESS is available to registered users at *http://access.trade.gov* and in the Central Records Unit, room B8024 of the main Department of Commerce building. In addition, a complete version of the Issues and Decision Memorandum can be accessed directly on the internet at *http://www.trade.gov/enforcement/*. The signed Issues and Decision Memorandum and the electronic version of the Issues and Decision Memorandum are identical in content.

Final Results of Review

Because record evidence indicates that PAL, the only company under review, had no reviewable transactions during the POR, and consistent with our assessment practice, it is appropriate not to rescind the review.[12] Therefore, for these final results, we have completed the review with respect to PAL and continue to find that it had no reviewable transactions during the POR. We note that PAL does not have an individual rate, or a separate rate, and has never been reviewed in any other prior segment. Thus, PAL is considered part of the PRC-wide entity, and the PRC-wide entity rate is 128.94 percent.

Assessment Rates

Because the single company under review was found to have no reviewable transactions, we have not calculated any assessment (or cash deposit) rates in this review. The Department intends to issue assessment instructions to CBP 15 days after the publication date of the final results of this review.

Cash Deposit Requirements

The following cash deposit requirements will be effective upon publication of the final results of this review for shipments of the subject merchandise from the PRC entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided by section 751(a)(2)(C) of the Act: (1) For previously investigated or reviewed PRC and non-PRC exporters that received a separate rate in a prior completed segment of this proceeding, the cash deposit rate will continue to be the existing exporter-specific rate; (2) for all PRC exporters of subject merchandise that have not been found to be entitled to a separate rate, the cash deposit rate will be that for the PRC-wide entity, which is 128.94 percent;[13] and (3) for all non-PRC exporters of subject merchandise which have not received their own rate, the cash deposit rate will be the rate applicable to the PRC exporter that supplied that non-PRC exporter.

These deposit requirements, when imposed, shall remain in effect until further notice.

Notification to Importers

This notice also serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during the POR. Failure to comply with this requirement could result in the Department's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

Notification to Interested Parties

These final results are issued and published in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: August 7, 2015.

Ronald K. Lorentzen,

Acting Assistant Secretary for Enforcement and Compliance.

Appendix I

List of Topics Discussed in the Preliminary Decision Memorandum:

1. Summary
2. Background
3. Scope of the Order
4. Comment: Finding of No Reviewable Entries
5. Recommendation

[FR Doc. 2015–20493 Filed 8–18–15; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[C–570–971]

Multilayered Wood Flooring From the People's Republic of China: Correction to Final Results and Partial Rescission of Countervailing Duty Administrative Review; 2012

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

DATES: *Effective Date:* August 19, 2015.

SUMMARY: On July 14, 2015, the Department of Commerce (Department) published in the **Federal Register** its notice of final results and partial rescission for the countervailing duty administrative review of multilayered wood flooring (wood flooring) from the People's Republic of China (PRC) for the period of review January 1, 2012, through December 31, 2012.[1] The net

[7] *See* Memorandum to the File, from Alexander Montoro, International Trade Compliance Analyst entitled, ''CBP Data Query Results,'' dated February 2, 2015.

[8] *See Non-Market Economy Antidumping Proceedings: Assessment of Antidumping Duties,* 76 FR 65694 (October 24, 2011) (''*NME Reseller Policy*'').

[9] *See, e.g., Wooden Bedroom Furniture from the People's Republic of China: Final Results and Final Rescission, In Part, of Administrative Review and Final Results of New Shipper Review; 2013,* 80 FR 34619 (June 17, 2015).

[10] *See NME Reseller Policy.*

[11] *See* Memorandum to Ronald K. Lorentzen, Acting Assistant Secretary for Enforcement and Compliance, from Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, ''Potassium Permanganate from the People's Republic of China: Issues and Decision Memorandum for the Final Results,'' dated concurrently with this notice (''Issues and Decision Memorandum'').

[12] *See NME Reseller Policy.*

[13] *See Potassium Permanganate from the People's Republic of China; Final Results of Antidumping Duty Administrative Review,* 59 FR 26625 (May 23, 1994).

[1] *See Multilayered Wood Flooring from the People's Republic of China: Final Results of Countervailing Duty Administrative Review and Partial Rescission; 2012,* 80 FR 41007 (July 14, 2015) (*Final Results*).

countervailable subsidy rate for one producer under review, Linyi Youyou Wood Co., Ltd., an affiliate of Shanghai Lizhong Wood Products Co., Ltd. (also known as The Lizhong Wood Industry Limited Company of Shanghai), was inadvertently omitted from the notice. Therefore, this company should be included in the listing of producers and/or exporters under review and its net subsidy rate is as follows:

Producer/Exporter	Net subsidy rate
Shanghai Lizhong Wood Products Co., Ltd. (also known as The Lizhong Wood Industry Limited Company of Shanghai); Linyi Youyou Wood Co., Ltd.	0.99

No other changes have been made to the *Final Results.*

Assessment Rates

Consistent with 19 CFR 351.212(b)(2), we intend to issue assessment instructions to the U.S. Customs and Border Protection (CBP) fifteen days after the date of publication of these final results. We will instruct CBP to assess countervailing duties on period of review entries in the amounts shown above.

Cash Deposit Requirements

In accordance with section 751(a)(1) of the Act, we intend to instruct CBP to collect cash deposits of estimated countervailing duties in the amounts shown above on shipments of subject merchandise entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of this review. For all non-reviewed companies (except Zhejiang Layo Wood Industry Co., Ltd., its affiliate Jiaxing Brilliant Import & Export Co., Ltd., and Zhejiang Yuhua Timber Co., Ltd., which are excluded from the *Order*),[2] we will instruct CBP to continue to collect cash deposits at the most recent company-specific or all-others rate applicable to the company. Accordingly, the cash deposit rates that will be applied to companies covered by the *Amended Order,*[3] but not examined in this review, are those established in the most recently completed segment of the proceeding for each company. These cash deposit requirements, when imposed, shall remain in effect until further notice.

This corrected notice is issued and published in accordance with sections 751(a)(1) and 777(i)(1) of the Act and 19 CFR 351.213.

[2] *See Order,* 76 FR at 76694.

[3] *See Multilayered Wood Flooring from the People's Republic of China: Notice of Court Decision Not in Harmony with Final Determination of Countervailing Duty Investigation and Notice of Amended Countervailing Duty Order,* 77 FR 71167 (November 29, 2012).

Dated: August 13, 2015.

Ronald K. Lorentzen,

Acting Assistant Secretary for Enforcement and Compliance.

[FR Doc. 2015–20494 Filed 8–18–15; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–891]

Hand Trucks and Certain Parts Thereof From the People's Republic of China: Continuation of Antidumping Duty Order

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

DATES: *Effective date:* August 19, 2015.

SUMMARY: As a result of the determinations by the Department of Commerce (the Department) and the International Trade Commission (ITC) that revocation of the antidumping duty order on hand trucks and certain parts thereof (hand trucks) from the People's Republic of China (PRC) would likely lead to a continuation or recurrence of dumping and material injury to an industry in the United States, the Department is publishing a notice of continuation for this antidumping duty order.

Contact Information: Jacqueline Arrowsmith, AD/CVD Operations, Office VII, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone (202) 482–5255.

SUPPLEMENTARY INFORMATION:

Background

On March 2, 2015, the Department initiated this sunset review on the antidumping duty order on hand trucks from the PRC, pursuant to section 751(c) and 752 of the Tariff Act of 1930, as amended (the Act).[1] As a result of the review, the Department found that revocation of the antidumping order would likely lead to a continuation or recurrence of dumping, and therefore, notified the ITC of the magnitude of the dumping margins likely to prevail were the order to be revoked.[2] On August 5, 2015, the ITC published its determination pursuant to section 751(c) and 752 of the Act that revocation of the antidumping duty order of hand trucks from the PRC would lead to a continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.[3]

Scope of the Order for Hand Trucks

The merchandise subject to this antidumping duty order consists of hand trucks manufactured from any material, whether assembled or unassembled, complete or incomplete, suitable for any use, and certain parts thereof, namely the vertical frame, the handling area and the projecting edges or toe plate, and any combination thereof.

A complete or fully assembled hand truck is a hand-propelled barrow consisting of a vertically disposed frame having a handle or more than one handle at or near the upper section of the vertical frame; at least two wheels at or near the lower section of the vertical frame; and a horizontal projecting edge or edges, or toe plate, perpendicular or angled to the vertical frame, at or near the lower section of the vertical frame. The projecting edge or edges, or toe plate, slides under a load for purposes of lifting and/or moving the load.

That the vertical frame can be converted from a vertical setting to a horizontal setting, then operated in that horizontal setting as a platform, is not a basis for exclusion of the hand truck from the scope of this petition. That the vertical frame, handling area, wheels, projecting edges or other parts of the hand truck can be collapsed or folded is

[1] *See Initiation of Five Year ("Sunset") Review,* 80 FR 11164 (March 2, 2015) (*Sunset Initiation*).

[2] *See Hand Trucks and Certain Parts Thereof From the People's Republic of China: Final Results of the Expedited Second Sunset Review of the Antidumping Duty Order,* 80 FR 39748 (July 10, 2015).

[3] *See Hand Trucks and Certain Parts Thereof From China,* [Investigation No. 731–TA–1059 (Second Review), 80 FR 46603 (ITC August 5, 2015).

not a basis for exclusion of the hand truck from the scope of the petition. That other wheels may be connected to the vertical frame, handling area, projecting edges, or other parts of the hand truck, in addition to the two or more wheels located at or near the lower section of the vertical frame, is not a basis for exclusion of the hand truck from the scope of the petition. Finally, that the hand truck may exhibit physical characteristics in addition to the vertical frame, the handling area, the projecting edges or toe plate, and the two wheels at or near the lower section of the vertical frame, is not a basis for exclusion of the hand truck from the scope of the petition.

Examples of names commonly used to reference hand trucks are hand truck, convertible hand truck, appliance hand truck, cylinder hand truck, bag truck, dolly, or hand trolley. They are typically imported under heading 8716.80.5010 of the Harmonized Tariff Schedule of the United States (HTSUS), although they may also be imported under heading 8716.80.5090. Specific parts of a hand truck, namely the vertical frame, the handling area and the projecting edges or toe plate, or any combination thereof, are typically imported under heading 8716.90.5060 of the HTSUS. Although the HTSUS subheadings are provided for convenience and customs purposes, the Department's written description of the scope is dispositive.

Excluded from the scope are small two-wheel or four-wheel utility carts specifically designed for carrying loads like personal bags or luggage in which the frame is made from telescoping tubular material measuring less than ⅝ inch in diameter; hand trucks that use motorized operations either to move the hand truck from one location to the next or to assist in the lifting of items placed on the hand truck; vertical carriers designed specifically to transport golf bags; and wheels and tires used in the manufacture of hand trucks.

Excluded from the scope is a multifunction cart that combines, among others, the capabilities of a wheelbarrow and dolly. The product comprises a steel frame that can be converted from vertical to horizontal functionality, two wheels toward the lower end of the frame and two removable handles near the top. In addition to a foldable projection edge in its extended position, it includes a permanently attached steel tub or barrow. This product is currently available under proprietary trade names such as the ''Aerocart.''

Continuation of the Order

As a result of the determinations by the Department and the ITC that revocation of this antidumping duty order would likely lead to a continuation or recurrence of dumping and material injury to an industry in the United States, pursuant to sections 751(c) and 751(d)(2) of the Act, the Department hereby orders the continuation of the antidumping duty order on hand trucks from the PRC. U.S. Customs and Border Protection will continue to collect cash deposits for estimated antidumping duties at the rates in effect at the time of entry for all imports of subject merchandise.

The effective date of the continuation of this order will be the date of publication in the **Federal Register** of this notice of continuation. Pursuant to section 751(c)(2) of the Act, the Department intends to initiate the next five-year review of this order not later than 30 days prior to the fifth anniversary of the effective date of continuation of the order.

This five-year (sunset) review and this notice are in accordance with section 751(c) of the Act and published pursuant to section 777(i)(1) of the Act and 19 CFR 351.218(f)(4).

Dated: August 12, 2015.

Ronald K. Lorentzen,

Acting Assistant Secretary for Enforcement and Compliance.

[FR Doc. 2015–20495 Filed 8–18–15; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XE116

International Pacific Halibut Commission Appointments

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

ACTION: Notice of call for nominations.

SUMMARY: In May 2015, NOAA Fisheries publicly solicited nominations for two presidential appointments to serve as U.S. Commissioners to the IPHC. This multi-step nomination process is intended to provide extensive participation by stakeholders in the Pacific halibut fishery and result in the appointment of two highly qualified individuals to represent the U.S. Government in this important international fisheries management organization. The most recent IPHC public nomination process yielded two names for the two expiring seats, both re-nominations. U.S. Commissioners to the IPHC are appointed for a term not to exceed 2 years, but are eligible for reappointment. While this recent solicitation of nominations resulted in two strong candidates, NOAA Fisheries is seeking a greater number of nominations from which to propose two candidates for appointment by the President. Additionally, the lack of a larger candidate pool impacts the ability of recommending officials to propose Alternate Commissioners. The Secretary of State, in consultation with the Secretary of Commerce, may designate Alternative U.S. Commissioners to serve in the absence of duly appointed U.S. Commissioners. Nominations for IPHC U.S. Commissioner and letters of public support that have already been submitted in response to the original solicitation notice do not need to be resubmitted. Nominations are open to all qualified individuals and may include current Commissioners.

DATES: Nominations must be received by September 18, 2015. A list of nominees will be published on the NMFS Alaska Regional Office Web site (*http://www.alaskafisheries.noaa.gov/*) on September 23, 2015. Public comments relating to this list of nominees will be accepted until October 23, 2015.

ADDRESSES: Nominations for U.S. Commissioners to the IPHC may be made in writing to Mr. Patrick E. Moran, Office of International Affairs and Seafood Inspection, National Marine Fisheries Service, at 1315 East-West Highway, Silver Spring, MD 20910. Nominations may also be sent via fax (301–713–2313) or email (*IPHC2015nominations@noaa.gov*). Please send all public comments via email to *IPHC2015comments@noaa.gov.*

FOR FURTHER INFORMATION CONTACT: Mr. Patrick E. Moran, (301) 427–8370.

SUPPLEMENTARY INFORMATION:

Background

The IPHC is a bilateral regional fishery management organization established pursuant to the Convention between Canada and the United States for the Preservation of the Halibut Fishery of the North Pacific Ocean and Bering Sea (Convention). The Convention was signed at Ottawa, Ontario, on March 2, 1953, and was amended by a Protocol Amending the Convention signed at Washington, DC, on March 29, 1979. The Convention's central objective is to develop the stocks of Pacific halibut in waters off the west coasts of Canada and the United States

to levels that will permit the optimum yield from the Pacific halibut fishery and to maintain the stocks at those levels. The IPHC fulfills this objective in part by recommending Pacific halibut fishery conservation and management measures for approval by the United States and Canada. Pursuant to the Northern Pacific Halibut Act of 1982, the Secretary of State, with the concurrence of the Secretary of Commerce, may accept or reject, on behalf of the United States, conservation and management measures recommended by the IPHC. 16 U.S.C. 773b. Measures accepted by the Secretary of State are adopted as binding regulations governing fishing for Pacific halibut in Convention waters of the United States. 16 U.S.C. 773c(b)(1). More information on the IPHC can be found at *http://www.iphc.int.*

Section 773a of the Northern Pacific Halibut Act of 1982 (16 U.S.C. 773a) requires that the United States be represented on the IPHC by three U.S. Commissioners. U.S. Commissioners are appointed for a term not to exceed 2 years, but are eligible for reappointment. Of the Commissioners:

(1) One must be an official of the National Oceanic and Atmospheric Administration; and

(2) Two must be knowledgeable or experienced concerning the Northern Pacific halibut fishery; of these, one must be a resident of Alaska and the other shall be a nonresident of Alaska. Of the three commissioners described in paragraphs (1) and (2), one must also be a voting member of the North Pacific Fishery Management Council.

(3) Commissioners who are not Federal employees are not considered to be Federal employees except for the purposes of injury compensation or tort claims liability as provided in section 8101 *et seq.* of title 5 and section 2671 *et seq.* of title 28.

In their official IPHC duties, Commissioners represent the interests of the United States and all of its stakeholders in the Pacific halibut fishery. These duties require a modest amount of travel (typically two or three trips per year lasting less than a week), and travel expenses are paid by the U.S. Department of State. Commissioners receive no compensation for their services.

Nomination Process

NOAA Fisheries is currently accepting nominations for two U.S. Commissioners for the IPHC who are not officials of NOAA. Successful nominees will be considered for appointment by the President and (pending Presidential action) interim designation by the Department of State.

Nomination packages should provide details of an individual's knowledge and experience in the Pacific halibut fishery. Examples of such knowledge and/or experience could include (but are not limited to) such activities as: Participation in commercial, tribal, Community Development Quota (CDQ) and/or sport and charterboat halibut fishing operations; participation in halibut processing operations; and participation in Pacific halibut management activities.

Nomination packages should document an individual's qualifications and state of residence. Self-nominations are acceptable, and current and former IPHC Commissioners are eligible for reappointment. Résumés, curriculum vitae, and/or letters of recommendation are useful but not required. Nomination packages will be evaluated on a case-by-case basis by officials in NOAA and the Department of Commerce who are familiar with the duties and responsibilities of IPHC Commissioners; evaluations will consider the aggregate of an individual's prior experience and knowledge of the Pacific halibut fishery, residency requirements, and any letters of recommendation provided. Nominees will be notified of their status (including rejection or approval) and any need for further information once the nomination process is complete.

Dated: August 13, 2015.

John Henderschedt,

Director, Office of International Affairs and Seafood Inspection, National Marine Fisheries Service.

[FR Doc. 2015–20440 Filed 8–18–15; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

North Pacific Fishery Management Council; Public Meeting

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

ACTION: Notice of telephonic meeting.

SUMMARY: The North Pacific Fishery Management Council (Council) Electronic Monitoring Workgroup (EMWG) will meet by teleconference September 8, 2015.

DATES: The meeting will be held on Tuesday, September 8, 2015 from 8 a.m. to 5 p.m.

ADDRESSES: The meeting will be held telephonically at the North Pacific Fishery Management Council, 605 W. 4th Ave., Suite 306, Anchorage, AK 99501–2252. Please call (907) 271–2896.

Council address: North Pacific Fishery Management Council, 605 W. 4th Ave., Suite 306, Anchorage, AK 99501–2252; telephone: (907) 271–2809.

FOR FURTHER INFORMATION CONTACT: Diana Evans, Council staff; telephone: (907) 271–2809.

SUPPLEMENTARY INFORMATION:

Agenda

Tuesday, September 8, 2015

The agenda will include: (a) Review the draft 2016 EM Pre-Implementation Plan (b) discuss other 2016 EM research, and (c) scheduling and other business. The Agenda is subject to change, and the latest version will be posted at *http://www.npfmc.org/*

Special Accommodations

The meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Shannon Gleason at (907) 271–2809 at least 7 working days prior to the meeting date.

Dated: August 13, 2015.

Tracey L. Thompson,

Acting Deputy Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 2015–20405 Filed 8–18–15; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Proposed Information Collection; Comment Request; National Oceanic and Atmospheric Administration's Bay Watershed Education and Training Program National Evaluation System

AGENCY: National Oceanic and Atmospheric Administration (NOAA), 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 October 19, 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 Bronwen Rice, NOAA Office of Education, (202) 482–6797 or *Bronwen.Rice@noaa.gov.*

SUPPLEMENTARY INFORMATION:

I. Abstract

This request is for an extension of a currently approved information collection.

The NOAA Office of Education's Bay Watershed Education and Training (B–WET) program seeks to contribute to NOAA's mission by supporting education efforts to create an environmentally literate citizenry with the knowledge, attitudes, and skills needed to protect watersheds and related ocean, coastal, and Great Lakes ecosystems. B–WET currently funds projects in seven regions (California, Chesapeake Bay, Great Lakes, Gulf of Mexico, Hawaii, New England, and the Pacific Northwest). B–WET has created an across-region, internal evaluation system to provide ongoing feedback on program implementation and outcomes to ensure maximum quality and efficiency of the B–WET program. The evaluation system is sustained by B–WET staff with occasional assistance from an outside contractor.

B–WET awardees and the awardees' professional development teacher-participants are asked to voluntarily complete online survey forms to provide evaluation data. One individual from each awardee organization is asked to complete a form once per year of the award, and the teacher participants are asked to complete one form at the end of their professional development program and another form at the end of the following school year.

II. Method of Collection

Respondents submit their information electronically on web-based survey forms.

III. Data

OMB Control Number: 0648–0658.

Form Number: None.

Type of Review: Regular submission (extension of a currently approved collection).

Affected Public: Not-for-profit organizations and individuals or households.

Estimated Number of Respondents: Given the funding levels of the past three fiscal years, NOAA B–WET estimates that approximately 86 not-for-profit awardees and 4,000 teachers will be invited to respond each year.

Estimated Time per Response: Awardee-respondents will complete an online survey in 60 minutes and teacher-respondents will complete two online surveys in 30 minutes each.

Estimated Total Annual Burden Hours: 2,325.

Estimated Total Annual Cost to Public: $0 in recordkeeping/reporting costs.

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: August 14, 2015.

Sarah Brabson,

NOAA PRA Clearance Officer.

[FR Doc. 2015–20485 Filed 8–18–15; 8:45 am]

BILLING CODE 3510–12–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XE119

Permanent Advisory Committee To Advise the U.S. Commissioners to the Western and Central Pacific Fisheries Commission; Meeting Announcement

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

ACTION: Notice of public meeting.

SUMMARY: NMFS announces a meeting of the Permanent Advisory Committee (PAC) to advise the U.S. Commissioners to the Western and Central Pacific Fisheries Commission (WCPFC) on October 14–October 15, 2015. Meeting topics are provided under the **SUPPLEMENTARY INFORMATION** section of this notice.

DATES: The meeting of the PAC will be held on October 14, 2015, from 8 a.m. to 4 p.m. HST (or until business is concluded) and October 15, 2015, from 8 a.m. to 4 p.m. HST (or until business is concluded).

ADDRESSES: The meeting will be held at the Outrigger Reef Waikiki Beach Resort, Diamond Head Terrace, 2169 Kalia Road, Honolulu, Hawaii 96815.

FOR FURTHER INFORMATION CONTACT: Emily Crigler, NMFS Pacific Islands Regional Office; telephone: 808–725–5036; facsimile: 808–725–5215; email: *emily.crigler@noaa.gov.*

SUPPLEMENTARY INFORMATION: In accordance with the Western and Central Pacific Fisheries Convention Implementation Act (16 U.S.C. 6901 *et seq.*), a Permanent Advisory Committee, or PAC, has been convened to advise the U.S. Commissioners to the WCPFC, certain members of which have been appointed by the Secretary of Commerce in consultation with the U.S. Commissioners to the WCPFC. The PAC supports the work of the U.S. National Section to the WCPFC in an advisory capacity. The U.S. National Section is made up of the U.S. Commissioners and the Department of State. NMFS Pacific Islands Regional Office provides administrative and technical support to the PAC in cooperation with the Department of State. The next regular annual session of the WCPFC (WCPFC12) is scheduled for December 3–December 8, 2015, in Bali, Indonesia. More information on this meeting and the WCPFC, established under the Convention on the Conservation and Management of Highly Migratory Fish Stocks in the Western and Central Pacific Ocean, can be found on the WCPFC Web site: *http://wcpfc.int/.*

Meeting Topics

The PAC meeting topics may include the following: (1) Outcomes of the 2014 Annual Meeting and 2015 sessions of the WCPFC Scientific Committee, Northern Committee, and Technical and Compliance Committee; (2) conservation and management measures for bigeye tuna, yellowfin tuna, skipjack tuna and other species for 2016 and beyond; (3) a permanent measure for the WCPFC compliance monitoring scheme and development of a companion measure addressing responses to non-compliance; (4) potential U.S. proposals to WCPFC12 (5) input and advice from the PAC on issues that may arise at

WCPFC12; (6) potential proposals from other WCPFC members; and (7) other issues.

Special Accommodations

The meeting location is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Emily Crigler at (808) 725–5036 by September 22, 2015.

Authority: 16 U.S.C. 6902

Dated: August 14, 2015.

Emily H. Menashes,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 2015–20523 Filed 8–18–15; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XE078

Presidential Task Force on Combating Illegal Unreported and Unregulated (IUU) Fishing and Seafood Fraud Action Plan; Extension of Comment Period

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

ACTION: Notice; request for comments; extension of comment period.

SUMMARY: The National Ocean Council Committee on IUU Fishing and Seafood Fraud (NOC Committee) extends the comment period from September 2, 2015, to September 11, 2015, on the notice, which published August 3, 2015, seeking public input on draft principles for determining seafood species at risk of IUU fishing and seafood fraud (''at risk'') and a draft list of ''at risk'' species developed using the draft principles. The comment period is being extended in order to provide further opportunity for the public to review and provide thoughtful comment.

DATES: The deadline for written comments on the notice published on August 3, 2015 (80 FR 45955) is extended from September 2, 2015, to September 11, 2015.

ADDRESSES: You may submit comments on this document, identified by NOAA–NMFS–2014–0090, by any of the following methods:

- *Electronic Submission:* Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to *www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2014-0090,* click the ''Comment Now!'' icon, complete the required fields, and enter or attach your comments.
- *Mail:* Submit written comments to Danielle Rioux, 1315 East-West Highway; Silver Spring, Maryland 20910.
- *Webinar:* A webinar will be held on August 25th, 3:30–5 p.m. Eastern time. Please go to *http://www.nmfs.noaa.gov/ia/iuu/taskforce.html* for information on how to join.

Instructions: Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered by the Working Group. All comments received are a part of the public record and will generally be posted for public viewing on *www.regulations.gov* without change. All personal identifying information (*e.g.,* name, address, etc.), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. The Working Group will accept anonymous comments (enter ''N/A'' in the required fields if you wish to remain anonymous).

FOR FURTHER INFORMATION CONTACT: Danielle Rioux, Office of Sustainable Fisheries, National Marine Fisheries Service (phone 301–427–8516, or email *Danielle.Rioux@noaa.gov*).

SUPPLEMENTARY INFORMATION:

Background

According to NOAA, in 2013, U.S. fishers landed 9.9 billion pounds of fish and shellfish worth $5.5 billion. Illegal, unreported, and unregulated (IUU) fishing and seafood fraud undermine the sustainability of U.S. and global seafood stocks and negatively impact general ecosystem health. At the same time, IUU fishing and fraudulent seafood products distort legal markets and unfairly compete with the products of law-abiding fishers and seafood industries. On March 15, 2015, the Presidential Task Force on Combating IUU Fishing and Seafood Fraud (Task Force), co-chaired by the Departments of Commerce and State, took an historic step to address these issues and published its Action Plan for Implementing Task Force Recommendations (Action Plan).

The Action Plan (*http://www.nmfs.noaa.gov/ia/iuu/noaa_taskforce_report_final.pdf*) articulates the proactive steps that Federal agencies will take to implement the recommendations the Task Force made to the President in December 2014 on a comprehensive framework of integrated programs to combat IUU fishing and seafood fraud. The Action Plan identifies actions that will strengthen enforcement, create and expand partnerships with state and local governments, industry, and non-governmental organizations, and create a risk-based traceability program to track seafood from harvest to entry into U.S. commerce, including through the use of existing traceability mechanisms. The work the Task Force began continues under the oversight of the National Ocean Council's Committee on IUU Fishing and Seafood Fraud (NOC Committee), established this past April, 2015.

The notice published on August 3, 2015, (80 FR 45955) is one of several steps in the plan to implement Task Force Recommendations 14 and 15, identifying ''species of fish or seafood that are presently of particular concern because they are currently subject to significant seafood fraud or because they are at significant risk of being caught by IUU fishing.'' To begin implementing these recommendations, the NOC Committee created a Working Group (Working Group), led by NOAA and composed of members from partner agencies: Department of State, Food and Drug Administration, Department of Homeland Security, Customs and Border Protection, and the Office of the U.S. Trade Representative.

Extension of Comment Period

We initially requested comments by September 2, 2015. In order to provide further opportunity for the public to review and provide thoughtful comment, NMFS is extending the comment period on the notice—that published August 3, 2015 (80 FR 45955)—until September 11, 2015.

Dated: August 13, 2015.

Eileen Sobeck,

Assistant Administrator for Fisheries, National Marine Fisheries Service.

[FR Doc. 2015–20434 Filed 8–18–15; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF DEFENSE

Department of the Air Force

Notice of Intent To Grant an Exclusive Patent License

AGENCY: Department of the Air Force, Department of Defense.

ACTION: Notice of intent.

SUMMARY: Pursuant to the provisions of Part 404 of Title 37, Code of Federal Regulations, which implements Public Law 96–517, as amended; the Department of the Air Force announces

its intention to grant the University of Dayton, a research university duly organized, validly existing, and in good standing in the State of Ohio, having a place of business at 300 College Park, Dayton, OH 45469.

DATES: The Air Force intends to grant a license for the patent and pending applications unless a written objection is received within fifteen (15) calendar days from the date of publication of this Notice.

ADDRESSES: Written objection should be sent to: Air Force Materiel Command Law Office, AFMCLO/JAZ, 2240 B Street, Rm 101, Wright-Patterson AFB, OH 45433–7109; Facsimile: (937) 255–3733.

FOR FURTHER INFORMATION CONTACT: Air Force Materiel Command Law Office, AFMCLO/JAZ, 2240 B Street, Rm. 101, Wright-Patterson AFB, OH 45433–7109; Facsimile: (937) 255–3733.

SUPPLEMENTARY INFORMATION: An exclusive, with respect to future sub licensees, license in any right, title, and interest of the Air Force in: U.S. Application No. 14/754,914, entitled ''Layered Polymer-Based Capacitor Device,'' by James Grote *et al.,* and filed on June 30, 2015.

Henry Williams,

Acting Air Force Federal Register Liaison Officer.

[FR Doc. 2015–20368 Filed 8–18–15; 8:45 am]

BILLING CODE 5001–10–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL15–85–000]

New Hampshire Transmission, LLC; Notice of Institution of Section 206 Proceeding, Setting Refund Effective Date, and Due Date for Intervention

On August 12, 2015, the Commission issued an order in Docket No. EL15–85–000, pursuant to section 206 of the Federal Power Act (FPA), 16 U.S.C. 824e (2012), instituting an investigation into the justness and reasonableness of New Hampshire Transmission, LLC's recovery of cost related to the development of its SeaLink project through the Regional Network Service formula rates. *ISO New England Inc.,* 152 FERC ¶ 61,121 (2015).

The refund effective date in Docket No. EL15–85–000, established pursuant to section 206(b) of the FPA, will be the date of publication of this notice in the **Federal Register**.

Any interested person desiring to become a party in the above-referenced proceeding must file a notice of intervention or motion to intervene, as appropriate, in accordance with Rule 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.214) by 5 p.m. Eastern time on September 2, 2015. The Commission encourages electronic submission of interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original hard copy of the intervention to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

Dated: August 12, 2015.

Kimberly D. Bose,

Secretary.

[FR Doc. 2015–20425 Filed 8–18–15; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #2

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER15–2432–000.
Applicants: Southwest Power Pool, Inc.
Description: Section 205(d) Rate Filing: 1893R4 Westar Energy, Inc. (Savonburg) NITSA and NOA to be effective 8/1/2015.
Filed Date: 8/13/15.
Accession Number: 20150813–5178.
Comments Due: 5 p.m. ET 9/3/15.

Docket Numbers: ER15–2433–000.
Applicants: Southwest Power Pool, Inc.
Description: Section 205(d) Rate Filing: 1897R4 Westar Energy, Inc. NITSA and NOA to be effective 8/1/2015.
Filed Date: 8/13/15.
Accession Number: 20150813–5180.
Comments Due: 5 p.m. ET 9/3/15.

Docket Numbers: ER15–2434–000.
Applicants: Southwest Power Pool, Inc.
Description: Section 205(d) Rate Filing: 1978R4 Westar Energy, Inc. NITSA and NOA to be effective 8/1/2015.
Filed Date: 8/13/15.
Accession Number: 20150813–5185.
Comments Due: 5 p.m. ET 9/3/15.

Docket Numbers: ER15–2435–000.
Applicants: Midcontinent Independent System Operator, Inc.
Description: Section 205(d) Rate Filing: 2015–08–13_SA 2793 ATC-City of Eagle River CFA to be effective 10/12/2015.
Filed Date: 8/13/15.
Accession Number: 20150813–5186.
Comments Due: 5 p.m. ET 9/3/15.

Docket Numbers: ER15–2436–000.
Applicants: Midcontinent Independent System Operator, Inc.
Description: Section 205(d) Rate Filing: 2015–08–13_SA 2796 ATC-City of Kaukauna CFA to be effective 10/12/2015.
Filed Date: 8/13/15.
Accession Number: 20150813–5187.
Comments Due: 5 p.m. ET 9/3/15.

Docket Numbers: ER15–2437–000.
Applicants: Midcontinent Independent System Operator, Inc.
Description: Section 205(d) Rate Filing: 2015–08–13_SA 2805 ATC-Rock Energy Cooperative CFA to be effective 10/12/2015.
Filed Date: 8/13/15.
Accession Number: 20150813–5188.
Comments Due: 5 p.m. ET 9/3/15.

Docket Numbers: ER15–2438–000.
Applicants: Midcontinent Independent System Operator, Inc.
Description: Section 205(d) Rate Filing: 2015–08–13_SA 2806 ATC-City of Oconomowoc CFA to be effective 10/12/2015.
Filed Date: 8/13/15.
Accession Number: 20150813–5193.
Comments Due: 5 p.m. ET 9/3/15.

Docket Numbers: ER15–2439–000.
Applicants: Southwest Power Pool, Inc.
Description: Section 205(d) Rate Filing: 2390R3 Westar Energy, Inc. NITSA and NOA to be effective 8/1/2015.
Filed Date: 8/13/15.
Accession Number: 20150813–5196.
Comments Due: 5 p.m. ET 9/3/15.

Docket Numbers: ER15–2440–000.
Applicants: PJM Interconnection, L.L.C., Rochelle Municipal Utilities.
Description: Section 205(d) Rate Filing: Rochelle Municipal Utilities submit Service Agreement No. 4232 with ComEd to be effective 8/1/2015.
Filed Date: 8/13/15.
Accession Number: 20150813–5217.
Comments Due: 5 p.m. ET 9/3/15.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but

intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: August 13, 2015.

Kimberly D. Bose,

Secretary.

[FR Doc. 2015–20461 Filed 8–18–15; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. P–1744–039]

PacifiCorp; Notice of Intent To File License Application, Filing of Pre-Application Document, Approving Use of the Alternative Licensing Process, and Requesting Cooperating Agency Status

a. *Type of Filing:* Notice of Intent To File License Application and Request to Use the Alternative Licensing Process.

b. *Project No.:* 1744–039.

c. *Date Filed:* June 1, 2015.

d. *Submitted By:* PacifiCorp.

e. *Name of Project:* Weber Hydroelectric Project.

f. *Location:* On the Weber River, in Weber, Davis, and Morgan Counties, Utah. The project occupies 11.4 acres of United States lands administered by the U.S. Forest Service.

g. *Filed Pursuant to:* 18 CFR 5.3 of the Commission's regulations.

h. Potential *Applicant Contact:* Eve Davies, PacifiCorp, 1407 West North Temple, Ste. 110, Salt Lake City, UT 84116; (801) 220–2245; email—*eve.davies@pacificorp.com.*

i. *FERC Contact:* Claire McGrath at (202) 502–8290; or email at *claire.mcgrath@ferc.gov.*

j. PacifiCorp filed its request to use the Alternative Licensing Process on June 1, 2015. PacifiCorp provided public notices of its request on May 29 and May 31, 2015. On July 10, 2015, PacifiCorp provided a subsequent public notice of its request, which included the required statement that comments on the request to use the ALP must be filed with the Commission within 30 days of the notice. In a letter dated August 13, 2015, the Director of the Division of Hydropower Licensing approved PacifiCorp's request to use the Alternative Licensing Process.

k. Cooperating agencies: Federal, state, local, and tribal agencies with jurisdiction and/or special expertise with respect to environmental issues that wish to cooperate in the preparation of the environmental document should follow the instructions for filing such requests described in paragraph o below. Cooperating agencies should note the Commission's policy that agencies that cooperate in the preparation of the environmental document cannot also intervene. *See* 94 FERC ¶ 61,076 (2001).

l. With this notice, we are initiating informal consultation with the U.S. Fish and Wildlife Service under section 7 of the Endangered Species Act and the joint agency regulations thereunder at 50 CFR, Part 402. We are also initiating consultation with the Utah State Historic Preservation Officer, as required by section 106, National Historic Preservation Act, and the implementing regulations of the Advisory Council on Historic Preservation at 36 CFR 800.2.

m. With this notice, we are designating PacifiCorp as the Commission's non-federal representative for carrying out informal consultation pursuant to section 7 of the Endangered Species Act; and consultation pursuant to section 106 of the National Historic Preservation Act.

n. PacifiCorp filed a Pre-Application Document (PAD; including a proposed process plan and schedule) with the Commission, pursuant to 18 CFR 5.6 of the Commission's regulations.

o. Deadline for filing requests for cooperating agency status: 60 days from the date of this notice.

The Commission strongly encourages electronic filing. Please file requests for cooperating agency status using the Commission's eFiling system at *http://www.ferc.gov/docs-filing/efiling.asp.* For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov*, (866) 208–3676 (toll free), or (202) 502–8659 (TTY). In lieu of electronic filing, please send a paper copy to: Secretary, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426. The first page of any filing should include docket number P–1744–039.

p. A copy of the PAD is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site (*http://www.ferc.gov*), using the ''eLibrary'' link. Enter the docket number, excluding the last three digits in the docket number field to access the document. For assistance, contact FERC Online Support at *FERCONlineSupport@ferc.gov*, (866) 208–3676 (toll free), or (202) 502–8659 (TTY). A copy is also available for inspection and reproduction at the address in paragraph h.

q. The licensee states its unequivocal intent to submit an application for a new license for Project No.1744–039. Pursuant to 18 CFR 16.8, 16.9, and 16.10 each application for a new license and any competing license applications must be filed with the Commission at least 24 months prior to the expiration of the existing license. All applications for license for this project must be filed by May 31, 2018.

r. Register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via email of new filing and issuances related to this or other pending projects. For assistance, contact FERC Online Support.

Dated: August 13, 2015.

Kimberly D. Bose,

Secretary.

[FR Doc. 2015–20464 Filed 8–18–15; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER15–2013–000.

Applicants: Talen Energy Marketing, LLC.

Description: Supplement to June 26, 2015 Talen Energy Marketing, LLC tariff filing.

Filed Date: 8/11/15.

Accession Number: 20150811–5145.

Comments Due: 5 p.m. ET 9/1/15.

Docket Numbers: ER15–2425–000.

Applicants: Puget Sound Energy, Inc.

Description: Initial rate filing: Air Products TX NITSA Refile to be effective 9/1/2014.

Filed Date: 8/13/15.

Accession Number: 20150813–5004.

Comments Due: 5 p.m. ET 9/3/15.

Docket Numbers: ER15–2426–000.

Applicants: Northern Indiana Public Service Company.

Description: Proposed Reactive Power Revenue Requirements of Northern Indiana Public Service Company for twelve generating facilities located in the MISO pricing zone under ER15–2426.

Filed Date: 8/12/15.

Accession Number: 20150812–5196.

Comments Due: 5 p.m. ET 9/2/15.

Docket Numbers: ER15–2427–000.
Applicants: PJM Interconnection, L.L.C., American Transmission Systems, Incorporated.
Description: Section 205(d) Rate Filing: ATSI submits First Revised Service Agreement Nos. 3992 & 3994 to be effective 10/13/2015.
Filed Date: 8/13/15.
Accession Number: 20150813–5075.
Comments Due: 5 p.m. ET 9/3/15.

Docket Numbers: ER15–2428–000.
Applicants: Exelon Framingham, LLC.
Description: Tariff Cancellation: Notice of Cancellation to be effective 8/14/2015.
Filed Date: 8/13/15.
Accession Number: 20150813–5135.
Comments Due: 5 p.m. ET 9/3/15.

Docket Numbers: ER15–2429–000.
Applicants: Exelon New Boston, LLC.
Description: Tariff Cancellation: Notice of Cancellation to be effective 8/14/2015.
Filed Date: 8/13/15.
Accession Number: 20150813–5142.
Comments Due: 5 p.m. ET 9/3/15.

Docket Numbers: ER15–2430–000.
Applicants: Exelon Wyman, LLC.
Description: Tariff Cancellation: Notice of Cancellation to be effective 8/14/2015.
Filed Date: 8/13/15.
Accession Number: 20150813–5149.
Comments Due: 5 p.m. ET 9/3/15.

Docket Numbers: ER15–2431–000.
Applicants: Exelon West Medway, LLC.
Description: Tariff Cancellation: Notice of Cancellation to be effective 8/14/2015.
Filed Date: 8/13/15.
Accession Number: 20150813–5153.
Comments Due: 5 p.m. ET 9/3/15.

Take notice that the Commission received the following electric reliability filings:

Docket Numbers: EL13–52–000; RR13–12–000.
Applicants: Western Electricity Coordinating Council.
Description: Informational Filing of Peak Reliability.
Filed Date: 8/11/15.
Accession Number: 20150811–5214.
Comments Due: 5 p.m. ET 9/1/15.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: August 13, 2015.

Kimberly D. Bose,

Secretary.

[FR Doc. 2015–20462 Filed 8–18–15; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings

Take notice that the Commission has received the following Natural Gas Pipeline Rate and Refund Report filings:

Filings Instituting Proceedings

Docket Numbers: RP15–1187–000.
Applicants: Dominion Carolina Gas Transmission, LLC.
Description: Section 4(d) Rate Filing: Removal of Expired Non-Conforming Service Agreement to be effective 9/1/2015.
Filed Date: 8/11/15.
Accession Number: 20150811–5027.
Comments Due: 5 p.m. ET 8/24/15.

Docket Numbers: RP15–1188–000.
Applicants: National Fuel Gas Supply Corporation.
Description: Section 4(d) Rate Filing: Scheduling & Curtailment to be effective 10/1/2015.
Filed Date: 8/11/15.
Accession Number: 20150811–5146.
Comments Due: 5 p.m. ET 8/24/15.

Docket Numbers: RP15–1189–000.
Applicants: Empire Pipeline, Inc.
Description: Section 4(d) Rate Filing: Scheduling & Curtailment 2015 to be effective 10/1/2015.
Filed Date: 8/11/15.
Accession Number: 20150811–5160.
Comments Due: 5 p.m. ET 8/24/15.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: August 12, 2015.

Kimberly D. Bose,

Secretary.

[FR Doc. 2015–20427 Filed 8–18–15; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

Take notice that the Commission received the following electric corporate filings:

Docket Numbers: EC15–188–000.
Applicants: St. Paul Cogeneration, LLC.
Description: Application for Authorization Under Section 203 of the Federal Power Act for Disposition of Jurisidictional Facilities and Request for Expedited Consideration of St. Paul Cogeneration, LLC.
Filed Date: 8/11/15.
Accession Number: 20150811–5209.
Comments Due: 5 p.m. ET 9/1/15.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER13–948–007.
Applicants: Entergy Services, Inc., Entergy Arkansas, Inc., Entergy Gulf States Louisiana, L.L.C., Entergy Louisiana, LLC, Entergy Mississippi, Inc., Entergy New Orleans, Inc., Entergy Texas, Inc.
Description: Motion of Entergy Services, Inc., on behalf of the Entergy Operating Companies for temporary and limited waiver of formula rate implementation requirements, et al. for additional two-month period.
Filed Date: 8/7/15.
Accession Number: 20150807–5262.
Comments Due: 5 p.m. ET 8/28/15.

Docket Numbers: ER15–519–002.
Applicants: ISO New England Inc.
Description: Compliance filing: Errata to Revisions to ISO Tariff Related to Order No. 676–H Compliance to be effective 5/15/2015.
Filed Date: 8/12/15.
Accession Number: 20150812–5039.
Comments Due: 5 p.m. ET 9/2/15.

Docket Numbers: ER15–1705–002.
Applicants: Public Service Company of Colorado.
Description: Tariff Amendment: Indefinite Deferral of Burlington Wheeling to be effective 12/31/9998.
Filed Date: 8/12/15.
Accession Number: 20150812–5127.
Comments Due: 5 p.m. ET 9/2/15.

Docket Numbers: ER15–2189–001.
Applicants: Duke Energy Florida, LLC, Duke Energy Progress, LLC, Duke Energy Carolinas, LLC.
Description: Tariff Amendment: Suspension of Joint OATT Higher of Amendment to be effective 12/31/9998.
Filed Date: 8/12/15.
Accession Number: 20150812–5147.
Comments Due: 5 p.m. ET 9/2/15.

Docket Numbers: ER15–2417–000.
Applicants: Southern California Edison Company.
Description: Section 205(d) Rate Filing: Amended GIA and Distribution Service Agreement Wind Stream Operations, LLC to be effective 10/12/2015.
Filed Date: 8/12/15.
Accession Number: 20150812–5002.
Comments Due: 5 p.m. ET 9/2/15.

Docket Numbers: ER15–2418–000.
Applicants: Pacific Gas and Electric Company.
Description: Section 205(d) Rate Filing: Modifications to BART's NITSA—Schedule 7 PSE Service to be effective 1/1/2013.
Filed Date: 8/12/15.
Accession Number: 20150812–5016.
Comments Due: 5 p.m. ET 9/2/15.

Docket Numbers: ER15–2419–000.
Applicants: Southern California Edison Company.
Description: Notice of Cancellation of Southern California Edison Company for the Edison-Riverside San Onofre Nuclear Generating Station Firm Transmission Service Agreement.
Filed Date: 8/12/15.
Accession Number: 20150812–5054.
Comments Due: 5 p.m. ET 9/2/15.

Docket Numbers: ER15–2420–000.
Applicants: Southwest Power Pool, Inc.
Description: Section 205(d) Rate Filing: 2532 EDF Renewable Development, Inc. GIA Cancellation to be effective 7/15/2015.
Filed Date: 8/12/15.
Accession Number: 20150812–5089.
Comments Due: 5 p.m. ET 9/2/15.

Docket Numbers: ER15–2421–000.
Applicants: Southwest Power Pool, Inc.
Description: Section 205(d) Rate Filing: 1889R4 Westar Energy, Inc. (Mindenmines) NITSA and NOA to be effective 8/1/2015.
Filed Date: 8/12/15.
Accession Number: 20150812–5101.
Comments Due: 5 p.m. ET 9/2/15.

Docket Numbers: ER15–2422–000.
Applicants: Portland General Electric Company.
Description: Portland General Electric Company submits Average System Cost Filing for Sales of Electric Power to the Bonneville Power Administration, FY 2016–2017.
Filed Date: 8/12/15.
Accession Number: 20150812–5109.
Comments Due: 5 p.m. ET 9/2/15.

Docket Numbers: ER15–2423–000.
Applicants: Southwest Power Pool, Inc.
Description: Section 205(d) Rate Filing: 1890R4 Westar Energy, Inc. (Moran) NITSA and NOA to be effective 8/1/2015.
Filed Date: 8/12/15.
Accession Number: 20150812–5110.
Comments Due: 5 p.m. ET 9/2/15.

Docket Numbers: ER15–2424–000.
Applicants: Southwest Power Pool, Inc.
Description: Section 205(d) Rate Filing: 1892R4 Westar Energy, Inc. (Robinson) NITSA and NOA to be effective 8/1/2015.
Filed Date: 8/12/15.
Accession Number: 20150812–5112.
Comments Due: 5 p.m. ET 9/2/15.

Take notice that the Commission received the following qualifying facility filings:

Docket Numbers: QF15–968–000.
Applicants: Cubit Power One Inc.
Description: Form 556 of Cubit Power One Inc.
Filed Date: 8/12/15.
Accession Number: 20150812–5053.
Comments Due: None Applicable.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: August 12, 2015.

Kimberly D. Bose,

Secretary.

[FR Doc. 2015–20424 Filed 8–18–15; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2609–044]

Curtis/Palmer Hydroelectric Company, LP; Notice of Application Accepted for Filing, Soliciting Comments, Motions To Intervene, and Protests

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* Application to amend license.
b. *Project No.:* 2609–044.
c. *Date Filed:* July 29, 2015.
d. *Applicant:* Curtis/Palmer Hydroelectric Company, LP.
e. *Name of Project:* Curtis/Palmer Falls Hydroelectric Project.
f. *Location:* The project is located on the Hudson River in Saratoga and Warren counties, New York.
g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791a–825r.
h. *Applicant Contact:* Mr. Steve Denton, Curtis/Palmer Hydroelectric Company, 15 Pine St., Corinth, NY 12822 (518) 654–6297.
i. *FERC Contact:* Mr. Steven Sachs, (202) 502–8666, or *steven.sachs@ferc.gov.*
j. Deadline for filing comments, motions to intervene, protests, and recommendations is 30 days from the date of issuance of this notice. The Commission strongly encourages electronic filing. Please file motions to intervene, protests, comments, or recommendations using the Commission's eFiling system at *http://www.ferc.gov/docs-filing/efiling.asp.* Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at *http://www.ferc.gov/docs-filing/ecomment.asp.* You must include your name and contact information at the end of your comments. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov,* (866) 208–3676 (toll free), or (202) 502–8659 (TTY). In lieu of electronic filing, please send a paper copy to: Secretary, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426. Please include the project number (P–2609–044) on any comments, motions to

intervene, protests, or recommendations filed.

k. *Description of Request:* The licensee proposes to remove the top section of the forebay spillway at the Palmer Falls dam and replace it with a 4-foot-high, approximately 45-foot-long inflatable rubber dam. The licensee would use the rubber dam as a sluiceway to prevent ice from collecting within the forebay and against the trashracks. The licensee does not propose any changes to normal reservoir operation.

l. *Locations of the Application:* A copy of the application is available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street NE., Room 2A, Washington, DC 20426, or by calling (202) 502–8371. This filing may also be viewed on the Commission's Web site at *http://www.ferc.gov/docs-filing/elibrary.asp.* Enter the docket number excluding the last three digits in the docket number field to access the document. You may also register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via email of new filings and issuances related to this or other pending projects. For assistance, call 1–866–208- 3676 or email *FERCOnlineSupport@ferc.gov,* for TTY, call (202) 502–8659. A copy is also available for inspection and reproduction at the address in item (h) above.

m. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

n. *Comments, Protests, or Motions to Intervene:* Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

o. *Filing and Service of Responsive Documents:* Any filing must (1) bear in all capital letters the title ''COMMENTS'', ''PROTEST'', or ''MOTION TO INTERVENE'' as applicable; (2) set forth in the heading, the name of the applicant and the project number of the application to which the filing responds; (3) furnish the name, address, and telephone number of the person protesting or intervening; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. All comments, motions to intervene, or protests must set forth their evidentiary basis and otherwise comply with the requirements of 18 CFR 4.34(b). All comments, motions to intervene, or protests should relate to project works which are the subject of the license amendment. Agencies may obtain copies of the application directly from the applicant. A copy of any protest or motion to intervene must be served upon each representative of the applicant specified in the particular application. If an intervener files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency. A copy of all other filings in reference to this application must be accompanied by proof of service on all persons listed in the service list prepared by the Commission in this proceeding, in accordance with 18 CFR 4.34(b) and 385.2010.

Dated: August 13, 2015.

Kimberly D. Bose,

Secretary.

[FR Doc. 2015–20465 Filed 8–18–15; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project Nos. 2246–063, 2246–058]

Notice of Study Plan Meeting; Yuba County Water Agency

a. *Project Name and Number:* Yuba River Development Project No. 2246.

b. *Date and Time of Meeting:* August 27, 2015; 10 a.m. Pacific Time.

c. *Place:* Teleconference; Phone Number: (530) 741–5050; Passcode: 22466422.

d. *FERC Contact:* Alan Mitchnick, *alan.mitchnick@ferc.gov* or (202) 502–6074.

e. *Purpose of Meeting:* Yuba County Water Agency (YCWA) is in the process of implementing Study 7.11a, *Radio Telemetry Study of Spring- and Fall-run Chinook Salmon Migratory Behavior Downstream of Narrows 2 Powerhouse.* Pursuant to the approved study plan, YCWA wishes to discuss the status of the study's implementation.

f. All local, state, and federal agencies, Indian tribes, and other interested parties are invited to participate.

Dated: August 12, 2015.

Kimberly D. Bose,

Secretary.

[FR Doc. 2015–20426 Filed 8–18–15; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–9932–66–OA]

Notification of Public Teleconferences of the Science Advisory Board Radiation Advisory Committee

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Environmental Protection Agency (EPA) Science Advisory Board (SAB) Staff Office announces two public teleconferences of the Radiation Advisory Committee (RAC) to receive a briefing about the agency's Advance Notice of Proposed Rulemaking (ANPRM) to consider revising the Environmental Radiation Protection Standards for Nuclear Power Operations (40 CFR part 190).

DATES: The public teleconferences will be held from 12:00 p.m. to 5:00 p.m. (Eastern Time) on the following dates: November 10, 2015, and November 13, 2015.

ADDRESSES: The teleconferences will be conducted by telephone only.

FOR FURTHER INFORMATION CONTACT: Any member of the public who wants further information concerning these public teleconferences may contact Mr. Edward Hanlon, Designated Federal Officer (DFO) for the Radiation Advisory Committee, EPA Science Advisory Board Staff Office (1400R), U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue NW., Washington, DC 20460; by telephone at (202) 564–2134 or via email at *hanlon.edward@epa.gov.* General information concerning the EPA SAB can be found at *http://www.epa.gov/sab.*

SUPPLEMENTARY INFORMATION:

Background: The SAB was established pursuant to the Environmental Research, Development, and Demonstration Authorization Act (ERDDAA), codified at 42 U.S.C. 4365, to provide independent scientific and technical advice to the Administrator on the technical basis for Agency positions and regulations. The SAB is a federal advisory committee chartered under the Federal Advisory Committee Act (FACA), 5 U.S.C., App. 2. The SAB will comply with the provisions of FACA and all appropriate SAB Staff Office

procedural policies. Pursuant to FACA and EPA policy, notice is hereby given that the SAB Radiation Advisory Committee will hold two public teleconferences to learn about the agency's ANPRM to consider revising the Environmental Radiation Protection Standards for Nuclear Power Operations (40 CFR part 190). The Committee will comply with the provisions of FACA and all appropriate SAB Staff Office procedural policies.

EPA's Office of Air and Radiation requested an opportunity to brief the SAB Radiation Advisory Committee on the agency's ANPRM to consider revising the Environmental Radiation Protection Standards for Nuclear Power Operations (40 CFR part 190), which was released for public review and comment on February 4, 2014 (79 FR 6509). The briefing will help to inform the Committee in preparation for a later consultation, where the SAB will provide early advice for the agency's consideration on technical issues associated with standards for radiation dose to the public from normal operation of nuclear power plants and other uranium fuel cycle facilities. The purpose of the teleconference on November 10, 2015 is for EPA to brief the Committee about the agency's ANPRM and for the public to provide comments for the Committee's consideration regarding the ANPRM. If all oral comments from registered public speakers cannot be accommodated at the November 10, 2015 teleconference, an additional teleconference will be held on November 13, 2015 for that purpose. Additional information about this SAB activity can be found at the following URL *http://yosemite.epa.gov/sab/sabproduct.nsf/fedrgstr_activites/40%20CFR%20190?OpenDocument.*

Technical Contacts: Any technical questions concerning EPA's ANPRM to consider revising the Environmental Radiation Protection Standards for Nuclear Power Operations (40 CFR part 190) should be directed to Mr. Brian Littleton in the EPA Office of Air and Radiation, by telephone at (202) 343–9216 or by email at *littleton.brian@epa.gov.*

Availability of Teleconference Materials: Prior to the teleconference, the agenda and other materials will be accessible through the calendar link on the blue navigation bar at *http://www.epa.gov/sab/.* Materials may also be accessed at the URL provided above.

Procedures for Providing Public Input: Public comment for consideration by EPA's federal advisory committees and panels has a different purpose from public comment provided to EPA program offices. Therefore, the process for submitting comments to a federal advisory committee is different from the process used to submit comments to an EPA program office. Federal advisory committees and panels, including scientific advisory committees, provide independent advice to the EPA. Interested members of the public may submit relevant information on the topic of this advisory activity, and/or the group conducting the activity, for the SAB to consider during the advisory process. Input from the public to the SAB will have the most impact if it provides specific scientific or technical information or analysis for SAB committees and panels to consider or if it relates to the clarity or accuracy of the technical information. Members of the public wishing to provide comment should contact the DFO directly.

Oral Statements: In general, individuals or groups requesting an oral presentation at the teleconferences will be limited to three minutes. Interested parties wishing to provide comments should contact Mr. Hanlon, DFO, in writing (preferably via email) at the contact information noted above by November 3, 2015, to be placed on the list of public speakers for the teleconference. *Written Statements:* Written statements will be accepted throughout the advisory process; however, for timely consideration by Committee members, statements should be supplied to the DFO (preferably via email) at the contact information noted above by November 3, 2015. It is the SAB Staff Office general policy to post written comments on the Web page for advisory meetings. Submitters are requested to provide an unsigned version of each document because the SAB Staff Office does not publish documents with signatures on its Web sites. Members of the public should be aware that their personal contact information, if included in any written comments, may be posted to the SAB Web site. Copyrighted material will not be posted without explicit permission of the copyright holder.

Accessibility: For information on access or services for individuals with disabilities, please contact Mr. Hanlon at the contact information provided above. To request accommodation of a disability, please contact Mr. Hanlon preferably at least ten days prior to the teleconferences to give EPA as much time as possible to process your request.

Dated: August 7, 2015.

Thomas H. Brennan,

Deputy Director, EPA Science Advisory Board Staff Office.

[FR Doc. 2015–20498 Filed 8–18–15; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OW–2008–0150; FRL–9932–70–OW]

Proposed Information Collection Request; Comment Request; Establishing No-Discharge Zones (NDZs) Under Clean Water Act § 312 (Renewal)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Environmental Protection Agency plans to submit an information collection request (ICR), ''Establishing No-Discharge Zones (NDZs) Under Clean Water Act § 312 (Renewal)'' (EPA ICR No. 1791.07, OMB Control No. 2040–0187) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act (PRA) (44 U.S.C. 3501 *et seq.*). Before doing so, EPA solicits public comments on specific aspects of the proposed information collection as described below. This is a proposed extension of the ICR, which is currently approved through December 31, 2015. 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: Comments must be submitted on or before October 19, 2015.

ADDRESSES: Submit your comments, referencing Docket ID No. EPA–HQ–OW–2008–0150, online using *www.regulations.gov* (our preferred method), by email to *OW-Docket@epa.gov* or by mail to: EPA Docket Center, Environmental Protection Agency, Mail Code 28221T, 1200 Pennsylvania Ave. NW., Washington, DC 20460.

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: Virginia Fox-Norse, Oceans and Coastal Protection Division, Office of Wetlands, Oceans and Watersheds, (4504T), Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460; telephone number: 202–566–1266; fax number: 202–566–1337; email address: *fox-norse.virginia@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.*

Pursuant to section 3506(c)(2)(A) of the PRA, EPA solicits comments and information to enable it to: (i) 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; (ii) 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; (iii) enhance the quality, utility, and clarity of the information to be collected; and (iv) 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). EPA will consider the comments received and amend the ICR as appropriate. The final ICR package will then be submitted to OMB for review and approval. At that time, EPA will issue another **Federal Register** notice to announce the submission of the ICR to OMB and the opportunity to submit additional comments to OMB.

Abstract: (A) *Sewage No-discharge Zones:* The need for EPA to obtain information for, or to support, the establishment of no-discharge zones (NDZs) for vessel sewage in state waters stems from CWA sections 312(f)(3), (f)(4)(A), and (f)(4)(B), and implementing regulations at 40 CFR 140.4. No-discharge zones are established to provide greater environmental protection of specified state waters from treated and untreated vessel sewage. This ICR addresses the information requirements associated with the establishment of NDZs for vessel sewage. The information collection activities discussed in this ICR do not require the submission of any confidential information.

(B) *UNDS No-discharge Zones:* Under section 312(n) of the Clean Water Act (''Uniform National Discharge Standards for Vessels of the Armed Forces'' or ''UNDS'') no-discharge zones (''NDZs'') for discharges from Armed Forces vessels may be established by either state prohibition or EPA prohibition following the procedures in 40 CFR part 1700. UNDS also provides that the Governor of any state may petition EPA and the Secretary of Defense to review any determination or standard promulgated under the UNDS program if there is significant new information that could reasonably result in a change to the determination or standard. This ICR discusses the information that is required from a state if it decides (1) to establish a NDZ by state prohibition or (2) to apply for a NDZ by EPA prohibition for the UNDS discharges for which EPA and DOD have determined that it is not reasonable or practicable to require a Marine Pollution Control Device to mitigate adverse effects on the marine environment. 40 CFR 1700.5. The ICR also discusses the information that is required from a state to submit a petition for review of EPA and DOD determinations that it is not reasonable or practicable to require a Marine Pollution Control Device for a particular UNDS discharge identified at 40 CFR 1700.5. NDZs for UNDS discharges that do require a Marine Pollution Control Device will not become applicable until after EPA and DOD promulgate performance standards for such Marine Pollution Control Devices, and after DOD promulgates regulations governing the design, construction, installation and use of Marine Pollution Control Devices to meet achieve the performance standards. The information collection activities discussed in this ICR do not require the submission of any confidential information.

Form Numbers: None.

Respondents/affected entities: States.

Respondent's obligation to respond: The responses to this collection of information are required to obtain the benefit of a sewage NDZ (CWA sections 312(f)(3), (f)(4)(A), and (f)(4)(B), and subsequent regulations at 40 CFR 140.4. The responses to this collection of information are required to obtain the benefit of an UNDS NDZ or a review of an UNDS determination or standard (see 33 U.S.C. 1322(n)).

Estimated number of respondents: 16 (total).

Frequency of response: One time.

Total estimated burden: 2266 hours (per year). Burden is defined at 5 CFR 1320.03(b).

Total estimated cost: $108,622 (per year), includes $2,300 annualized capital or operation & maintenance costs.

Changes in Estimates: EPA expects that the burden hours will stay the same as the current estimate for this ICR extension. Cost estimates will likely remain the same or rise when EPA revises them for this ICR extension because of changes in the state and federal labor costs.

Dated: August 13, 2015.

Benita Best-Wong,

Director, Office of Wetlands, Oceans and Watersheds.

[FR Doc. 2015–20508 Filed 8–18–15; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–9932–71–OA]

Request for Public Comments on the List of Candidates for EPA's Science Advisory Board (SAB) Agricultural Science Committee

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The U.S. Environmental Protection Agency (EPA) invites public comments on the list of candidates being considered for appointment to the EPA's Science Advisory Board (SAB) Agricultural Science Committee to provide advice to the chartered SAB regarding matters referred to the SAB that will have a significant direct impact on farming and agriculture-related industries.

DATES: Nominations should be submitted in time to arrive no later than September 9, 2015.

FOR FURTHER INFORMATION CONTACT: Members of the public wishing to obtain further information may contact Ms. Stephanie Sanzone, Designated Federal Officer (DFO) for the committee, by email at *sanzone.stephanie@epa.gov* or by telephone at 202–564–2067.

Background: The chartered SAB (the Board) was established in 1978 by the Environmental Research, Development and Demonstration Authorization Act (42 U.S.C. 4365) to provide independent advice to the Administrator on general scientific and technical matters underlying the Agency's policies and actions. Members of the SAB and its subcommittees constitute a distinguished body of non-EPA scientists, engineers, economists, and social scientists that are nationally and internationally recognized experts in their respective fields. Members are appointed by the EPA Administrator, generally for a period of three years. The SAB conducts business in accordance with the Federal Advisory Committee Act (FACA) (5 U.S.C. App. 2) and

related regulations. Generally, SAB meetings are announced in the **Federal Register**, conducted in public view, and provide opportunities for public input during deliberations. All the work of the SAB subcommittees is performed under the direction of the Board. The chartered Board provides strategic advice to the EPA Administrator on a variety of EPA science and research programs and reviews and approves all SAB subcommittee and panel reports. Additional information about the SAB may be found at *http://www.epa.gov/sab.*

The SAB Staff Office previously announced (79 FR 73304–73305, December 10, 2014) that pursuant to section 12307 of the Agricultural Act of 2014 (P.L. 133–79), the EPA is establishing a new agriculture-related standing committee of the SAB. On January 26, 2015, the SAB Staff Office announced (80 FR 2965–3966) an extension to the nomination period through March 30, 2015. The SAB Agricultural Science Committee will provide advice to the chartered SAB on matters referred to the Board that EPA and the Board, in consultation with the Secretary of Agriculture, determine will have a significant direct impact on farming and agriculture-related industries. The SAB Staff Office sought public nominations of experts with demonstrated expertise in agriculture-related sciences, including: Agricultural economics, including valuation of ecosystem goods and services; agricultural chemistry; agricultural engineering; agronomy, including soil science; aquaculture science; biofuels engineering; biotechnology; crop and animal science; environmental chemistry; forestry; and hydrology. The SAB Staff Office hereby invites public comments on the list of candidates under consideration for the SAB Agricultural Science Committee, available at *http://yosemite.epa.gov/sab/sabproduct.nsf/WebAll/nominationcommittee?OpenDocument.*

How To Submit Comments: Any interested person or organization may submit comments to Ms. Sanzone, Designated Federal Officer, at the contact information provided above no later than September 9, 2015. Email is the preferred mode of receipt. Please be advised that public comments are subject to release under the Freedom of Information Act.

Dated: August 7, 2015.

Thomas H. Brennan,

Deputy Director, EPA Science Advisory Board Staff Office.

[FR Doc. 2015–20511 Filed 8–18–15; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL 9932–75–OECA]

Applicability Determination Index (ADI) Database System Recent Posting: Applicability Determinations, Alternative Monitoring Decisions, and Regulatory Interpretations Pertaining to Standards of Performance for New Stationary Sources, National Emission Standards for Hazardous Air Pollutants, and the Stratospheric Ozone Protection Program

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of availability.

SUMMARY: This notice announces applicability determinations, alternative monitoring decisions, and regulatory interpretations that EPA has made under the New Source Performance Standards (NSPS); the National Emission Standards for Hazardous Air Pollutants (NESHAP); and/or the Stratospheric Ozone Protection Program.

FOR FURTHER INFORMATION CONTACT: An electronic copy of each complete document posted on the Applicability Determination Index (ADI) database system is available on the Internet through the Resources and Guidance Documents for Compliance Assistance page of the Clean Air Act Compliance Monitoring Web site under ''Air'' at: *http://www2.epa.gov/compliance/resources-and-guidance-documents-compliance-assistance.* The letters and memoranda on the ADI may be located by control number, date, author, subpart, or subject search. For questions about the ADI or this notice, contact Maria Malave at EPA by phone at: (202) 564–7027, or by email at: *malave.maria@epa.gov.* For technical questions about individual applicability determinations or monitoring decisions, refer to the contact person identified in the individual documents, or in the absence of a contact person, refer to the author of the document.

SUPPLEMENTARY INFORMATION:

Background

The General Provisions of the NSPS in 40 Code of Federal Regulations (CFR) part 60 and the General Provisions of the NESHAP in 40 CFR part 61 provide that a source owner or operator may request a determination of whether certain intended actions constitute the commencement of construction, reconstruction, or modification. EPA's written responses to these inquiries are commonly referred to as applicability determinations. See 40 CFR 60.5 and 61.06. Although the NESHAP part 63 regulations [which include Maximum Achievable Control Technology (MACT) standards and/or Generally Available Control Technology (GACT) standards] and Section 111(d) of the Clean Air Act (CAA) contain no specific regulatory provision providing that sources may request applicability determinations, EPA also responds to written inquiries regarding applicability for the part 63 and section 111(d) programs. The NSPS and NESHAP also allow sources to seek permission to use monitoring or recordkeeping that is different from the promulgated requirements. See 40 CFR 60.13(i), 61.14(g), 63.8(b)(1), 63.8(f), and 63.10(f). EPA's written responses to these inquiries are commonly referred to as alternative monitoring decisions. Furthermore, EPA responds to written inquiries about the broad range of NSPS and NESHAP regulatory requirements as they pertain to a whole source category. These inquiries may pertain, for example, to the type of sources to which the regulation applies, or to the testing, monitoring, recordkeeping, or reporting requirements contained in the regulation. EPA's written responses to these inquiries are commonly referred to as regulatory interpretations. EPA currently compiles EPA-issued NSPS and NESHAP applicability determinations, alternative monitoring decisions, and regulatory interpretations, and posts them to the ADI on a quarterly basis. In addition, the ADI contains EPA-issued responses to requests pursuant to the stratospheric ozone regulations, contained in 40 CFR part 82. The ADI is an electronic index on the Internet with over one thousand EPA letters and memoranda pertaining to the applicability, monitoring, recordkeeping, and reporting requirements of the NSPS, NESHAP, and stratospheric ozone regulations. Users can search for letters and memoranda by date, office of issuance, subpart, citation, control number, or by string word searches.

Today's notice comprises a summary of 42 such documents added to the ADI on August 10, 2015. This notice lists the subject and header of each letter and memorandum, as well as a brief abstract of the letter or memorandum. Complete copies of these documents may be obtained from the ADI on the Internet through the Resources and Guidance Documents for Compliance Assistance page of the Clean Air Act Compliance Monitoring Web site under ''Air'' at: *http://www2.epa.gov/compliance/resources-and-guidance-documents-compliance-assistance.*

Summary of Headers and Abstracts

The following table identifies the database control number for each document posted on the ADI database system on August 10, 2015; the applicable category; the section(s) and/or subpart(s) of 40 CFR part 60, 61, or 63 (as applicable) addressed in the document; and the title of the document, which provides a brief description of the subject matter.

We have also included an abstract of each document identified with its control number after the table. These abstracts are provided solely to alert the public to possible items of interest and are not intended as substitutes for the full text of the documents. This notice does not change the status of any document with respect to whether it is ''of nationwide scope or effect'' for purposes of CAA Sec. 307(b)(1). For example, this notice does not convert an applicability determination for a particular source into a nationwide rule. Neither does it purport to make a previously non-binding document binding.

ADI DETERMINATIONS UPLOADED ON AUGUST 10, 2015

Control No.	Categories	Subparts	Title
1400039	NSPS	JJJJ	Performance Test Waiver for Reciprocating Internal Combustion Engines.
1500001	NSPS	JJJJ	Test Waiver for Stationary Spark Internal Combustion Engines.
1500004	NSPS	WWW	Request for Alternative Compliance Timeline for Landfill Gas Extraction Well.
1500005	NSPS	WWW	Request for Alternative Compliance Timeline for Landfill Gas Extraction.
1500006	NSPS	Ja	Alternative Monitoring Plan Request for Flare at Refinery and Sulfur Plant.
1500008	NSPS	CCCC, EEEE	Conditional Exemption for CISWI and OSWI.
1500009	NSPS	CCCC	Petition to Establish Proposed Operating Limits for an Incinerator.
1500010	NSPS	A, Y	Request for PM Performance Testing Extension under Force Majeure.
1500011	NSPS	EEEE	Rural Institutional Waste Incinerator Exemption.
1500012	NSPS	EEEE	Rural Incinerator Exemption Administrative Correction.
1500013	NSPS	EEEE	Rural Institutional Waste Incinerator Exemption Denial.
1500015	NSPS	EEEE	Rural Institutional Waste Incinerator Exemption.
1500016	NSPS	EEEE	Rural Institutional Waste Incinerator Exemption.
1500017	NSPS	JJJJ	Test Notice Waiver.
1500018	NSPS	JJJJ	Test Notice Waiver.
1500019	NSPS	EEEE	Rural Institutional Waste Incinerator Exemption.
1500020	NSPS	Db	Request for Alternative to COM Monitoring for Wet Scrubber and ESP.
1500040	NSPS	LL	Applicability Determination for Operations Depositing Ponded Fine Tailings Material as a By-Product from Historical Ore Mining and Processing Operations.
1500041	NSPS	A, LLLL	Alternative Monitoring Location for Wet Electrostatic Precipitator Effluent.
1500042	NSPS	A, Da, Z	Alternative Compliance Monitoring Plan for Opacity and Carbon Monoxide Monitoring from an electric submerged arc furnace.
1500043	NSPS	Db	Alternative Testing, Monitoring, Recordkeeping and Reporting at Vessel Boilers.
1500044	NSPS	Dc	Request for Alternative Recordkeeping and Reporting for Boilers.
1500045	NSPS	Dc	Request for Alternative Recordkeeping and Reporting for Boilers.
1500047	NSPS	TT	Applicability Determination for a Tubing Operation for Coating Metal Wire.
1500048	NSPS	OOOO	Applicability Determination for Pipeline Stations Storage Vessels.
M140017	MACT, Part 63 NESHAP	DDDDD	Request for Compliance Extension for Boiler MACT.
M140018	MACT, Part 63 NESHAP	JJJJJJ	Test Waiver Denial for Coal-Fired Boilers.
M150001	MACT, Part 63 NESHAP	ZZZZ	Alternative Monitoring Request for Non-Resettable Hour Meter for Stationary Emergency Engines.
M150002	MACT, Part 63 NESHAP	A, JJJJJJ	Compliance Extension for Area Source Coal Fired Boilers.
M150003	MACT, Part 63 NESHAP	A, ZZZZ	Compliance Extension for Area Source Reciprocating Internal Combustion Engines.
M150004	MACT, Part 63 NESHAP	A, ZZZZ	Compliance Extension for Reciprocating Internal Combustion Engine.
M150005	MACT, Part 63 NESHAP	A, ZZZZ	Compliance Extension for Power Plant Reciprocating Internal Combustion Engines.
M150006	MACT, Part 63 NESHAP	A, ZZZZ	Prior Test Data Use for Initial Compliance Demonstration.
M150007	MACT, Part 63 NESHAP	ZZZZ	Applicability Determination for Reciprocating Internal Combustion Engines.
M150008	MACT, Part 63 NESHAP	ZZZZ	Peak Shaving Engine Redesignation to Black Start Engine.
M150009	MACT, Part 63 NESHAP	A, JJJJJJ	Area Source Boiler PM Test Waiver Request.
M150018	MACT, Part 63 NESHAP	DDDDD, JJJJ, MMMMM, ZZZZ.	Part 63 Rules and Title V Operating Permit Applicability for Lamination Facility.
M150019	MACT, Part 63 NESHAP	O	Request for Clarification of Annual Performance Test Requirement.
M150020	MACT, Part 63 NESHAP	UUUUU	Applicability Determination for Limited-Use Liquid Oil-Fired Electric Generating Units.
M150021	MACT, Part 63 NESHAP	LLL	Applicability Determination for Cement Finish Mill.

ADI DETERMINATIONS UPLOADED ON AUGUST 10, 2015—Continued

Control No.	Categories	Subparts	Title
Z150001	Part 63 NESHAP	JJJJJJ	Performance Test Extension and Amendment to Force Majeure.
1500042	NSPS, Part 63 NESHAP	Y, DDDD, LLL	Applicability Determination under section 111, section 112, and section 129 for Cement Plants.

Abstracts

Abstract for [1400039]

Q: Will EPA provide Matanuska Electric Association (MEA) a waiver pursuant to 40 CFR 60.8(b)(4), from the initial performance testing requirement under NSPS Subpart JJJJ for nine of the ten Wartsila 18V50DF dual-fired, lean-burn, 17.1 megawatt (23,250 HP), non-emergency, reciprocating internal combustion engines (RICE) to be installed at the Eklutna Generation Station in Eklutna, Alaska?

A: No. EPA finds that MEA has not provided an adequate demonstration that the engines in question will meet the applicable standards, and therefore the EPA is denying MEA's request for a waiver from the initial performance testing for its Wartsila 18V50DF engines. Although the manufacturer's data provided indicates that we can expect that the Wartsila 18V50DF engines may be able to meet the applicable emissions limits in NSPS Subpart JJJJ (if properly installed and operated) conducting a performance test is necessary to provide adequate assurance that an engine is properly installed and operating. MEA may re-submit a request for a waiver of performance tests at its facility once it has information that is sufficient to demonstrate that one or more of the engines, after reaching their maximum production rate, are in compliance with the standard.

Abstract for [1500001]

Q: Will EPA approve a waiver from performance testing requirements according to 40 CFR 60.8(b)(4) for six of seven Waukesha units identified as identical and operated as compressor engines at ConocoPhillips Alaska Incorporated's (CPAI) Beluga River Unit (BRU)?

A: Based on the information provided by CPAI, EPA approves the performance test waiver for the CO and VOC standards, but not for the NO_X standards for the next performance testing that is due for six of the seven Waukesha engines. EPA approves the CO and VOC performance testing waiver because CPAI has demonstrated that the engines are identical, they are in the same location, they will be operated and maintained in a similar manner on an ongoing basis, and the expected emissions from the engines are in compliance with applicable limits by a substantial margin. EPA denies the NO_X performance test waiver because the margin of compliance for NO_X emissions was not sufficient to conclude that untested units would be in compliance with the NO_X standards of subpart JJJJ, given the high variability in NO_X emissions.

Abstract for [1500004]

Q: Does EPA approve Roxana Landfill's request for an alternative timeline of additional sixty (60) days, or until January 25, 2015, to bring Well 191 located in Edwardsville, Illinois, into compliance with 40 CFR 60.752(b)(2)(ii)(A)(3) under NSPS subpart WWW?

A: Yes. Based on the information provided by Roxana, EPA approves, pursuant to 40 CFR 60.755(a)(3), the proposed alternative timeline to complete installation of a new vacuum lateral on Well 191 by January 25, 2015 to bring the well into compliance with pressure requirements. Roxana site personnel must review investigative and monitoring data and closely monitor any field conditions that would result in a violation of 40 CFR part 60, subpart WWW.

Abstract for [1500005]

Q: Does EPA approve the alternative compliance timeline to complete a dewatering project for landfill gas extraction Well S163R2 at the Waste Management of Illinois, Incorporated. (WMIL) Settler's Hill Recycling and Disposal Facility/Midway facility in Batavia, Illinois under 40 CFR subpart WWW?

A: Yes. Based on the information provided by WMIL, EPA approves WMIL's proposed alternative compliance timeline to complete a dewatering project on Well S163R2 by June 24, 2014. We understand that WMIL has made efforts to meet the regulatory deadline but was unable to meet it due to the nature of the work involved. Factors including a well depth of 144 feet deep and its location at the center of the landfill. Lack of infrastructure near the well to facilitate dewatering, no electricity near the well, and no means to convey liquid into the facility's condensate/leachate system contributed to the project's delay.

Abstract for [1500006]

Q. Does EPA approve the Alternative Monitoring Plan (AMP) request to the sulfur monitoring requirements under 40 CFR 60.107a(e) of NSPS, subpart Ja, for the flare at the Phillips 66 Billings Refinery and Jupiter Sulfur Plant (Jupiter Sulfur) located in Billings, Montana?

A. Yes. Based on the information provided, EPA conditionally approves Jupiter Sulfur's AMP request for meeting the flare sulfur monitoring requirements. EPA finds the AMP acceptable since flaring does not occur more than four times in any 365-day period and it contains provisions for the monitoring of the rupture discs that are similar to, or the same as, provisions found in § 60.107a(g)(1)–(6) for monitoring the water seal at emergency flares. In addition, Jupiter Sulfur will install a flow meter meeting the requirements of § 60.107a(i) on the flare. The conditions for AMP approval addressing monitoring, corrective actions and recordkeeping requirements are specified in the EPA determination letter.

Abstract for [1500008]

Q: Does an incinerator that burns pathological waste at the Kenai Veterinary Hospital in Kenai, Alaska meet the exclusion for pathological waste incineration units in NSPS for Other Solid Waste Incineration Units (OSWI), 40 CFR subpart EEEE, and for Commercial Industrial Solid Waste Incineration Units (CISWI), subpart CCCC?

A: Yes. The unit is exempt because it burns 90 percent or more by weight pathological, low-level radioactive, and/or chemotherapeutic waste as defined in 40 CFR 60.2977. EPA will consider the letter submitted by the hospital to constitute the notice that the unit meets the exclusion. Consistent with the regulations, records of materials burned must be kept to demonstrate that the exclusion continues to apply.

Abstract for [1500009]

Q: Does the EPA approve the operating limits proposed by Sumitomo Metal Mining Pogo (Pogo) for its small

remote solid waste incinerator under NSPS for Commercial Industrial Solid Waste Incineration (CISWI) units, subpart CCCC at its mine facility near Delta Junction, Alaska?

A: Yes. EPA accepts Pogo's petition to establish operating limits for the incinerator under subpart CCCC. The petition was submitted 60 days before the initial performance test is scheduled to begin and it meets the criteria in paragraphs (a) through (e) of § 60.2115. The incinerator has no add-on control device and only fires propane as fuel with anticipated feedstocks of solid wastes but not hazardous wastes, which is consistent with 40 CFR 60.2115. Pogo identified the specific parameters to be used, including waste composition and charge rate, charge interval limit, and primary and secondary combustion chamber temperature and burn-time limits. The relationship between these parameters and emissions was provided by Pogo, and upper and/or lower values were proposed. Methods and instrumentation to measure and continuously monitor the operating parameters were presented, which include the installation of an electronic data acquisition system and the calculation of 5-minute rolling average temperatures. Compliance with the minimum temperature limits will be determined using the rolling 5-minute average. A rolling weight will be calculated with an averaging period to be determined based on the results of the initial performance test. The frequency and methods for recalibrating instruments were identified.

Abstract for [1500010]

Q: Does EPA approve an extension to the applicable performance test deadlines caused by a force majeure event in accordance with the provisions of 40 CFR 60.8(a)(1), (a)(2), (a)(3), and (a)(4) for an affected facility located in Alaska, owned and operated by Clear Air Force Station (Clear AFS), that is subject to 40 CPR 60 subpart Y?

A: No. EPA denies the extension request as it believes that Clear AFS could have taken steps to prevent the circumstances that led to the inability to perform the stack test in a safe manner. As stated in the supporting information you provided to EPA, which was included in a formal request submitted to the Alaska Department of Environmental Conservation (ADEC), a similar nearby facility (Eielson Air Force Base) had tested in 2011 the same coal at their facility under similar operational conditions and determined that the coal was explosive. The EPA believes that Clear AFS has an obligation (a general duty) to ensure a safe working environment under all conditions at all times and has knowledge and is aware of the nature of all materials under its possession. EPA also believes that Clear AFS neglected to take into safety consideration when making equipment purchase decisions.

Abstract for [1500011]

Q: Will EPA exclude the cyclonic burn barrel unit that Lower Kuskokwim School District (LKSD) intends to operate at the Chefornak School in Chefornak, Alaska from the requirements of 40 CFR part 60 subpart EEEE?

A: Yes. EPA approves LKSD's request. EPA determines that KSD's request was submitted prior to initial startup of the unit, and that the incineration unit meets the criteria for exclusion from subpart EEEE (40 CFR 60.2887(h)(1)–(2)) for rural institutional waste incinerator units. The unit is located more than 50 miles from the boundary of the nearest Metropolitan Statistical Area, and alternative disposal options are not available or are economically infeasible.

Abstract for [1500012]

Q1: Will EPA correct the operator and park name operated by and located in the Lake Clark National Park and Preserve for a previously denied exclusion from 40 CFR part 60 subpart EEEE for an incineration unit operating in Port Alsworth, Alaska?

A1: Yes. EPA determination letter issued to the National Park Service on April 16, 2013 (Refer to ADI Control Number 1500013) applies to the incinerator operated by and located in the Lake Clark National Park and Preserve, and not to an incinerator being operated by Glacier Bay National Park and Preserve as erroneously stated in the response.

Abstract for [1500013]

Q: Does EPA determine that the institutional waste incineration unit at the National Park in Port Alsworth, Alaska can be excluded from the Part 60 subpart EEEE requirements at 40 CFR 60.2887(h)?

A: No. EPA determines that the unit is not eligible for this exclusion because the application for an exclusion was not submitted prior to the start-up of the incinerator as required by 40 CFR 60.2887(h)(1). It appears, based on the information provided by the Park, that the unit in question would meet the criteria of being located more than 50 miles from the boundary of the nearest Metropolitan Statistical Area and that alternative disposal options are not available or are economically infeasible. However, subpart EEEE requires that the owner or operator of the incinerator unit must submit, before start-up, an application demonstrating that the unit meets the exclusion criteria. Refer to ADI Control Number 1500012 for a correction to the operator name for the unit.

Abstract for [1500015]

Q: Will EPA approve exempted status for a cyclonic burn barrel unit under 40 CFR part 60 subpart EEEE that the Lower Kuskokwim School District (LKSD) intends to operate at the Atmautluak, Alaska school facility to incinerate dewatered sludge from the Atmautluak school wastewater system?

A: Yes. EPA determines that the incinerator that LKSD intends to operate meets the criteria for exclusion for rural institutional waste incinerators and therefore is approving LKSD's application for exclusion according to 40 CFR 60.2887(h). LKSD submitted this request prior to initial start up of the incinerator as required by 40 CFR 60.2887(h)(1). The LSKD School in Atmautluak is located approximately 284 miles from the boundary of the Anchorage/Matanuska Susitna Metropolitan Statistical Area. Atmautluak is an isolated community with no road access and severely limited barge access. There is no legal and safe disposal site within Atmautluak. Sludge would have to be shipped to Washington or Oregon for disposal and this would be prohibitively expensive.

Abstract for [1500016]

Q: Will EPA approve exempted status for a cyclonic burn barrel unit under 40 CFR part 60 subpart EEEE that the Lower Kuskokwim School District (LKSD) intends to operate at the Newtok, Alaska school facility to incinerate dewatered sludge from the Newtok school wastewater system?

A: Yes. EPA determines that the incinerator that LKSD intends to operate meets the criteria for exclusion for rural institutional waste incinerators and therefore is approving LKSD's application for exclusion according to 40 CFR 60.2887(h). LKSD submitted this request prior to initial start up of the incinerator as required by 40 CFR 60.2887(h)(1). The LSKD School in Newtok is located approximately 360 miles from the boundary of the Anchorage/Matanuska Susitna Metropolitan Statistical Area. Newtok is an isolated community with no road access and severely limited barge access. There is no legal and safe disposal site within Newtok. The community has started a long-term project to move the village to a new

location therefore there are no plans to open a permitted landfill at this current location. Sludge would have to be shipped to Washington or Oregon for disposal and this would be prohibitively expensive.

Abstract for [1500017]

Q: Will EPA grant a request for a waiver of the 30-day notification required prior to conducting a performance evaluation of a generator under NSPS subpart JJJJ at the Joint Base Elmendorf/Richardson (JBER) Landfill Gas Power Facility in Fairbanks, Alaska pursuant to 40 CFR 60.19(f)(3)?

A: Yes. Based on information provided by JBER, EPA waives the 30 day notice for performance testing pursuant to 40 CFR 60.l9(f)(3). JBER indicates that the notice is late because it just became aware that the State of Alaska has declined to be delegated authority to implement and enforce NSPS subpart JJJJ.

Abstract for [1500018]

Q: Will EPA grant a request for a waiver of the 30-day notification of performance evaluation requirement for a Guascor Model SFGM–560 Reciprocating Internal Combustion Engine (RICE) at Farm Power's new biogas production facility in Tillamook, Oregon pursuant to 40 CFR 60.19(f)(3)?

A: Yes. Based on information provided by Farm Power, EPA approves this request pursuant to 40 CFR 60.l9(f)(3). Farm Power indicates that the notice is late because it just became aware that the State of Oregon has declined to be delegated authority to implement and enforce NSPS subpart JJJJ.

Abstract for [1500019]

Q: Will EPA approve exempted status for a cyclonic burn barrel unit under 40 CFR subpart EEEE that the Lower Kuskokwim School District (LKSD) intends to operate at the Tuntutuliak, Alaska school facility to incinerate dewatered sludge from the Tuntutuliak school wastewater system?

A: Yes. EPA determines that the incinerator that LKSD intends to operate meets the criteria for exclusion for rural institutional waste incinerators and therefore is approving LKSD's application for exclusion according to 40 CFR 60.2887(h). LKSD submitted this request prior to initial start up of the incinerator as required by 40 CFR 60.2887(h)(1). The LSKD School in Tuntutuliak is located approximately 360 miles from the boundary of the Anchorage/Matanuska Susitna Metropolitan Statistical Area. Tuntutuliak is an isolated community with no road access, and severely limited barge access. Sludge would have to be shipped to Washington or Oregon for disposal and this would be prohibitively expensive.

Abstract for [1500020]

Q: Will EPA approve alternative monitoring under 40 CFR 60.13(h)(i)(1) of NSPS subpart Db for the multi-fuel Power Boiler No. 20 at the Longview Fibre Paper and Packaging, Incorporated facility in Longview, Washington?

A: Yes. EPA conditionally approves alternative monitoring for the multi-fuel boiler to ensure compliance with the state PM limit since moisture from the controls and low stack gas temperature result in interference that makes a continuous opacity monitor (COM) infeasible. Longview's boiler is already subject to a federally enforceable, state imposed, PM emission limit that is more stringent than NSPS subpart Db, and therefore, compliance with the Subpart Db PM limit is met. The conditions for approval are specified in the EPA determination letter.

Abstract for [1500040]

Q: Are the operations conducted by Magnetation, LLC, at their facility located near Keewatin, Minnesota, to produce an iron concentrate considered an affected facility and subject to the requirements of NSPS subpart LL?

A: Yes. EPA determines that the operations conducted by Magnetation, LLC are considered an affected facility and subject to the requirements of NSPS subpart LL because it produces a metallic mineral concentrate and the operations meet the definition of metallic mineral processing plant at 40 CFR 60.381. The definition for ''metallic mineral concentrate'' does not require that the concentration level be in excess of the historic source ore, and the finished product is higher in concentration than currently available, naturally occurring ore. The tailing material clearly came ''from ore,'' and the fact that Magnetation's process relies on the previous plant having taken initial steps in concentrating the ore does not exempt your process from acting on material which came from ore. The beneficiation equipment produces a finished product that meets the definition of ''metallic mineral concentrate.'' Therefore, the equipment produces metallic mineral concentrates from ore.

Abstract for [1500041]

Q: Does EPA approve the Mattabassett District Water Pollution Control (Mattabassett) facility's request for an alternative monitoring location for the water flow rate from the wet electrostatic precipitator (WESP) that is used to control pollution from the sewage sludge incinerator at the facility located in Cromwell, CT?

A: Yes. EPA approves the alternative monitoring location for the water flow from the Mattabassett's WESP unit under 40 CFR part 60 subpart A, section 60.13(i)(4).

Abstract for [1500042]

Q1: Does EPA approve Boston Electrometallurgical Corporation's (BEMC's) proposed alternative monitoring to use a triboelectric detector to continuously monitor the relative particulate matter (PM) concentration of the exhaust emitted to the atmosphere from the submerged arc furnace, located at its Woburn, MA ferroalloy production facility, in lieu of a continuous opacity monitoring system to meet 40 CFR 60.264(b)? BEMC proposes to use EPA Reference Method 9 to establish a relationship between opacity and the electrical signal provided by the triboelectric detector.

A1: Yes. EPA approves the use of baghouse leak monitoring for the furnace meeting the requirements of 40 CFR 60.48(o)(4)(i) through (v), as they relate to the use of its triboelectric sensor for opacity monitoring, including the development and submittal of a monitoring plan for approval.

Q2: Does EPA approve BEMC's proposed alternative to install and operate a continuous CO monitoring system (*i.e.,* an Infrared Industries, IR–208 Gas Analyzer) that will sample the exhaust once every ten minutes in order to meet 40 CFR 60.263(a)?

A2: Yes. EPA approves BEMC's alternative monitoring to use the gas analyzer for measuring CO continuously in conjunction with other process parameters, such as temperature and flow, to ensure proper operating conditions. In addition, BEMC would have the flexibility to monitor CO periodically at other portions of the processes, *e.g.* furnace outlet.

Abstract for [1500043]

Q1: Does EPA approve Northeast Gateway Energy Bridge LLC's (Northeast Gateway's) proposed use of Method 22 in lieu of Method 9 for opacity observations to comply with 40 CFR 60.43b for each liquid natural gas regasification (LNGR) vessels that have boilers subject to NSPS subpart Db for the Northeast Gateway Port off the coast of Massachusetts?

A1: EPA finds that Northeast Gateway's request to use Method 22 is unnecessary because Northwest Gateway LLC only burns oil during

startup and the existing NSPS includes a provision, 40 CFR 60.43b(g), providing that PM and opacity limits in that NSPS do not apply during periods of startup, shutdown, or malfunction.

Q2: Does EPA approve Northeast Gateway's proposed waiver request of the 30 operating day NO_X performance test requirement in 40 CFR 60.46b(e)?

A2: EPA is unable to grant a waiver at this time because Northeast Gateway has not yet demonstrated compliance by other means. However, demonstration of compliance with the more stringent Northeast Gateway air permit NO_X limit through a performance test, combined with data collected with a certified NO_X monitor, may adequately demonstrate compliance with the Subpart Db NO_X emission limit without requiring a Subpart Db 30 day performance test.

Q3: Does EPA approve Northeast Gateway's proposed alternative to the 30-day rolling average required by 40 CFR 60.44b(i), where compliance would be demonstrated each calendar month, regardless of the number of operating hours that fall within a given calendar month?

A3: EPA finds that the proposed waiver of the 30-day averaging period is unnecessary because the affected boilers at the Northeast Gateway Port are below 250 MMBtu, and burn only natural gas and distillate oil.

Q4: Does EPA approve Northeast Gateway's proposal to use Method 22 in lieu of Method 9 for opacity observations under 40 CFR 60.48b?

A4: EPA finds that Method 9 observations will not be necessary under 40 CFR 60.48b since, under the permit, oil will be fired only during start-up periods.

Q5: Does EPA approve Northeast Gateway's proposal to modify the data requirements for NO_X monitoring found at 40 CFR 60.48b(f)?

A5: Yes. EPA approves Northeast Gateway's proposed criteria that require valid NO_X data for 75 percent of the operating hours that occur in each calendar month because the proposed data requirement will be more stringent than those at 40 CFR 60.48b(f).

Q6: Does EPA approve Northeast Gateway's request to waive all requirements under 40 CFR 60.49b(g) that refer to 30-day NO_X averages and instead be calculated on a calendar-month average basis?

A6: No. EPA does not grant the request to waive the 30-day NO_X average requirement in lieu of a calendar month approach. EPA requires that when compliance must be demonstrated, it shall be demonstrated consistent with the 30-day regulatory requirement. Similarly, requirements for excess emission reports in 40 CFR 60.48b(h) based on 30-day NO_X averages apply.

Q7: Does EPA approve Northeast Gateway's request to perform periodic quality assurance (QA) testing required by the Part 60 appendices while vessels are not moored at the Northeast Gateway Port?

A7: EPA will allow QA testing to be conducted while vessels are not moored at the Northeast Gateway Port if the testing is conducted in accordance with a test protocol and schedule approved by EPA.

Q8: Does EPA approve Northeast Gateway's proposal to perform a Relative Accuracy Audit (RAA) using three 60 minute runs in lieu of conducting the nine 21 minute runs of a RATA as required by Appendix F of Part 60?

A8: No. EPA does not approve this request because the nine run relative accuracy test audits (RATA) test are necessary to provide a statistically significant data set with which to certify the CEMS.

Q9: Does EPA approve Northeast Gateway's request that the RATA test frequency be reduced to initial performance testing and at least once every 5 years thereafter as required by Appendix F of Part 60?

A9: No. EPA does not approve this request. The RATAs must be conducted once every four calendar quarters, or upon the next visit for each vessel that has visited the Northeast Gateway Port after the previous successful RATA, if more than four calendar quarters have passed since that vessel's last successful RATA.

Q10: Does EPA approve Northeast Gateway's proposal that cylinder gas audits (CGAs) required by Appendix F of Part 60 be performed once per calendar quarter, or upon the next visit of a vessel to the Northeast Gateway Port after the previous CGA, if more than one calendar quarter has passed since that vessel's last visit to the Northeast Gateway Port?

A10: Yes. EPA approves the proposed CGA schedule.

Q11: Does EPA approve Northeast Gateway's proposal to modify the 7 day calibration drift test requirement in Performance Specification 2 (''PS2'') of Part 60 Appendix B?

A11: No. EPA does not approve this modification. However, as stated in A7 above, EPA is willing to provide some flexibility in allowing the drift test to be conducted when the LNGRV is not moored at the facility.

Q12: Does EPA approve Northeast Gateway's proposal to waive the retrospective invalidation of data for CD checks exceeding four times the specification and instead consider the ''out of control'' period only to apply to data after a CD check that exceeds four times the drift specification?

A12: No. EPA does not approve this request for waiver. Procedure 1 in Appendix F of 40 CFR part 60 defines the out of control period as beginning with the completion of the fifth consecutive daily calibration drift check that exceeds twice the drift specification (2.5 percent of span), or with the completion of the last daily CD check preceding a CD check that exceeds four times the drift specification.

Abstract for [1500044]

Q1: Does EPA approve Phillips Academy's (Phillips') request to track actual monthly oil usage under 40 CFR 60.48c(g)(1) when natural gas supplies are interrupted to its boilers at Phillips' facility in Andover, Massachusetts? Phillips currently operates three dual-fuel capable boilers with input capacities of 40.79 MMBtu/hr, which are subject to NSPS subpart Dc and other applicable Massachusetts permit requirements. The facility is currently required to maintain daily records of fuel consumption.

A1: Yes. EPA conditionally approves a decrease in fuel usage recordkeeping from daily to monthly records for Phillips' boilers if the facility uses natural gas as the primary fuel and distillate oil with a sulfur content no greater than 0.5 percent as the back-up fuel.

Q2: Does EPA approve Phillips' request to submit annual reports to EPA under 40 CFR 60.48c(j), instead of semiannual reports?

A2: Yes. EPA conditionally approves a decrease in the reporting frequency under subpart Dc based on Phillips' records that the facility has operated exclusively on natural gas for the past eight years, with the exception of limited operation on oil with a with a sulfur content no greater than 0.5 percent for periodic testing and maintenance. If Phillips' 30-day rolling average sulfur content of the fuel exceeds 0.5%, the facility must immediately resume daily fuel use record keeping.

Abstract for [1500045]

Q1: Does EPA approve the University of Massachusetts Lowell's (UMASS Lowell's) request to track actual monthly, instead of daily, oil usage under 40 CFR 60.48c(g)(1) when natural gas supplies are interrupted to its dual-fuel boilers subject to NSPS subpart Dc at its Lowell, Massachusetts facility?

A1: Yes. EPA conditionally approves a decrease in the reporting frequency for the boilers based on the facility's records that UMASS Lowell's has operated using natural gas as the primary fuel and distillate oil with a sulfur content no greater than 0.5 percent as the back-up fuel.

Q2: Does EPA approve UMASS Lowell's request to submit annual reports under 40 CFR 60.48c(j), instead of on a semi-annual basis?

A2: Yes. EPA conditionally approves a decrease in the reporting frequency under 40 CFR part 60 subpart Dc based on UMASS Lowell' records that the facility operates almost exclusively on natural gas, with the exception of when natural gas supplies were interrupted.

Abstract for [1500047]

Q: Is the new tube manufacturing operation at Elektrisola Incorporated's Boscawen, New Hampshire facility subject to 40 CFR part 60 subpart TT?

A: No. Based on the information provided by the New Hampshire Department of Environmental Services (NHDES), EPA determines that Elektrisola's new tubing operation does not meet the definition of metal coil surface coating operation in section 60.461 because it is applying an organic coating to metal wire, rather than a metal strip. Therefore, Elektrisola's operation is not subject to NSPS subpart TT.

Abstract for [1500048]

Q: Are JP Energy's pipeline station storage vessels at several locations in Kansas subject to NSPS subpart OOOO?

A: Yes. EPA determines that the storage vessels are located in the ''oil production segment'' and are affected facilities subject to NSPS subpart OOOO. The operations described by JP Energy, which transfer the oil from the wellhead tank loaded on a truck, and transported to another storage vessel prior to the pipeline (emphasis added), are transfer operations prior to the pipeline; as such, they are within the ''oil production segment'' per 40 CFR 60.5365(d) definition. Therefore, the storage vessels in question meet the criteria for storage vessels affected facility at 40 CFR 60.5365(e).

Abstract for [M140017]

Q: Will EPA approve a one-year compliance extension for the Power Boiler (PB–7) under 40 CFR part 63, subpart DDDDD at the RockTenn CP, LLC's pulp and paperboard mill in Tacoma, Washington (Tacoma Mill)?

A: No. EPA determines that although Tacoma Mill identified various potential control technology options, specific controls were not clearly identified, which is a criteria under 40 CFR 63.6(i)(6)(i)(A) for approval of an extension of the compliance deadline.

Abstract for [M140018]

Q: Will EPA grant an initial performance testing waiver for Aurora Energy, LLC's (Aurora) two coal fired boilers, Emission Units (EUs) 5 and 6, which are identical in design and manufacture to EU4, at the Chena Power Plant in Fairbanks, Alaska?

A: No. Based on the information provided, EPA denies Aurora's request for a waiver from the Part 63 subpart JJJJJJ initial performance testing for EUs 5 and 6. EPA determines that insufficient information has been provided to support a conclusion that EUs 4, 5, and 6 are identical, and have been operated and maintained in a similar manner necessary to support a waiver request. The age of the boilers makes it less likely they may be identical, which appears to be the case for EU 6 based on the nameplate photos. Additionally, there has been no historical test data submitted to demonstrate low variability in emissions over time. The fuel, coal, has also not been demonstrated to have low variability over time.

Abstract for [M150001]

Q: Will EPA approve an alternative to the monitoring requirement for installation of a non-resettable hour meter for the approximately 74 existing stationary emergency engines subject to 40 CFR part 63 subpart ZZZZ, the NESHAP for Stationary Reciprocating Internal Combustion Engines, which are operated by BP Exploration Alaska (BPXA) on the North Slope of Alaska?

A: No. EPA determines that the alternative monitoring approach is not acceptable because the automated engine hour tracking system in use by BPXA is not sufficient on its own to meet the rule requirement of 40 CFR 63.6625(f) since it is not ''non-resettable.'' Since BPXA can adjust the automated system hour log, it would not be ''non-resettable'' as required by the NESHAP subpart ZZZZ.

Abstract for [M150002]

Q: Will EPA grant a one year extension to the compliance deadline for four coal-fired boilers subject to the Area Source NESHAP for boilers, subpart JJJJJJ, located at the Pacific Air Forces, Eielson Air Force Based Central Heat and Power Plant in Eielson, Alaska?

A: Yes. EPA conditionally approves the one year extension to the compliance deadline for carbon monoxide (CO). EPA determines that additional time is warranted due to the short construction season in Alaska, uncertainty regarding the final rule requirements due to reconsideration amendments, and government procurement procedures. Approval is conditioned upon Eielson complying with the applicable emission and operating limits and compliance demonstration procedures by March 21, 2015; meeting interim compliance deadlines specified in the approval letter; and meeting tune-up requirements that are required of boilers below 10 MMBTU/hr during the time period while the compliance extension applies.

Abstract for [M150003]

Q: Will EPA grant a one year compliance extension to Hilcorp Alaska for five stationary reciprocating internal combustion engines (RICE) subject to NESHAP subpart ZZZZ, which are located on the Anna, Dillon, and Monopod Platforms in Alaska's Cook Inlet region?

A: Yes. EPA conditionally approves the one-year extension to the compliance deadline for all three platforms that are area sources. EPA determines that additional time is warranted because of the short construction season in Alaska, uncertainty regarding the final rule requirements due to reconsideration of the regulation, and difficulties in procuring the control equipment due to increased demand throughout the industry as the compliance deadline approaches. Approval is conditioned on Hilcorp complying with the applicable equipment standards, catalyst installation and compliance demonstration procedures by October 19, 2014; meeting specified interim compliance deadlines; and complying with the work or management practices for remote stationary RICE by October 19, 2013.

Abstract for [M150004]

Q: Will EPA grant a one year extension to the compliance deadline to Hilcorp Alaska for a stationary reciprocating internal combustion engine (RICE) subject to the NESHAP for RICE, 40 CFR part 63 subpart ZZZZ, which is located on the Falls Creek Pad in Alaska's South Kenai region?

A: Yes. EPA conditionally approves the one-year extension to the compliance deadline for the unit that is not a remote stationary RICE located at an area source facility. EPA determines that additional time is warranted because of the short construction season in Alaska, uncertainty regarding the

final rule requirements due to reconsideration of the regulation, and difficulties in procuring the control equipment due to increased demand throughout the industry as the compliance deadline approaches. Approval is conditioned upon Hilcorp complying with the applicable equipment standards, catalyst installation and compliance demonstration procedures by October 19, 2014; meeting interim compliance deadlines specified in the approval letter; and complying with the work or management practices for remote stationary RICE by October 19, 2013.

Abstract for [M150005]

Q: Will EPA grant a one-year compliance extension for two stationary reciprocating internal combustion engines (RICE) subject to NESHAP subpart ZZZZ, which are located at the North Slope Borough (NSB) Nuiqsut Power Plant in Barrow, Alaska?

A: Yes. EPA conditionally approves the one-year extension to the compliance deadline for the two existing gas-fired spark ignition units that are not remote stationary RICE and that operate more than 24 hours per calendar year at an area source facility. EPA determines that additional time is warranted because of the short construction season in Alaska, uncertainty regarding the final rule requirements due to reconsideration of the regulation, funding cycles for municipalities, and difficulties in procuring the control equipment due to increased demand throughout the industry as the compliance deadline approaches. Approval is conditioned on NSB complying with the applicable equipment standards, catalyst installation and compliance demonstration procedures by October 19, 2014; meeting specified interim compliance deadlines; and complying with the work or management practices for remote stationary RICE by October 19, 2013.

Abstract for [M150006]

Q: Will EPA accept a 2009 performance test as the initial performance test to demonstrate compliance for a stationary reciprocating internal combustion engine (RICE) subject to the NESHAP subpart ZZZZ at and located at Washington State University (WSU) in Pullman, Washington?

A: No. EPA does not approve the use of the 2009 performance test data to serve as the initial performance test for the RICE unit because a prior test can only be used if it is not older than two years pursuant to 40 CFR 63.6612(b)(2). Therefore, an initial test must be conducted within 180 days after the compliance date, by October 30, 2013.

Abstract for [M150007]

Q: Does EPA determine that engines located at the High Frequency Active Auroral Research Program (HAARP) facility near Gakona, Alaska are subject to the National Emission Standards for Hazardous Air Pollutants for Stationary Reciprocating Internal Combustion Engines (RICE) at 40 CFR part 63 subpart ZZZZ? The facility is owned by the Air Force and operated by Marsh Creek, LLC through the Office of Naval Research.

A: Yes. EPA determines that the engines, as described, are RICE and therefore subject to Part 63 subpart ZZZZ. The engines would be required to meet the applicable numerical emission limitations detailed in Table 2d and applicable operating limitations in Table 2b of NESHAP subpart ZZZZ for the type of existing stationary engine located at area sources of HAP, as detailed in the EPA determination letter.

Abstract for [M150008]

Q: Can the Eielson Air Force Base's existing compression ignition, 2-stroke, greater than 500 horsepower, Electromotive Diesel (EMD) engine installed in 1987 at the Base's Central Heat and Power Plant be designated as a black start engine exclusively and therefore subject to the corresponding requirements for that type of engine if the EMD engine is no longer used for any peak shaving?

A: Yes. EPA is responding with guidance to clarify that if the engine subject to 40 CFR part 63 subpart ZZZZ is not being used for peak shaving after the May 3, 2013 compliance date for the engine, and the engine meets the definition of a black start engine, it is subject to the requirements under NESHAP subpart ZZZZ for a black start engine.

Abstract for [M150009]

Q1: Will EPA approve a like for like waiver from the initial and all subsequent particulate matter (PM) tests according to the provisions under 40 CFR 63.7(e)(2)(iv) and 63.7(h) for the Moses Lake Industries (MLI) boiler located in Moses Lake, Washington?

A1: No. EPA determines that the information used to estimate the emissions is not from a boiler unit that is located at the same facility as the unit in question. There is no assurance that the tested unit was operated and maintained in a similar manner as the unit in question.

Q2: In case EPA is unable to grant the waiver, does EPA accept a source test plan and notification that MLI also provided in its submittal dated December 8th, 2011, stating that that they intend to conduct a PM source test on February 13th, 2012?

A2: Yes. EPA accepts the previously submitted test plan and notification in question to meet the general provision source test requirements from section 63.7(b) to notify EPA at least 60 days in advance of a source test.

Abstract for [M150018]

Q1: Can EPA clarify the applicability for the NESHAP for Major Sources: Industrial, Commercial and Institutional Boilers and Process Heaters, 40 CFR part 63, subpart DDDDD; the NESHAP for Flexible Polyurethane Foam Fabrication Operations, 40 CFR part 63, subpart MMMMM; the NESHAP for Reciprocating Internal Combustion !Engines, 40 CFR part 63, subpart ZZZZ; and the NESHAP for Paper and Other Web Coating, 40 CFR part 63, subpart JJJJ for Shawmut's flexible substrate lamination facility located in West Bridgewater, MA if the facility is now an area source?

A1: EPA determines that Shawmut is no longer subject to 40 CFR part 63 subparts JJJJ, MMMMM, and DDDDD. Shawmut is no longer subject to NESHAP subpart JJJJ because the three adhesive laminators (EUI) are permanently decommissioned. Shawmut is not subject to NESHAP subpart MMMMM because the facility ceased to be a major HAP source before becoming subject to any substantive subpart MMMMM requirements. Shawmut is not subject to NESHAP subpart DDDDD for its boiler and two process heaters (EU3) because EPA allows Shawmut to become an area source of HAP before January 2014, the first substantive rule compliance date. Shawmut's existing spark ignition engine is subject to NESHAP subpart ZZZZ as an area source of HAP because Shawmut became an area source of HAP before the first compliance date of October 19, 2013, but subpart ZZZZ does not require area sources of HAP to obtain a Title V operating permit.

Q2: Would Shawmut facility be required to maintain its Title V operating permit because it is no longer a major source?

A2: No. EPA determines that Shawmut is no longer subject to the requirements of Title V operating permits based on applicability of these NESHAP subparts as an area source.

Abstract for [M150019]

Q: Can EPA clarify the annual performance test deadline for Covidien's ethylene oxide sterilization facility located in North Haven, Connecticut?

A: EPA is clarifying that after the initial performance test, subsequent annual testing pursuant 40 CFR 63.363(b)(4)(i) must be conducted within 11 to 13 calendar months after the previous test.

Abstract for [M150020]

Q: Does a dual-fuel steam boiler (Unit 1) at PSEG New Haven Harbor Station in New Haven, Connecticut meet the definition of a limited-use liquid oil-fired electric generating unit in 40 CFR part 63 subpart UUUUU?

A: Yes. Based on the information provided, EPA determines that Unit 1 at PSEG New Haven Harbor Station meets the definition of a limited-use liquid oil-fired electric generating unit in 40 CFR part 63 subpart UUUUU.

Abstract for [M150021]

Q1: Will the addition of heaters to Dragon Products Company's existing finish mill in Thomaston, Maine subject the finish mill to requirements for raw material dryers in NESHAP for Portland Cement Manufacturing Industry at 40 CFR part 63 subpart LLL?

A1: No. EPA determines that the Dragon Products' finish mill is not an affected source under NESHAP subpart LLL because it is processing granulated slag, and is not grinding clinker or blending the slag with clinker.

Q2: Will Dragon Products' proposed finished material dryer be subject to subpart LLL?

A2: No. Based on the information submitted by Dragon Products, EPA determines that the proposed dryer is not an affected source under NESHAP subpart LLL because the raw material dryer would only be used to dry slag a product used in concrete and not used to dry a material for use in the production of Portland cement. This determination is revising a previously issued determination on the applicability of NESHAP subpart to the dryer issued April 8, 2014.

Abstract for [Z150001]

Q: Will the EPA determine that an amendment to Aurora Energy's September 26, 2014 determination is warranted, to provide an additional compliance extension for the performance testing deadline for three area source coal fired boilers (Emission Units (EUs) 4, 5, and 6) under NESHAP subpart JJJJJJ at the Chena Power Plant?

A: Yes. EPA determines that extending the NESHAP subpart JJJJJJ performance test deadline until January 31, 2015, will provide for time to complete the repair and installation and ensure that TG #1 is fully operational and enable a representative test to be conducted on the boilers.

Abstract for [1500052]

Q1: Argos requests clarification of which emissions standards (40 CFR part 63 Subpart LLL—The National Emissions Standards for Hazardous Air Pollutants for the Portland Cement Manufacturing Industry (PC NESHAP); 40 CFR part 60 Subpart Y—New Source Performance Standards for Coal Preparation and Processing Plants (subpart Y); and 40 CFR part 60, subpart DDDD—''Emissions Guidelines and Compliance Times for Commercial and Industrial Solid Waste Incineration (CISWI) Units'' (subpart DDDD'') apply to the emissions coming from the PC Coal Mill at the Harleyville Cement Plant located in Harleyville, SC, that are combined with the CISWI kiln emissions, where the CISWI kiln provides heat for drying the coal, before being emitted directly to the atmosphere?

A1: Based on the information provided by Argos, EPA made an analysis of the standards that would apply to the Harleyville PC Coal Mill. EPA determines that the Harleyville PC Coal Mill is subject to the requirements of 40 CFR part 60 subpart Y, specifically the standards for thermal dryers at section 60.252(a), because the thermal dryer is a thermal dryer per section § 60.251(r) (1) and is thus subject to the provisions in § 60.251, § 60.252(a), § 60.255(a), and § 60.256(a). When emissions from the thermal dryer (*i.e.,* the affected facility) at the PC coal mill are combined with emissions from the CISWI kiln subject to emissions limits in subpart DDDD, the emissions exiting from the PC Coal Mill thermal dryer are not exempt from the standards in section § 60.252(a). Neither § 60.251(j) nor § 60.252(c) create an exemption from these requirements. We do not believe that any difference between the definition of kiln under subpart DDDD and the PC NESHAP precludes application of the subpart DDDD standards to the waste-burning kiln emissions that are routed through the PC Coal Mill and emitted out of stack 2. Since the kiln is an existing CISWI unit, the subpart DDDD standards apply to the emissions coming from the waste-burning kiln whether or not those emissions are routed to another process before being emitted out of stack 2.

Q2. Is the Harleyville clinker cooler an affected facility under the PC NESHAP?

A2. Yes. EPA determines that the affected facility, in part, is each clinker cooler at any Portland cement plant according to § 63.1340(b)(2) (''What parts of my plant does this subpart cover?''). Information provided by Argos demonstrates that the clinker cooler meets the definition of clinker cooler at § 63.1341. Therefore, the clinker cooler is an affected facility under the PC NESHAP.

Q3. Which emissions standards (PC NESHAP, subpart Y, and/or subpart DDDD) apply to the emissions coming from the Harleyvill Kiln Coal Mill that are combined with the CISWI kiln emissions, where the CISWI kiln provides heat for drying the coal, before discharging to the atmosphere after co-mingling with the clinker cooler exhaust?

A3. Based on the description provided in Argos' letter, the Harleyville Kiln Coal Mill is a thermal dryer within the meaning of 60.251(r)(1) and thus, for the reasons explained in response to question 1, above, EPA determines it is subject to the applicable requirements of subpart Y in § 60.251, § 60.252(a), § 60.255(a), and § 60.256(a). Regarding PC NESHAP and subpart DDDD, for the reasons discussed in the response to question 1 we maintain that the performance standards for the emissions from CISWI waste burning kilns apply when and where they are emitted to the atmosphere. And, for the reasons stated in response to Question 2, above, we also believe that the clinker cooler is an affected facility under the PC NESHAP and is subject to the emissions standards for clinker coolers, therein. Application of the more stringent emission limits to the combined emissions is necessary to assure compliance with each applicable standard.

Q4: Can the PC NESHAP requirements for in-line coal mills be applied to the PC Coal Mill and the Kiln Coal Mill at Harleyville, independent of the PC NESHAP applicability to the kiln?

A4: No. Based on the construction date of the kiln provided by Argos, EPA determines that the emissions guidelines established under subpart DDDD, implemented through a state or federal plan (as applicable), will apply unless the waste-burning kiln ceases burning solid waste at least 6 months prior to the CISWI part DDDD compliance date. Therefore, the kiln is not subject to the PC NESHAP and instead it is subject to subpart DDDD. Coal mills are not subject to the requirements of the PC NESHAP if the kiln is not a PC NESHAP kiln affected

facility in accordance with section § 63.1340(b)(1).

Q5: If the PC NESHAP requirements for the kiln (which includes the coal mills) are not applicable, are the emissions from the Harleyville coal mills only subject to the subpart Y concentration and opacity standards?

A5: No. The kiln emissions are routed through the coal mills so the subpart DDDD requirements will apply to the emissions exiting the coal mills, in addition to the subpart Y requirements.

Q6: Do the requirements of Subpart DDDD apply to the Harleyville CISWI kiln emissions routed through the in-line coal mills (*i.e.* the PC Coal Mill and the Kiln Coal Mill) associated with the waste burning kiln at the mills that were in place prior to April 2008?

A6: Yes. Any re-routing or commingling of CISWI kiln emissions must not result in uncontrolled emissions directly to the atmosphere. We interpret subpart DDDD (or NSPS CCCC, when applicable) to continue to apply to all of the CISWI waste-burning kiln emissions, even if those emissions are routed through an in-line coal mill or other device prior to exhaust to the atmosphere. Therefore, regardless of the disposition of in-line coal mills as part of the waste burning kiln, the subpart DDDD standards applicable to waste-burning kilns apply to the emissions of the Harleyville kiln when and where they are emitted to the atmosphere.

Q7. Which emissions standards (subpart Y, PC NESHAP and/or subpart DDDD) apply to the emissions from stack 2 at the Roberta Cement Plant located in Calera, Alabama, when the CISWI waste-burning kiln emissions are routed through the coal mill and used to provide heat for drying of the coal before being emitted to the atmosphere?

A7: Based on the information provided by Argos, EPA determines that the Roberta coal mill is a thermal dryer within the meaning of § 60.251(r)(1) and is subject to the provisions in § 60.251, § 60.252(a), § 60.255(a), and § 60.256(a) of subpart Y.

Q8: Which emissions standards apply to the emissions from stack 1 at the Roberta Cement Plant located in Calera, Alabama, wherein the clinker cooler emissions are combined with the kiln emissions and sent to the raw mill to provide heat for drying before being emitted to the atmosphere?

A9: Argos's letter acknowledges that the Roberta in-line kiln/raw mill is a subpart DDDD affected facility. Also, for the same reasons as discussed in the response to Question 2 for Harleyville Cement Plant, the Roberta clinker cooler is an affected facility under the PC NESHAP. Argos must either comply with the most stringent standard applicable to the various emissions streams or establish a mechanism to apportion emissions to the various operations and seek an alternative methodology for determining compliance under section 60.8(b).

Dated: July 10, 2015.

Edward J. Messina,

Director, Monitoring, Assistance, and Media Programs Division, Office of Compliance.

[FR Doc. 2015–20514 Filed 8–18–15; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2006–0955; FRL–9930–59]

Product Cancellation Order for Certain Pesticide Registrations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces EPA's order for cancellation of certain pesticide products, identified in Table 1, Unit II, which were voluntarily deleted by the registrant and accepted by the Agency, pursuant to the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA). This cancellation order follows a March 13, 2013 **Federal Register**, Notice of Receipt of Request from the registrant listed in Table 2 of Unit II to voluntarily cancel these product registrations. In the March 13, 2013 Notice, EPA indicated that it would issue an order implementing the cancellation of the subject products, unless the Agency received substantive comments within the 30-day comment period that would merit its further review of these requests, or unless the registrant withdrew their request. The Agency did not receive any comments on the notice. Further, the registrant did not withdraw their request. Accordingly, EPA hereby issues in this notice a cancellation order granting the requested cancellations. Any distribution, sale, or use of the products subject to this cancellation order is permitted only in accordance with the terms of this order, including any existing stocks provisions.

DATES: The cancellations are effective August 19, 2015.

FOR FURTHER INFORMATION CONTACT: Caitlin Newcamp, Pesticide Re-Evaluation Division (7508P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001; telephone number: (703) 347–0325; email address: *newcamp.caitlin@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, 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.

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–2006–0955, 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?

This notice announces the cancellation, as requested by the registrant, of products registered under FIFRA section 3 (7 U.S.C. 136a). These registrations are listed in sequence by registration number in Table 1 of this unit.

TABLE 1—PRODUCT CANCELLATIONS

EPA Registration No.	Product name	Chemical name
8845–39	Rid-A-Rat and Mouse Killer	Warfarin.

TABLE 1—PRODUCT CANCELLATIONS—Continued

EPA Registration No.	Product name	Chemical name
8845–125	Hot Shot Sudden Death Brand Mouse Killer	Bromethalin.
8845–126	Hot Shot Sudden Death Brand Rat Killer 1	Bromethalin.
8845–127	Hot Shot Sudden Death Brand Mouse and Rat Killer	Bromethalin.
8845–128	Hot Shot Sudden Death Brand Mouse Killer Bait Station	Bromethalin.

Table 2 of this unit includes the names and addresses of record for all the registrants of the products in Table 1 of this unit, in sequence by EPA company number. This number corresponds to the first part of the EPA registration numbers of the products listed in Table 1 of this unit.

TABLE 2—REGISTRANTS OF CANCELLED PRODUCTS

EPA Company No.	Company name and address
8845	Spectrum Group, A Division of United Industries, 1 Rider Trail Plaza Drive, Suite 300, Earth City, MO 63045.

III. Summary of Public Comments Received and Agency Response to Comments

During the public comment period provided, EPA received no comments in response to the March 13, 2013 **Federal Register** (78 FR 15949) (FRL–9379–4) notice announcing the Agency's receipt of the request for voluntary cancellation of products listed in Table 1 of Unit II.

IV. Cancellation Order

Pursuant to FIFRA section 6(f) (7 U.S.C. 136d(f)), EPA hereby approves the requested cancellation of the registrations identified in Table 1 of Unit II. Accordingly, the Agency hereby orders that the product registrations identified in Table 1 of Unit II are canceled. The effective date of the cancellations that are the subject of this notice is August 19, 2015. Any distribution, sale, or use of existing stocks of the products identified in Table 1 of Unit II in a manner inconsistent with any of the provisions for disposition of existing stocks set forth in Unit VI will be a violation of FIFRA.

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

Section 6(f)(1) of FIFRA (7 U.S.C. 136d(f)(1)) provides that a registrant of a pesticide product may at any time request that any of its pesticide registrations be canceled or amended to terminate one or more uses. FIFRA further provides that, before acting on the request, EPA must publish a notice of receipt of any such request in the **Federal Register**. Thereafter, following the public comment period, the EPA Administrator may approve such a request. The notice of receipt for this action was published for comment in the **Federal Register** of March 13, 2013 (78 FR 15949). The comment period closed on April 12, 2013.

VI. Provisions for Disposition of Existing Stocks

Existing stocks are those stocks of canceled pesticide products that are in the United States and that were appropriately packaged, labeled, and released for shipment prior to the effective date of cancellation of the underlying registration. The existing stocks provisions for the products subject to this order are as follows.

The registrant is prohibited from selling or distributing existing stocks above as of August 19, 2015, except for export in accordance with FIFRA section 17 (7 U.S.C. 136o), or proper disposal. Persons other than the registrant may sell, distribute, or use existing stocks of products listed above until existing stocks are exhausted, provided that such sale, distribution, or use is consistent with the terms of the previously approved labeling on, or that accompanied, the canceled products.

Authority: 7 U.S.C. 136 *et seq.*

Dated: July 27, 2015.

Richard P. Keigwin, Jr.,

Director, Pesticide Re-Evaluation Division, Office of Pesticide Programs.

[FR Doc. 2015–20500 Filed 8–18–15; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL MARITIME COMMISSION

Notice of Agreements Filed

The Commission hereby gives notice of the filing of the following agreement under the Shipping Act of 1984. Interested parties may submit comments on the agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within twelve days of the date this notice appears in the **Federal Register**. A copy of the agreement is available through the Commission's Web site (*www.fmc.gov*) or by contacting the Office of Agreements at (202) 523–5793 or *tradeanalysis@fmc.gov.*

Agreement No.: 012301–002.

Title: Siem Car Carrier Pacific AS/ Volkswagen Konzernlogistik GmBH & Co. OHG Space Charter Agreement.

Parties: Siem Car Carrier Pacific AS and Volkswagen Konzernlogistik GmBH & Co. OHG.

Filing Party: Ashley W. Craig, Esq., and Elizabeth K. Lowe, Esq.; Venable LLP; 575 Seventh Street NW., Washington, DC 20004.

Synopsis: The amendment changes the name of the Volkswagen party to the Agreement.

By Order of the Federal Maritime Commission.

Dated: August 14, 2015.

Rachel E. Dickon,

Assistant Secretary.

[FR Doc. 2015–20489 Filed 8–18–15; 8:45 am]

BILLING CODE P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[60Day–15–15BDJ; Docket No. CDC–2015–0070]

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 effort 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 the proposed information collection request entitled ''Breast Cancer in Young Women Survey'',

which is designed to assess insurance coverage, employment status and out-of-pocket health care expenses among young women diagnosed with breast cancer and to look at the relationship between these variables and treatment decisions.

DATES: Written comments must be received on or before October 19, 2015.

ADDRESSES: You may submit comments, identified by Docket No. CDC–2015–0070 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

Insurance Coverage, Employment Status, and Copayments/Deductibles Faced by Young Women Diagnosed with Breast Cancer—New—National Center for Chronic Disease Prevention and Health Promotion (NCCDPHP), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

The Education and Awareness Requires Learning Young (EARLY) Act of 2009, which is outlined in section 10413 of the Patient Protection and Affordable Care Act, authorizes the CDC to fund research and initiatives that increase knowledge of breast health and breast cancer among women, particularly among those under the age of 40. The EARLY Act along with section 301 of the Public Health Service Act authorizes the CDC to conduct research that will inform the prevention of physical and mental diseases such as breast cancer, and serves as the main basis for this data collection activity.

Research indicates that young women diagnosed with breast cancer face many barriers accessing high-quality breast cancer care and treatment. These barriers are compounded by the multiple roles that these young women serve in society including parenting young children, developing a career, and completing their education. Treatment decisions can be complicated for young women with breast cancer. Some research indicates that employment status, financial stability, and insurance coverage are variables that affect treatment compliance, access to quality care, and ultimately quality of life for young women with breast cancer. However, to date, no comprehensive assessment has been conducted to examine breast cancer care and treatment for young women.

CDC propose to address this gap by answering the following two research questions: (1) What are young, female breast cancer survivors experiencing after their diagnosis in terms of (a) continuation of insurance coverage, access to care, and quality of care; (b) changes in employment status after breast cancer diagnosis; and (c) out-of-pocket medical costs? (2) What factors affect young breast cancer survivors' access to comprehensive, high quality care?

To answer these research questions, CDC is sponsoring a study to collect information from two groups of breast cancer survivors: One randomly drawn from state-based cancer registries (Sample 1), the other a self-selected convenience sample drawn from two advocacy organizations (Sample 2).

Sample 1 will include up to 1,750 young (diagnosed between the ages of 18 and 39), female breast cancer survivors diagnosed for the first time with breast cancer 12 months before the survey is fielded. Respondents will be recruited through approximately four state-based central cancer registries. These respondents will be asked to complete a mail-in or web-based questionnaire. Self-reported survey data from Sample 1 will be supplemented by data maintained by their state's cancer registry, including information about tumor characteristics, date of diagnosis, and stage. The linked survey and cancer registry data will be used to answer research question #2 (What factors affect young breast cancer survivors' access to comprehensive, high quality care?).

Sample 2 will include a nation-wide convenience sample of 2,000 female breast cancer survivors diagnosed between the ages of 18 and 49 who are associated with one of two breast cancer advocacy groups (Living Beyond Breast Cancer and Young Survival Coalition). This cohort will exclude individuals from Sample 1 and will not be linked to any other data source.

Comparing results between Sample 1 and Sample 2 will help us address these additional research questions: (1) How generalizable are the results from the convenience Sample 2? (2) Are there

differences between young breast cancer survivors based on the length of time that has elapsed from cancer diagnosis? (3) Do the experiences and barriers faced by women diagnosed between 18 and 39 years of age (Samples 1 and 2) differ from those of women diagnosed between 40 and 44 years of age and 45 and 49 years of age (Sample 2)? This comparison will also help CDC explore whether drawing a convenience sample from survivorship groups will be a methodologically legitimate, less expensive method to recruit respondents for future breast cancer survivor surveys.

The target number of responses for the overall study will result in up to 3,750 completed surveys. Respondents will be asked to complete a questionnaire, which is estimated to take about 22 minutes. Sample 1 respondents will have the option of completing a hardcopy questionnaire or an online questionnaire. Sample 2 respondents will complete the questionnaire online. Demographic information will be collected from all patients who participate in the study.

Findings from this study will be used to identify interventions to ameliorate or eliminate existing barriers to treatment so that young women have access to high quality breast cancer treatment and care. Study findings will be disseminated through reports, presentations, and publications. Results will also be used by participating sites, CDC, and other federal agencies to improve care and services provided to young women diagnosed with breast cancer.

OMB approval is requested for three years and the burden table presents annuitized estimates. CDC's data collection contractor will securely maintain identifiable information from respondents recruited from state registries (Sample 1). No identifiable information will be collected by CDC. Participation is voluntary and there are no costs to respondents other than their time.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondent	Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hours)	Total burden (in hours)
Sample 1—Breast Cancer survivors included in one of as many as four state registries.	Breast Cancer in Young Women Survey (Mail or web-based version questionnaire)	583	1	22/60	214
Sample 2—Breast Cancer survivors associated with advocacy groups.	Breast Cancer in Young Women Survey (Web-based questionnaire)	667	1	22/60	244
Total					458

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. 2015–20479 Filed 8–18–15; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[30Day–15–15NR]

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

Capacity Building Assistance Program: Assessment and Quality Control—New—National Center for HIV/AIDS, Viral Hepatitis, STD, and TB Prevention (NCHHSTP), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

The CDC is requesting the Office of Management and Budget (OMB) to grant a three-year approval to collect data that comprises Health Professional Application for Training (HPAT), the Training Follow-up Instrument, the Technical Assistance (TA) Satisfaction Instrument, and the Capacity Building Assistance (CBA) Key Informant Interview. The purpose of this information collection is to assess the degree to which the CDC's CBA program meets the needs of its consumers in order to enhance its capacity building strategy over time. The HPAT serves as the official application form for training and technical activities conducted by the Sexually Transmitted Disease (STD)/Human immunodeficiency virus (HIV) Prevention Training Centers' (PTCs) grantees and the HIV Capacity Building Assistance (CBA providers) grantees funded by the (CDC). The HPAT form is currently approved under OMB Control Number 0920–0995 and expires on October 31, 2016.

The Prevention Training Centers (PTCs) and CBA providers are funded by CDC/Division of STD Prevention (DSTDP) and Division of HIV/AIDS Prevention (DHAP) over the five-year period to provide capacity-building services that includes information, training, and technical assistance. CBA services are requested and provided to support health departments, community-based organizations, and healthcare organizations in the implementation, monitoring and evaluation of evidence-based HIV prevention interventions and programs; building organizational infrastructure; and community mobilization to decrease stigma and increase HIV testing in high risk communities. Under this project, there will be no duplication of information collection, because it builds on existing, OMB approved data collection activities.

The PTCs and CBA providers offer classroom and experiential training, web-based training, clinical consultation, and capacity building assistance to maintain and enhance the capacity of healthcare professionals to control and prevent STDs and HIV.

The CBA service recipients are healthcare professionals such as, physicians, nurses, and health educators, etc., who work at community-based organizations (CBOs), health departments, and healthcare organizations, most of whom are funded directly or indirectly by the CDC, involved in HIV prevention service delivery.

CDC is requesting to use two web-based assessments that will be administered to recipients of CBA services: (1) Training Follow-Up Instrument and (2) Technical Assistance (TA) Satisfaction Instrument. The first quantitative assessment will be disseminated 90 days after a training event to agency staff who participated in a training activity. It takes approximately 15 minutes to complete. The purpose of this web-based assessment is to determine the training participants' satisfaction with the trainers, training materials, and the course pace, benefits from the training, and CBA needs, how relevant the training was to their work, and whether they were able to utilize the information gained from the training. The second quantitative assessment will be disseminated 45 days after a technical assistance event to agency staff who participated in a technical assistance and will take about 15 minutes. The second assessment will measure participants' satisfaction with the technical assistance they received, intended or actual use of enhanced capacity, barriers and facilitators to use, and benefits of the technical assistance.

The purpose of the contractor administered CBA Key Informant Interview is to collect qualitative information to assess the impact of CBA services on organizational capacity (*e.g.*, application of knowledge and skills, potential organization changes as a result of CBA services) and to solicit information about how the CBA program can be improved. These interviews will be conducted via telephone for up to 15 minutes with a subset of up to 40 recipients of CBA services.

The respondents represent an average of the number of health professionals who receive training and technical assistance from the CBA and PTC grantees. The data collection is necessary (a) to assess CBA consumers' (community-based organizations, health departments, and healthcare organizations) satisfaction with and short-term outcomes from the overall CBA program as well as specific elements of the CBA program; (b) to improve CBA services and enhance the Capacity Building Branch's national capacity building strategy over time; (c) to assess the performance of the grantees in delivering training and technical assistance and to standardize the registration processes across the two CBA programs (*i.e.*, the PTC program and the CBA program) and multiple grantees funded by each program.

There are no costs to respondents other than their time. The estimated annualized burden hours are 8,643 hours.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondent	Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hours)
Healthcare Professionals	Health Professional Application for Training (HPAT)	7,400	2	5/60
Healthcare Professionals	Training Follow-up Instrument	3,700	2	15/60
Healthcare Professionals	Training Telephone Script	3,700	2	15/60
Healthcare Professionals	Technical Assistance (TA) Satisfaction Instrument	3,700	2	15/60
Healthcare Professionals	Technical Assistance Telephone Script	3,700	2	15/60
Healthcare Professionals	CBA Key Informant Interview Script	40	1	15/60

Leroy A. Richardson,

Chief, Information Collection Review Office, Office of Scientific Integrity, Office of the Associate Director for Science, Office of the Director, Centers for Disease Control and Prevention.

[FR Doc. 2015–20477 Filed 8–18–15; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[30Day-15–0696]

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

National HIV Prevention Program Monitoring and Evaluation (NHM&E) (OMB 0920–0696, Expiration 03/31/2016)—Revision—National Center for HIV/AIDS, Viral Hepatitis, STD, and TB Prevention (NCHHSTP), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

CDC is requesting a three-year approval for revision to the previously approved project.

The purpose of this revision is to continue collecting standardized HIV prevention program evaluation data from health departments and community-based organizations (CBOs) who receive federal funds for HIV prevention activities. Grantees have the option of key-entering or uploading data to a CDC-provided web-based software application (EvaluationWeb®).

This revision includes changes to the data variables to adjust to the different monitoring and evaluation needs of new funding announcements without a change in burden. CDC is adjusting the variables by deleting some of the client-level variables related to determining risk factors during the HIV Testing process and replacing these variables with aggregate testing variables that have previously been reported by grantees as part of their progress reports. This will streamline and simplify data submission for the grantees.

The other significant change is to add budget allocation data variables for CBOs but offset that addition with reductions in client-level variables and conversion of some variables to aggregate-level reporting. There are other minor changes in variables and values to adjust to new technologies and interventions and to improve reporting related to linkage to care and retention in care for HIV positive persons. However, the number of variables deleted approximately equals the number of variables added, so the net result is no change in the grantee reporting burden.

The evaluation and reporting process is necessary to ensure that CDC receives standardized, accurate, thorough evaluation data from both health department and CBO grantees. For these reasons, CDC developed standardized NHM&E variables through extensive consultation with representatives from health departments, CBOs, and national partners (*e.g.,* The National Alliance of State and Territorial AIDS Directors, Urban Coalition of HIV/AIDS Prevention Services, and National Minority AIDS Council).

CDC requires CBOs and health departments who receive federal funds for HIV prevention to report non-identifying, client-level and aggregate-level, standardized evaluation data to: (1) Accurately determine the extent to which HIV prevention efforts are carried out, what types of agencies are providing services, what resources are allocated to those services, to whom services are being provided, and how these efforts have contributed to a reduction in HIV transmission; (2) improve ease of reporting to better meet these data needs; and (3) be accountable to stakeholders by informing them of HIV prevention activities and use of funds in HIV prevention nationwide.

CDC HIV prevention program grantees will collect, enter or upload, and report agency-identifying information, budget data, intervention information, and client demographics and behavioral risk characteristics. Data collection will include searching existing data sources, gathering and maintaining data, document compilation, grantee training, review of data, and data entry or upload into the web-based system.

There are no additional costs to respondents other than their time. As noted above, the number of added variables is approximately equal to the number of deleted variables, so there is no change in burden hours from the previously approved information collection. The total estimated annual burden hours are 206,226.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondents	Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hrs.)
Health jurisdiction	Health Department Reporting	69	2	1377
Community-based organization	Community-based organization Reporting	200	2	40.5

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. 2015–20478 Filed 8–18–15; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2015–N–2781]

Obstetrics and Gynecology Device Panel of the Medical Device Advisory Committee; Correction

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice; correction.

SUMMARY: The Food and Drug Administration (FDA) is correcting a notice that appeared in the **Federal Register** of June 9, 2014 (79 FR 32964). Due to some recent confusion with the 2014 docket, this 2014 notice and all materials associated with it are being moved to a new docket. This document announces the new docket number.

FOR FURTHER INFORMATION CONTACT: Lisa Granger, Office of Policy, Planning,

Legislation, and Analysis, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 32, Rm. 3330, Silver Spring, MD 20993–0002, 301–796–9115.

SUPPLEMENTARY INFORMATION: In FR Doc. 2014–13290, appearing on page 32964, in the **Federal Register** of Monday, June 9, 2014, the following correction is made:

On page 32964, in the second column, in the headings section of the document, [Docket No. FDA–2014–N–0736]'' is corrected to read ''FDA–2015–N–2781''.

Please be aware that this new docket is no longer open for comment.

Dated: August 12, 2015.

Jill Hartzler Warner,

Associate Commissioner for Special Medical Programs.

[FR Doc. 2015–20397 Filed 8–18–15; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2015–N–2458]

Center for Devices and Radiological Health Participation in International Medical Device Regulators Forum, Regulated Product Submission, Table of Contents Pilot Program

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration's (FDA) Center for Devices and Radiological Health (CDRH), Offices of Device Evaluation (ODE) and In Vitro Diagnostics and Radiation (OIR) are announcing their participation in the International Medical Device Regulators Forum's (IMDRF) Regulated Product Submission Table of Contents Pilot Program. Participation in the Pilot is voluntary and open to applicants who submit premarket approval (PMA) applications or premarket notification (510(k)) to either ODE or OIR. The Pilot project is intended to provide industry, IMDRF, and CDRH staff the opportunity to evaluate the Table of Contents structure and to receive input from industry participants. Participants will be asked to submit their submissions electronically using IMDRF's Table of Contents (ToC) format.

DATES: The IMDRF is seeking interest for participation in the voluntary IMDRF Regulated Product Submission, Table of Contents Pilot Program. See section II.A. for instructions on how to submit a request to participate. The Pilot project will accept submissions with the ToC structure starting September 2015 through September 2016.

FOR FURTHER INFORMATION CONTACT: Jodi Hope N. Anderson, Center for Devices and Radiological Health, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 66, Rm. 1520, Silver Spring, MD 20993, 301–796–9299, *Jodi.Anderson@fda.hhs.gov*.

SUPPLEMENTARY INFORMATION:

I. Background

The IMDRF was conceived in February 2011 as a forum to discuss future directions in medical device regulatory harmonization. It is a voluntary group of medical device regulators from around the world who have come together to build on the strong foundational work of the Global Harmonization Task Force. The Forum aims to accelerate international medical device regulatory harmonization and convergence.

The Regulated Product Submission (RPS) proposal was endorsed as a new work item by IMDRF at its 2012 inaugural meeting in Singapore. The Work Group, consisting of regulatory authorities from the United States, European Union (EU), Australia, Brazil, Japan, China, and Canada, created a comprehensive Table of Contents for Non-In Vitro Diagnostics (nIVD) and also for IVD Marketing Authorizations, which were formalized in August 2014.

The ToC provides a comprehensive submission structure that can be used as a harmonized international electronic submission format while minimizing regional divergences and indicating where regional variation exists. This document is intended to provide guidance regarding the location of submission elements. These documents can be found on IMDRF's Web site (Refs. 1 and 2).

This document is intended to work together with a regional classification matrix, a separate document created for each participating jurisdiction. The classification matrix defines whether a heading is required, not required, optional, conditionally required, etc., for the given submission type. FDA's Classification Matrices can be found on FDA's Web site (Ref. 3).

The ToC Work Group has previously conducted Pilots for both of the ToC structures, using historical submissions. These Pilots provided valuable feedback regarding the ToC structure and completeness; however, there were limitations to using historical submissions and also a limited number of samples involving submission to more than one jurisdiction. Furthermore, there were no specific guidelines regarding the means of building a submission in a non-standard implementation. Additional IMDRF testing is considered necessary to both evaluate the ToC structures using real regulatory submissions and also evaluate the ToC structure from an industry perspective.

II. CDRH Participation in IMDRF Regulated Product Submission Table of Contents (ToC) Implementation Pilot

FDA's participation in the IMDRF RPS ToC Implementation Pilot will provide both local and international benefits for FDA, as it will provide FDA feedback into decisions regarding the ToC's suitability.

CDRH is participating in the Pilot. In doing so, CDRH will receive premarket submissions from the medical device regulated industry using the IMDRF ToC and FDA Regional Classification Matrices. Applications are to be real regulatory submissions—either PMAs or 510(k) applications—that will result in regulatory decisions by CDRH. PMAs exclude combination products and bundled submissions. The 510(k)s exclude special, abbreviated, and third-party submissions, as well as combination products, bundled submissions, and amendments after a final decision. Pilot participation requires that an application submitted to FDA also be submitted sequentially or simultaneously to at least one additional participating IMDRF region. Currently the participating regulating authorities are Australia (Therapeutic Goods Administration), Brazil (ANVISA), Canada (Health Canada), China (China Food and Drug Administration), and the European Union (Notified Bodies).

The Pilot is described in greater detail in the IMDRF/RPS WG/N26 Informational Document ''IMDRF Table of Contents (ToC) Pilot Plan'' (Ref. 4).

The Regulators participating in this Pilot intend to use submissions only for the requested regulatory activity and objectives of this Pilot. Any submissions generated in relation to this testing will not be distributed to other manufacturers or other regulators. Industry participants should share any submission content directly with the appropriate regulators through the official regulatory processes in place—*i.e.*, submission content will be shared across regulators directly by regulated industry.

Feedback provided on the ToC structure, experience developing regulatory submissions, or suggestions

for additional ToC headings may be shared and made public, excluding any confidential content. Basic applicant and submission identifying information (*e.g.*, Applicant/Correspondent/Manufacturer Name, Device Name, Device Type, and Submission Type) will be shared among IMDRF Regulators for the purpose of conducting the Pilot. The invitation to participants will provide the specific details of the information to be shared among the Regulators as it is a condition for Pilot participation. Any information provided in the resulting Pilot findings should only disclose information explicitly stated as releasable.

This Pilot will be evaluated in accordance with current FDA protocols and performance standards. Feedback from reviewers will be provided on the reviewability of the submission, based on the IMDRF ToC and FDA classification matrix, and any observations regarding issues in the submission content elements of the ToC Pilot. Feedback from industry will be accepted throughout the submission building process.

The Pilot project is intended to provide industry, IMDRF, and CDRH staff the opportunity to evaluate the ToC structure, through the receipt of input from industry participants and CDRH staff. Comments received during the Pilot project will be used to evaluate the usability of the ToC format. FDA will be reviewing the contents of each submission as part of this Pilot; however, Pilot participation for the manufacturer will end after successfully passing the refuse to accept criteria. Subsequently, a complete scientific review, outside of the scope of the Pilot, will commence.

A. Participation

Volunteers interested in participating in the Pilot project should provide expressions of interest to the IMDRF ToC working group at the IMDRF ToC email account *imdrftoc@gmail.com.* Confirmation of your interest in participation in the IMDRF ToC Pilot plan is requested. If notification is received by August 21, 2015, then the manufacturer will be invited to participate in a ''participation teleconference'' to answer remaining questions. After August 21, 2015, contact FDA Pilot staff by email at *Jodi.Anderson@fda.hhs.gov* with any questions. The following information should be included in the request: Applicant, trade name, primary product code, submission type, contact name, and contact email. FDA will contact interested applicants to discuss the Pilot project. FDA is seeking a limited number of participants (no more than nine) to participate in this Pilot project. Participants must adhere to FDA's submission requirements (*i.e.*, eCopy) and Refuse to Accept (RTA) requirements (Refs. 5 and 6).

B. Procedures

After reading the ToC Pilot Plan document, applicants use either the nIVD or IVD ToC documents, as well as the respective Classification Matrix to construct their submission. The submission, placed into a single .zip file with the name ''MISC FILES.zip'' is then loaded onto media via eCopy (*e.g.*, CD, DVD, SD card, USB drive). No paper copy of the submission is needed. All submissions are still expected to comply with the respective PMA or 510(k) RTA guidance documents. All submissions are still expected to comply with the *FDA's* eCopy Program for Medical Device Submissions Final Guidance (Ref. 5), except for the following: (1) With the exception of the cover letter, all sections discussing paper copy requirements may be disregarded; (2) sections outside the scope of the Pilot (*e.g.*, sections pertaining to Bundled Submissions) may be disregarded; and (3) Attachment A, Part B of the eCopy Guidance is superseded by the ToC document. Applicants are required to provide a paper cover letter, meeting the technical guidance provided in the eCopy Guidance Document, Attachment 1, Part A. In addition, the following statement must be included in *bold:*

This submission is part of the IMDRF ToC Pilot, and is organized according to the IMDRF ToC. Accordingly, special eCopy processing applies. As per the agreement for this ToC Pilot, no full paper copies are required, and the specially-formatted submission is zipped and placed within a MISC FILES folder in the eCopy.

The cover letter and media should be sent via mail to the Document Control Center (DCC) to: Food and Drug Administration, Center for Devices and Radiological Health, Document Control Center, Bldg. 66, Rm. G609, 10903 New Hampshire Ave., Silver Spring, MD 20993–0002 ATTN: IMDRF ToC Pilot Submission.

During the Pilot, CDRH staff will be available to answer any questions or concerns that may arise. Pilot project participants will be asked to comment on and discuss their experiences with the Pilot submissions process. Their input and discussions will assist both IMDRF and CDRH in their use of the ToC in future electronic submission formats.

III. Duration of the IMDRF Regulated Product Submission ToC Implementation Pilot

FDA intends to accept requests for participation in the IMDRF's Regulated Product Submission, ToC Implementation Pilot for 12 months, from September 2015 through September 2016. This Pilot program may be extended as resources and needs allow.

IV. Paperwork Reduction Act of 1995

This notice refers to previously approved collections of information found in FDA regulations. These collections of information are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.FDAC. 3501–3520). The collections of information in 21 CFR part 807, subpart E have been approved under OMB control number 0910–0120 and the collections of information in 21 CFR part 814, subparts A through E have been approved under OMB control number 0910–0231.

V. References

The following references have 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 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. IMDRF Non-In Vitro Diagnostic Device Market Authorization Table of Contents (nIVD MA ToC) Final Document, *http://www.imdrf.org/docs/imdrf/final/technical/imdrf-tech-140630-rps-nivd-toc.pdf.*
2. IMDRF In Vitro Diagnostic Device Market Authorization Table of Contents (IVD MA ToC) Final Document, *http://www.imdrf.org/docs/imdrf/final/technical/imdrf-tech-140630-rps-ivd-toc.pdf.*
3. FDA/IMDRF Documents, Regulated Product Submission (RPS) Work Item, *http://www.fda.gov/MedicalDevices/InternationalPrograms/IMDRF/ucm417027.htm.*
4. IMDRF Table of Contents (ToC) Pilot Plan, *http://www.imdrf.org/docs/imdrf/final/procedural/imdrf-proc-150708-toc-pilot-plan.pdf.*
5. FDA's eCopy Program for Medical Device Submissions Final Guidance, October 10, 2013, *http://www.fda.gov/downloads/MedicalDevices/DeviceRegulationandGuidance/GuidanceDocuments/*

UCM313794.pdf.

6. FDA's Refuse to Accept Policy for 510(k)s Final Guidance, December 31, 2012, *http://www.fda.gov/downloads/MedicalDevices/DeviceRegulationandGuidance/GuidanceDocuments/UCM315014.pdf.*

Dated: August 13, 2015.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2015–20430 Filed 8–18–15; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2015–N–0001]

Arthritis Advisory Committee; Notice of Meeting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

This notice announces a forthcoming meeting of a public advisory committee of the Food and Drug Administration (FDA). The meeting will be open to the public.

Name of Committee: Arthritis Advisory Committee.

General Function of the Committee: To provide advice and recommendations to the Agency on FDA's regulatory issues.

Date and Time: The meeting will be held on October 23, 2015, from 8 a.m. to 5 p.m.

Location: FDA White Oak Campus, 10903 New Hampshire Ave., Bldg. 31 Conference Center, the Great Room (Rm. 1503), Silver Spring, MD 20993–0002. Answers to commonly asked questions including information regarding special accommodations due to a disability, visitor parking, and transportation may be accessed at: *http://www.fda.gov/AdvisoryCommittees/AboutAdvisoryCommittees/ucm408555.htm.*

Contact Person: Philip Bautista, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 31, Rm. 2417, Silver Spring, MD 20993–0002, 301–796–9001, FAX: 301–847–8533, email: *AAC@fda.hhs.gov,* or FDA Advisory Committee Information Line, 1–800–741–8138 (301–443–0572 in the Washington, DC area). A notice in the **Federal Register** about last minute modifications that impact a previously announced advisory committee meeting cannot always be published quickly enough to provide timely notice. Therefore, you should always check the Agency's Web site at *http://www.fda.gov/AdvisoryCommittees/default.htm* and scroll down to the appropriate advisory committee meeting link, or call the advisory committee information line to learn about possible modifications before coming to the meeting.

Agenda: The committee will discuss new drug application (NDA) 207988, lesinurad oral tablets, submitted by Ardea Biosciences, Inc., for the treatment of hyperuricemia associated with gout, in combination with a xanthine oxidase inhibitor.

FDA intends to make background material available to the public no later than 2 business days before the meeting. If FDA is unable to post the background material on its Web site prior to the meeting, the background material will be made publicly available at the location of the advisory committee meeting, and the background material will be posted on FDA's Web site after the meeting. Background material is available at *http://www.fda.gov/AdvisoryCommittees/Calendar/default.htm.* Scroll down to the appropriate advisory committee meeting link.

Procedure: Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Written submissions may be made to the contact person on or before October 8, 2015. Oral presentations from the public will be scheduled between approximately 1 p.m. and 2 p.m. Those individuals interested in making formal oral presentations should notify the contact person and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time requested to make their presentation on or before September 30, 2015. Time allotted for each presentation may be limited. If the number of registrants requesting to speak is greater than can be reasonably accommodated during the scheduled open public hearing session, FDA may conduct a lottery to determine the speakers for the scheduled open public hearing session. The contact person will notify interested persons regarding their request to speak by October 1, 2015.

Persons attending FDA's advisory committee meetings are advised that the Agency is not responsible for providing access to electrical outlets.

FDA welcomes the attendance of the public at its advisory committee meetings and will make every effort to accommodate persons with physical disabilities or special needs. If you require special accommodations due to a disability, please contact Philip Bautista at least 7 days in advance of the meeting.

FDA is committed to the orderly conduct of its advisory committee meetings. Please visit our Web site at *http://www.fda.gov/AdvisoryCommittees/AboutAdvisoryCommittees/ucm111462.htm* for procedures on public conduct during advisory committee meetings.

Notice of this meeting is given under the Federal Advisory Committee Act (5 U.S.C. app. 2).

Dated: August 12, 2015.

Jill Hartzler Warner,

Associate Commissioner for Special Medical Programs.

[FR Doc. 2015–20398 Filed 8–18–15; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2015–N–2817]

Medical Devices; Export Certificates; Food and Drug Administration Export Reform and Enhancement Act of 1996; Certification Fees

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the revised fees the Agency will assess for issuing export certificates for devices. The FDA Export Reform and Enhancement Act of 1996 (EREA) provides that any person who exports a device may request FDA certify in writing that the exported device meets certain specified requirements. It further provides that FDA shall issue such a certification within 20 days of the receipt of a request for such certification and that FDA may charge up to $175 for each certification that is issued within the 20 days. Since February 2003, FDA's costs to process the device certificates have increased; however, the export certificate fee for subsequent certificates has not changed. Because of the increase, FDA is raising the fees for subsequent certificates, from the current fee of $15 to $85, and revising the formula used to calculate the number of original and subsequent device export certificates issued. These changes are necessary to ensure that the program remains self-sustaining and to cover FDA's increased costs, which are

currently being covered by appropriated funds. Further, this document explains the costs associated with the export certification program for devices.

DATES: The fees described in this document for export certificates for devices will be effective September 1, 2015.

ADDRESSES: You may submit comments by any of the following methods:

Electronic Submissions

Submit electronic comments in the following way:

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

Written Submissions

Submit written submissions in the following ways:

• *Mail/Hand delivery/Courier (for paper submissions):* Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

Instructions: All submissions received must include the Docket No. FDA–2015–N–2817. All comments received may be posted without change to *http://www.regulations.gov*, including any personal information provided. For additional information on submitting comments, see the ''Comments'' heading of the **SUPPLEMENTARY INFORMATION** section of this document.

Docket: For access to the docket to read comments received, go to *http://www.regulations.gov* and insert the docket number, found in brackets in the heading of this document, into the ''Search'' box and follow the prompts and/or go to the Division of Dockets Management, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Leila M. Lawrence, Office of Compliance, Center for Devices and Radiological Health, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 66, Silver Spring, MD 20993–0002, 301–796–7400, Option 3, FAX 301–847–8129.

SUPPLEMENTARY INFORMATION:

I. Background

The EREA became law on April 26, 1996 (Pub. L. 104–134, amended by Pub. L. 104–180). The principal purpose of this law is to expedite the export of FDA regulated products, both approved and unapproved, through amendments to sections 801(e) and 802 of the Federal Food, Drug, and Cosmetic Act (the FD&C Act) (21 U.S.C. 381(e) and 382). Section 801(e)(4) of the FD&C Act provides that any person who exports a drug, animal drug, or device may request that FDA certify in writing that the exported drug, animal drug, or device meets the requirements of sections 801(e) or 802 of the FD&C Act or other applicable requirements of the FD&C Act. Upon a showing that the product meets the applicable requirements, the law provides that FDA shall issue export certification within 20 days of the receipt of a request for such certification. It also allows FDA to collect fees of up to $175 for each certificate that is issued within the 20-day period. The focus of this notice is on both the fee charged per subsequent export certificate and how the Center for Devices and Radiological Health (CDRH) calculates the number of original and subsequent certificates issued.

The original notice on the EREA fees for export certificates was published in the **Federal Register** on November 6, 1996 (61 FR 57445), and became effective October 1, 1996. A subsequent notice, published in the **Federal Register** on February 11, 2003 (68 FR 6925), established CDRH's intent to charge the maximum fee of $175 for the first certificate and $15 for all subsequent certificates issued for the same product(s) in the same request. Since February 2003, an updated resource review within CDRH has identified that recoverable costs of the device export certifications have increased. Accordingly, the fees have been recalculated so that the aggregate amount of fees collected will meet the current and future aggregate costs to issue device export certificates.

II. Agency Costs and Fees To Be Assessed for Export Certificates

The costs of the export certification program for devices have grown since fiscal year 2003 (FY 03); however, the export certificate fee for subsequent certificates has not changed. Moreover, FDA has allowed multiple devices to be included in a single certificate rather than requiring that each device have a separate certificate for which a fee is charged. The increased costs in the export certification program for devices are attributable to two major areas: (1) The increased volume of requests for certificates and (2) the increase in payroll costs over the past 12 years. These two cost areas account for the major differences between FY 03 and this current year.

The volume of requests for certificates has increased by 369 percent since FY 1997 and 107 percent since FY 2003. Hence, the export certificate program staff size has increased to accommodate this increased volume of requests. Table 1 shows the increase in certificates from FY 97 to FY 14:

TABLE 1—NUMBER OF EXPORT CERTIFICATES FROM FISCAL YEAR 1997 TO FISCAL YEAR 2014

Fiscal year (FY)	Total certificates
FY 1997	11,140
FY 2001	23,737
FY 2003	25,236
FY 2012	49,916
FY 2013	50,612
FY 2014	52,193

The cost of the export certification program for devices in FY 14 is $5,735,270 for payroll and operating expenses.

The four recoverable cost categories for preparing and issuing export certificates are:

• Direct personnel for research, review, tracking, writing, and assembly;

• purchase of equipment and supplies used for tracking, processing, printing, and packaging (recovery of the cost of the equipment is calculated over its useful life);

• billing and collection of fees; and

• overhead and administrative support.

As previously mentioned in this document, FDA may charge up to $175 for each certificate. Certificates for some classes of products cost the Agency more than $175 to prepare. Subsequent certificates issued for the same product(s) in response to the same request generally cost the Agency less than $175. However, due to the increase in payroll and operating expenses, the fee for issuing subsequent certificates for the same product(s) in response to the same request is being raised from the current fee of $15 to $85. Since the inception of the export certification program in 1996, this is only the second increase of the device export certificate fee under EREA. In addition, FDA is revising its formula for calculating the number of original and subsequent certificates issued.

The following fees will be assessed starting September 1, 2015, for device export certificates:

TABLE 2—FEES FOR ORIGINAL AND SUBSEQUENT EXPORT CERTIFICATES

Type of certificate	Fee (dollars)
Original certificates (may be multiple in number) [1]	175
All subsequent certificates issued for the same product(s) in response to the same request [1]	85

[1] As calculated under formula.

Under its formula for calculating applicable fees, CDRH has allowed multiple devices to be included in a single certificate rather than requiring that each device have a separate certificate for which a fee is charged. While CDRH will continue to allow multiple devices to be included in a single certificate, it is revising the formula by which the number of original device export certificates (at $175 per certificate) and subsequent certificates (at $85 per certificate) will be calculated. The number of original and subsequent device export certificates will be calculated using a revised formula that sets the maximum pages per certificate to 25 pages (the certificate page and a maximum of 24 pages for any attachments). Previously, the maximum number of pages was 50. If the request is more than 25 pages, then the total number of pages created by the request is divided by 25 and that number will be the number of original certificates that will be charged at $175 and the remaining number of subsequent certificates will be charged at $85 each. For example, if you request 15 certificates and each certificate has 12 attachment pages plus the certificate page that means each certificate is 13 pages, and your request will generate 195 pages in all. This number of pages is divided by 25 and that equals 7.8, which is rounded to 8. Therefore, you will be charged for 8 original certificates at $175 each and 7 subsequent certificates at $85 each. Please note the maximum number of attachment pages is 24 pages. If you have more than 24 pages you will need to split the request into two or more requests.

III. Request for Comments

Although the EREA does not require FDA to solicit comments on the assessment and collection of fees for export certificates, FDA is inviting comments from interested persons in order to have the benefit of additional views.

Interested persons may submit either electronic comments regarding this document to *http://www.regulations.gov* or written comments to the Division of Dockets Management (see **ADDRESSES**). It is only necessary to send one set of comments. Identify comments with the docket number found in brackets in the heading of this document. Received comments may be seen in the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday, and will be posted to the docket at *http://www.regulations.gov.*

IV. The Paperwork Reduction Act of 1995

This notice refers to previously approved collections of information. 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 sections 801(e) and 802 of the FD&C Act have been approved under OMB control number 0910–0498.

Dated: August 13, 2015.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2015–20429 Filed 8–18–15; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Submission for OMB Review; 30-Day Comment Request; Information Program on Clinical Trials: Maintaining a Registry and Results Databank (NLM)

Summary: Under the provisions of Section 3507(a)(1)(D) of the Paperwork Reduction Act of 1995, the National Institutes of Health (NIH) has submitted to the Office of Management and Budget (OMB) a request for review and approval of the information collection listed below. This proposed information collection was previously published in the **Federal Register** on June 10, 2015, page 32968 and allowed 60-days for public comment. One public comment was received. The purpose of this notice is to allow an additional 30 days for public comment. The National Library of Medicine (NLM), National Institutes of Health, 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.

Direct Comments to OMB: Written comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the: Office of Management and Budget, Office of Regulatory Affairs, *OIRA_submission@omb.eop.gov* or by fax to 202–395–6974, Attention: NIH Desk Officer.

Comment Due Date: Comments regarding this information collection are best assured of having their full effect if received within 30-days of the date of this publication.

For Further Information Contact: To obtain a copy of the data collection plans and instruments or request more information on the proposed project contact: David Sharlip, Office of Administrative and Management Analysis Services, National Library of Medicine, Building 38A, Room B2N12, 8600 Rockville Pike, Bethesda, MD 20894, or call non-toll-free number (301) 402–9680, or Email your request, including your address to: *sharlipd@mail.nih.gov.* Formal requests for additional plans and instruments must be requested in writing.

Proposed Collection: Information Program on Clinical Trials: Maintaining a Registry and Results Databank (NLM), 0925–0586, Expiration Date 08/31/2015, EXTENSION, National Library of Medicine (NLM), National Institutes of Health (NIH).

Need and Use of Information Collection: The National Institutes of Health operates ClinicalTrials.gov, which was established as a clinical trial registry under section 113 of the Food and Drug Administration Modernization Act of 1997 (Pub. L. 105–115) and was expanded to include a results data bank by Title VIII of the Food and Drug Administration Amendments Act of 2007 (FDAAA). ClinicalTrials.gov collects registration and results information for clinical trials and other types of clinical studies (*e.g.,* observational studies and patient registries) with the objectives of enhancing patient enrollment and providing a mechanism for tracking subsequent progress of clinical studies, to the benefit of public health. It is widely used by patients, physicians, and medical researchers; in particular those involved in clinical research.

While many clinical studies are registered and submit results information voluntarily, FDAAA requires the registration of certain applicable clinical trials of drugs and devices and the submission of results information for completed applicable clinical trials of drugs and devices that are approved, licensed, or cleared by the Food and Drug Administration. Beginning in 2009, results information was required to include information about serious and frequent adverse events.

This extension request does not include any changes to the information submission requirements for ClinicalTrials.gov that were proposed in the Notice of Proposed Rulemaking on Clinical Trial Registration and Results Submission that was issued on November 21, 2014 and for which the public comment period closed on March 23, 2015 (79 FR 225, Nov. 21, 2014). The NIH is continuing to review submitted public comments as it prepares the final rule. The NIH will make any corresponding changes to the ClinicalTrials.gov information collection via separate procedure.

OMB approval is requested for 3 years. There are no costs to respondents other than there their time. The total estimated annualized burden hours are 682,535.

ESTIMATED ANNUALIZED BURDEN HOURS

Submission type	Number of respondents	Number of responses per respondent	Average time per response (in hours)	Total annual hour burden
PRS Account	5,700	1	15/60	1,425
Initial Registration	23,000	1	7	161,000
Updates	23,000	8	2	368,000
Initial Results	3,700	1	25	92,500
Updates	3,700	2	8	59,200
Certification to Delay Results	700	1	30/60	350
Extension Request	30	1	2	60

Dated: August 13, 2015.

David Sharlip,

Project Clearance Liaison, NLM, NIH.

[FR Doc. 2015–20473 Filed 8–18–15; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Proposed Collection; 60-Day Comment Request; National Toxicology Program (NTP) Level of Concern Categories Study (NIEHS)

Summary: In compliance with the requirement of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, for opportunity for public comment on proposed data collection projects, the National Institute of Environmental Health Sciences (NIEHS), National Institutes of Health (NIH), will publish periodic summaries of proposed projects to be submitted to the Office of Management and Budget (OMB) for review and approval.

Written comments and/or suggestions from the public and affected agencies are invited on one or more of the following points: (1) Whether the proposed collection of information is necessary for the proper performance of the function of the agency, including whether the information will have practical utility; (2) The accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) 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 those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

To Submit Comments and for Further Information: To obtain a copy of the data collection plans and instruments, submit comments in writing, or request more information on the proposed project, contact: Dr. Kristina Thayer, Director of the Office of Health Assessment and Translation, Division of National Toxicology Program, NIEHS, P.O. Box 12233, Mail Drop K2–04, Research Triangle Park, NC 27709, or call non-toll-free number (919) 541–5021, or Email your request, including your address to: *thayer@niehs.nih.gov.* Formal requests for additional plans and instruments must be requested in writing.

Comment Due Date: Comments regarding this information collection are best assured of having their full effect if received within 60 days of the date of this publication.

Proposed Collection: National Toxicology Program Level of Concern Categories, 0925–NEW, National Institute of Environmental Health Sciences (NIEHS), National Institutes of Health (NIH).

Need and Use of Information Collection: The National Toxicology Program (NTP) has used a 5-point level of concern (LoC) framework to communicate NTP's assessment of the degree of concern regarding the potential human health effects of selected substances given what is known about their toxicity, level of human exposure, and pharmacokinetics. As part of its systematic review methodologies, the NTP is updating its LoC framework to enhance transparency in what the LoC categories mean, describing the factors considered in reaching conclusions and identifying strategies for improving their use as a risk communication tool. This study will use expert solicitation from five NTP stakeholder sectors (academia, industry, non-government organizations, and federal and state agencies) to aid in determining the optimal number of LoC categories for an updated LoC framework.

OMB approval is requested for 3 years. There are no costs to respondents other than their time. The total estimated annualized burden hours are 300.

ESTIMATED ANNUALIZED BURDEN HOURS

Form name	Type of respondent	Number of respondents	Number of responses per respondent	Average burden per response (in hours)	Total annual burden hour
LoC "Cards"	Experts	200	2	90/60	600

Dated: August 11, 2015.

Joellen M. Austin,

Associate Director for Management, NIEHS, NIH.

[FR Doc. 2015–20474 Filed 8–18–15; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Aging: Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Aging Initial Review Group; Neuroscience of Aging Review Committee.

Date: October 1–2, 2015.

Time: 8 a.m. to 1 p.m.

Agenda: To review and evaluate grant applications.

Place: Doubletree Hotel Bethesda, 8120 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Jeannette L. Johnson, Deputy Review Branch Chief, National Institutes of Health, National Institute on Aging, Gateway Building, Bethesda, MD 20892, 301–402–7705, *johnsonj9@nia.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.866, Aging Research, National Institutes of Health, HHS)

Dated: August 13, 2015.

Melanie J. Gray,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2015–20453 Filed 8–18–15; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Human Genome Research Institute; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Inherited Disease Research Access Committee.

Date: September 17–18, 2015.

Time: 5 p.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: Embassy Suites at the Chevy Chase Pavilion, 4300 Military Road NW., Washington, DC 20015.

Contact Person: Camilla E. Day, Ph.D., Scientific Review Officer, CIDR, National Human Genome Research Institute, National Institutes of Health, 5635 Fishers Lane, Suite 4075, Bethesda, MD 20892, 301–402–8837, *camilla.day@nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.172, Human Genome Research, National Institutes of Health, HHS)

Dated: August 13, 2015.

Melanie J. Gray,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2015–20451 Filed 8–18–15; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Aging; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Aging Special Emphasis Panel; Integrative Perspectives in Early Life.

Date: September 21, 2015.

Time: 1 p.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institute on Aging, Gateway Building, Suite 2C212, 7201 Wisconsin Avenue, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Carmen Moten, Ph.D., MPH., National Institute on Aging, Gateway Building, 7201 Wisconsin Avenue, Suite 2C212, Bethesda, MD 20892, 301–402–7703, *cmoten@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.866, Aging Research, National Institutes of Health, HHS)

Dated: August 13, 2015.

Melanie J. Gray,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2015–20452 Filed 8–18–15; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Office of the Director, National Institutes of Health: Notice of Meeting

Pursuant to section 10(a) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of a meeting of the Recombinant DNA Advisory Committee.

The meeting will be open to the public, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should

notify the Contact Person listed below in advance of the meeting.

Name of Committee: Recombinant DNA Advisory Committee.

Date: September 9, 2015.

Time: 10:15 a.m. to 5 p.m.

Agenda: The NIH Recombinant DNA Advisory Committee (RAC) will review and discuss selected human gene transfer protocols and related data management activities. For more information please check the meeting agenda at OBA Meetings Page (available at the following URL: *https://auth.osp.od.nih.gov/office-biotechnology-activities/event/2015-09-09-120000-2015-09-09-210000/rac-meeting*.

Place: National Institutes of Health Building 35, Conference Room 620/630, 9000 Rockville Pike, Bethesda, MD 20892.

Contact Person: Chris Nice, Program Assistant, Office of Biotechnology Activities, National Institutes of Health, 6705 Rockledge Drive, Suite 750, Bethesda, MD 20892, 301–496–9838, *nicelc@mail.nih.gov*.

In the interest of security, NIH has instituted stringent procedures for entrance onto the NIH campus. All visitor vehicles, including taxicabs, hotel, and airport shuttles will be inspected before being allowed on campus. Visitors will be asked to show one form of identification (for example, a government-issued photo ID, driver's license, or passport) and to state the purpose of their visit.

Information is also available on the Institute's/Center's home page: *http://oba.od.nih.gov/rdna/rdna.html*, where an agenda and any additional information for the meeting will be posted when available.

OMB's ''Mandatory Information Requirements for Federal Assistance Program Announcements'' (45 FR 39592, June 11, 1980) requires a statement concerning the official government programs contained in the Catalog of Federal Domestic Assistance. Normally NIH lists in its announcements the number and title of affected individual programs for the guidance of the public. Because the guidance in this notice covers virtually every NIH and Federal research program in which DNA recombinant molecule techniques could be used, it has been determined not to be cost effective or in the public interest to attempt to list these programs. Such a list would likely require several additional pages. In addition, NIH could not be certain that every Federal program would be included as many Federal agencies, as well as private organizations, both national and international, have elected to follow the NIH Guidelines. In lieu of the individual program listing, NIH invites readers to direct questions to the information address above about whether individual programs listed in the Catalog of Federal Domestic Assistance are affected.

(Catalogue of Federal Domestic Assistance Program Nos. 93.14, Intramural Research Training Award; 93.22, Clinical Research Loan Repayment Program for Individuals from Disadvantaged Backgrounds; 93.232, Loan Repayment Program for Research Generally; 93.39, Academic Research Enhancement Award; 93.936, NIH Acquired Immunodeficiency Syndrome Research Loan Repayment Program; 93.187, Undergraduate Scholarship Program for Individuals from Disadvantaged Backgrounds, National Institutes of Health, HHS)

Dated: August 13, 2015.

Carolyn Baum,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2015–20448 Filed 8–18–15; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Center for Advancing Translational Sciences: Notice of Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of meetings of the National Center for Advancing Translational Sciences Advisory Council.

The meetings will be open to the public as indicated below, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Cures Acceleration Network Review Board.

Date: September 3, 2015.

Time: 8 a.m. to 3:15 p.m.

Agenda: Report from the Institute Director.

Place: National Institutes of Health, Building 31, Conference Room 6, 31 Center Drive, Bethesda, MD 20892.

Contact Person: Danilo A. Tagle, Ph.D., Executive Secretary, National Center for Advancing Translational Sciences, 1 Democracy Plaza, Room 992, Bethesda, MD 20892, 301–594–8064, *Danilo.Tagle@nih.gov*.

This notice is being published less than 15 days prior to the meeting due to finalizing the agenda and scheduling of meeting topics.

Name of Committee: National Center for Advancing Translational Sciences Advisory Council.

Date: September 3, 2015.

Open: 8 a.m. to 3:15 p.m.

Agenda: Report from the Institute Director and other staff.

Place: National Institutes of Health, Building 31, Conference Room 6, 31 Center Drive, Bethesda, MD 20892.

Closed: 3:30 p.m. to 5 p.m.

Agenda: To review and evaluate grant applications

Place: National Institutes of Health, Building 31, Conference Room 6, 31 Center Drive, Bethesda, MD 20892.

Contact Person: Danilo A. Tagle, Ph.D., Executive Secretary, National Center for Advancing Translational Sciences, 1 Democracy Plaza, Room 992, Bethesda, MD 20892, 301–594–8064, *Danilo.Tagle@nih.gov*.

This notice is being published less than 15 days prior to the meeting due to finalizing the agenda and scheduling of meeting topics.

(Catalogue of Federal Domestic Assistance Program Nos. 93.859, Pharmacology, Physiology, and Biological Chemistry Research; 93.350, B—Cooperative Agreements; 93.859, Biomedical Research and Research Training, National Institutes of Health, HHS)

Dated: August 13, 2015.

Melanie J. Gray,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2015–20450 Filed 8–18–15; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Integrative, Functional and Cognitive Neuroscience Integrated Review Group; Neuroendocrinology, Neuroimmunology, Rhythms and Sleep Study Section.

Date: October 1–2, 2015.

Time: 8 a.m. to 6 p.m.

Agenda: To review and evaluate grant applications.

Place: Admiral Fell Inn, 888 South Broadway, Baltimore, MD 21231.

Contact Person: Michael Selmanoff, Ph.D., Scientific Review Officer, Center for

Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5164, MSC 7844, Bethesda, MD 20892, 301–435–1119, *mselmanoff@csr.nih.gov*.

Name of Committee: Risk, Prevention and Health Behavior Integrated Review Group; Psychosocial Development, Risk and Prevention Study Section.

Date: October 1–2, 2015.

Time: 8 a.m. to 6 p.m.

Agenda: To review and evaluate grant applications.

Place: The Fairmont Washington, DC, 2401 M Street NW., Washington, DC 20037.

Contact Person: Anna L Riley, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3114, MSC 7759, Bethesda, MD 20892, (301) 435–2889, *rileyann@csr.nih.gov*.

Name of Committee: Bioengineering Sciences & Technologies Integrated Review Group; Biodata Management and Analysis Study Section.

Date: October 1–2, 2015.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Doubletree Hotel Bethesda, (Formerly Holiday Inn Select), 8120 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Mark Caprara, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5156, MSC 7844, Bethesda, MD 20892, 301–435–1042, *capraramg@mail.nih.gov*.

Name of Committee: Immunology Integrated Review Group; Cellular and Molecular Immunology—A Study Section.

Date: October 1–2, 2015.

Time: 8:30 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Hotel Monaco Alexandria, 480 King Street, Alexandria, VA 22314.

Contact Person: David B Winter, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4204, MSC 7812, Bethesda, MD 20892, 301–435–1152, *dwinter@mail.nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: August 13, 2015.

Carolyn Baum,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2015–20449 Filed 8–18–15; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID FEMA–2015–0001; Internal Agency Docket No. FEMA–B–1526]

Changes in Flood Hazard Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This notice lists communities where the addition or modification of Base Flood Elevations (BFEs), base flood depths, Special Flood Hazard Area (SFHA) boundaries or zone designations, or the regulatory floodway (hereinafter referred to as flood hazard determinations), as shown on the Flood Insurance Rate Maps (FIRMs), and where applicable, in the supporting Flood Insurance Study (FIS) reports, prepared by the Federal Emergency Management Agency (FEMA) for each community, is appropriate because of new scientific or technical data. The FIRM, and where applicable, portions of the FIS report, have been revised to reflect these flood hazard determinations through issuance of a Letter of Map Revision (LOMR), in accordance with Title 44, Part 65 of the Code of Federal Regulations (44 CFR part 65). The LOMR will be used by insurance agents and others to calculate appropriate flood insurance premium rates for new buildings and the contents of those buildings. For rating purposes, the currently effective community number is shown in the table below and must be used for all new policies and renewals.

DATES: These flood hazard determinations will become effective on the dates listed in the table below and revise the FIRM panels and FIS report in effect prior to this determination for the listed communities.

From the date of the second publication of notification of these changes in a newspaper of local circulation, any person has 90 days in which to request through the community that the Deputy Associate Administrator for Mitigation reconsider the changes. The flood hazard determination information may be changed during the 90-day period.

ADDRESSES: The affected communities are listed in the table below. Revised flood hazard information for each community is available for inspection at both the online location and the respective community map repository address listed in the table below. Additionally, the current effective FIRM and FIS report for each community are accessible online through the FEMA Map Service Center at *www.msc.fema.gov* for comparison.

Submit comments and/or appeals to the Chief Executive Officer of the community as listed in the table below.

FOR FURTHER INFORMATION CONTACT: Luis Rodriguez, Chief, Engineering Management Branch, Federal Insurance and Mitigation Administration, FEMA, 500 C Street SW., Washington, DC 20472, (202) 646–4064, or (email) *Luis.Rodriguez3@fema.dhs.gov;* or visit the FEMA Map Information eXchange (FMIX) online at *www.floodmaps.fema.gov/fhm/fmx_main.html*.

SUPPLEMENTARY INFORMATION: The specific flood hazard determinations are not described for each community in this notice. However, the online location and local community map repository address where the flood hazard determination information is available for inspection is provided.

Any request for reconsideration of flood hazard determinations must be submitted to the Chief Executive Officer of the community as listed in the table below.

The modifications are made pursuant to section 201 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and are in accordance with the National Flood Insurance Act of 1968, 42 U.S.C. 4001 *et seq.,* and with 44 CFR part 65.

The FIRM and FIS report are the basis of the floodplain management measures that the community is required either to adopt or to show evidence of having in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

These flood hazard determinations, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own or pursuant to policies established by other Federal, State, or regional entities. The flood hazard determinations are in accordance with 44 CFR 65.4.

The affected communities are listed in the following table. Flood hazard determination information for each community is available for inspection at both the online location and the respective community map repository

address listed in the table below. Additionally, the current effective FIRM and FIS report for each community are accessible online through the FEMA Map Service Center at *www.msc.fema.gov* for comparison.

(Catalog of Federal Domestic Assistance No. 97.022, ''Flood Insurance.'')

Dated: July 28, 2015.

Roy E. Wright,

Deputy Associate Administrator for Insurance and Mitigation, Department of Homeland Security, Federal Emergency Management Agency.

State and county	Location and case No.	Chief executive officer of community	Community map repository	Online location of letter of map revision	Effective date of modification	Community No.
Arizona:						
Pima	Town of Marana (14–09–3997P).	The Honorable Gilbert Davidson, Manager, Town of Marana, 11555 West Civic Center Drive, Marana, AZ 85653.	Town Hall, 11555 West Civic Center Drive, Marana, AZ 85653.	*http://www.msc.fema.gov/lomc*	Aug. 24, 2015	040118
Pima	Unincorporated areas of Pima County (14–09–3997P).	The Honorable Sharon Bronson, Chair, Pima County Board of Supervisors, 130 West Congress Street, 11th Floor, Tucson, AZ 85701.	Pima County Flood Control District, 97 East Congress Street, 3rd Floor, Tucson, AZ 85701.	*http://www.msc.fema.gov/lomc*	Aug. 24, 2015	040073
Colorado:						
Arapahoe	City of Englewood (15–08–0562P).	The Honorable Randy Penn, Mayor, City of Englewood, 1000 Englewood Parkway, Englewood, CO 80110.	Engineering Services Department, 3400 South Elati Street, Englewood, CO 80110.	*http://www.msc.fema.gov/lomc*	Sep. 25, 2015	085074
Denver	City and County of Denver (15–08–0562P).	The Honorable Michael B. Hancock, Mayor, City and County of Denver, 1437 Bannock Street, Suite 350, Denver, CO 80202.	City and County of Denver, Department of Public Works, 201 West Colfax Avenue, Denver, CO 80202.	*http://www.msc.fema.gov/lomc*	Sep. 25, 2015	080046
Douglas	Unincorporated areas of Douglas County (14–08–1222P).	The Honorable Jill Repella, Chair, Douglas County Board of Commissioners, 100 3rd Street, Castle Rock, CO 80104.	Douglas County Department of Public Works, 100 3rd Street, Castle Rock, CO 80104.	*http://www.msc.fema.gov/lomc*	Sep. 18, 2015	080049
Florida:						
Manatee	Unincorporated areas of Manatee County (14–04–A642P).	The Honorable Betsy Benac, Chair, Manatee County Board of Commissioners, P.O. Box 1000, Bradenton, FL 34206.	Manatee County Building and Development Services Department, 1112 Mantee Avenue West, Bradenton, FL 34205.	*http://www.msc.fema.gov/lomc*	Jul. 3, 2015	120153
Orange	City of Orlando (15–04–4309X).	The Honorable Buddy Dyer, Mayor, City of Orlando, 400 South Orange Avenue, Orlando, FL 32802.	Stormwater Management Department, 4200 South John Young Parkway, Orlando, FL 32839.	*http://www.msc.fema.gov/lomc*	Oct. 5, 2015	120186
Orange	Unincorporated areas of Orange County (15–04–4309X).	The Honorable Teresa Jacobs, Mayor, Orange County, 201 South Rosalind Avenue, 5th Floor, Orlando, FL 32801.	Orange County Permitting Services Division, 400 South Orange Avenue, Orlando, FL 32801.	*http://www.msc.fema.gov/lomc*	Oct. 5, 2015	120179
Maryland:						
Frederick	Unincorporated areas of Frederick County (15–03–0484P).	The Honorable Jan H. Gardner, Frederick County Executive, 12 East Church Street, Frederick, MD 21701.	Public Works Department, 355 Montevue Lane, Suite 200, Frederick, MD 21702.	*http://www.msc.fema.gov/lomc*	Aug. 31, 2015	240027
New Mexico: Eddy	City of Carlsbad (14–06–4548P).	The Honorable Dale W. Janway, Mayor, City of Carlsbad, P.O. Box 1569, Carlsbad, NM 88221.	City Hall, 101 North Halagueno Street, Carlsbad, NM 88220.	*http://www.msc.fema.gov/lomc*	Aug. 28, 2015	350017
New York:						
Niagara	Town of Niagara (15–02–0453P).	The Honorable Lee S. Wallace, Supervisor, Town of Niagara, 7105 Lockport Road, Niagara Falls, NY 14305.	Town Hall, 7105 Lockport Road, Niagara Falls, NY 14305.	*http://www.msc.fema.gov/lomc*	Oct. 16, 2015	360507
Niagara	Town of Wheatfield (15–02–0453P).	The Honorable Robert B. Cliffe, Supervisor, Town of Wheatfield, 2800 Church Road, Wheatfield, NY 14120.	Town Hall, 2800 Church Road, Wheatfield, NY 14120.	*http://www.msc.fema.gov/lomc*	Oct. 16, 2015	360513

State and county	Location and case No.	Chief executive officer of community	Community map repository	Online location of letter of map revision	Effective date of modification	Community No.
Suffolk	Town of Southampton (15–02–0499P).	The Honorable Anna Throne-Holst, Supervisor, Town of Southampton, 116 Hampton Road, Southampton, NY 11968.	Building Department, 116 Hampton Road, Southampton, NY 11968.	*http://www.msc.fema.gov/lomc*	Oct. 16, 2015	365342
North Carolina:						
Pitt	City of Greenville (15–04–3563P).	The Honorable Allen M. Thomas, Mayor, City of Greenville, 200 West 5th Street, Greenville, NC 27834.	City Hall, 200 West 5th Street, Greenville, NC 27834.	*http://www.msc.fema.gov/lomc*	Aug. 26, 2015	370191
Pitt	Unincorporated areas of Pitt County (15–04–3563P).	The Honorable Glen Webb, Chairman, Pitt County Board of Commissioners, 1717 West 5th Street, Greenville, NC 27834.	Pitt County Planning Department, 1717 West 5th Street, Greenville, NC 27834.	*http://www.msc.fema.gov/lomc*	Aug. 26, 2015	370372
Wayne	City of Goldsboro (15–04–2620P).	The Honorable Alfonzo King, Mayor, City of Goldsboro, P.O. Drawer A, Goldsboro, NC 27533.	Engineering Department, 200 North Center Street, Goldsboro, NC 27530.	*http://www.msc.fema.gov/lomc*	Aug. 25, 2015	370255
Texas:						
Bell	City of Temple (14–06–3184P).	The Honorable Danny Dunn, Mayor, City of Temple, 2 North Main Street, Suite 103, Temple, TX 76501.	Planning Department, 2 North Main Street, Temple, TX 76501.	*http://www.msc.fema.gov/lomc*	Sep. 25, 2015	480034
Bexar	City of San Antonio (14–06–4529P).	The Honorable Ivy R. Taylor, Mayor, City of San Antonio, P.O. Box 839966, San Antonio, TX 78283.	Storm Water Division, 1901 South Alamo Street, 2nd Floor, San Antonio, TX 78204.	*http://www.msc.fema.gov/lomc*	Oct. 2, 2015	480045
Bexar	City of San Antonio (15–06–0641P).	The Honorable Ivy R. Taylor, Mayor, City of San Antonio, P.O. Box 839966, San Antonio, TX 78283.	Storm Water Division, 1901 South Alamo Street, 2nd Floor, San Antonio, TX 78204.	*http://www.msc.fema.gov/lomc*	Sep. 22, 2015	480045
Brazoria	City of Iowa Colony (15–06–1613P).	The Honorable Robert Wall, Mayor, City of Iowa Colony, 12003 County Road 65, Iowa Colony, TX 77583.	City Hall, 12003 County Road 65, Iowa Colony, TX 77583.	*http://www.msc.fema.gov/lomc*	Sep. 28, 2015	481071
Brazoria	City of Manvel (15–06–1613P).	The Honorable Delores Martin, Mayor, City of Manvel, 20025 Highway 6, Manvel, TX 77578.	City Hall, 20025 Highway 6, Manvel, TX 77578.	*http://www.msc.fema.gov/lomc*	Sep. 28, 2015	480076
Brazoria	Unincorporated areas of Brazoria County (15–06–1613P).	The Honorable Matt Sebesta, Jr., Brazoria County Judge, 111 East Locust Street, Suite 102, Angleton, TX 77515.	Brazoria County Floodplain Department, 111 East Locust Street, Building A–29, Angleton, TX 77515.	*http://www.msc.fema.gov/lomc*	Sep. 28, 2015	485458
Denton	Unincorporated areas of Denton County (15–06–2283X).	The Honorable Mary Horn, Denton County Judge, 110 West Hickory Street, 2nd Floor, Denton, TX 76201.	Denton County Government Center, 1505 East McKinney Street, Suite 175, Denton, TX 76209.	*http://www.msc.fema.gov/lomc*	Oct. 5, 2015	480774
El Paso	Town of Anthony (15–06–0836P).	The Honorable Luis Vela, Mayor, Town of Anthony, 401 Wildcat Drive, Anthony, TX 79281.	Town Hall, 401 Wildcat Drive, Anthony, TX 79281.	*http://www.msc.fema.gov/lomc*	Sep. 15, 2015	480804
Harris	City of Houston (15–06–1456P).	The Honorable Annise D. Parker, Mayor, City of Houston, P.O. Box 1562, Houston, TX 77251.	Office of Emergency Management, 5320 North Shepherd Drive, Houston, TX 77091.	*http://www.msc.fema.gov/lomc*	Sep. 25, 2015	480296
Tarrant	City of Fort Worth (14–06–3506P).	The Honorable Betsy Price, Mayor, City of Fort Worth, 1000 Throckmorton Street, Fort Worth, TX 76102.	City Hall, 1000 Throckmorton Street, Fort Worth, TX 76102.	*http://www.msc.fema.gov/lomc*	Aug. 3, 2015	480596
Tarrant	City of North Richland Hills (14–06–2312P).	The Honorable Oscar Trevino, Jr., P.E., Mayor, City of North Richland Hills, 7301 Northeast Loop 820, North Richland Hills, TX, 76180.	City Hall, 7301 Northeast Loop 820, North Richland Hills, TX, 76180.	*http://www.msc.fema.gov/lomc*	Aug. 5, 2015	480607

State and county	Location and case No.	Chief executive officer of community	Community map repository	Online location of letter of map revision	Effective date of modification	Community No.
Travis	City of Pflugerville (14–06–4534P).	The Honorable Brandon Wade, Manager, City of Pflugerville, P.O. Box 589, Pflugerville, TX 78691.	Planning Department, 201–B East Pecan Street, Pflugerville, TX 78691.	*http://www.msc.fema.gov/lomc* ..	Aug. 27, 2015	481028

[FR Doc. 2015–20343 Filed 8–18–15; 8:45 am

BILLING CODE 9110–12–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID FEMA–2015–0001]

Final Flood Hazard Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Final notice.

SUMMARY: Flood hazard determinations, which may include additions or modifications of Base Flood Elevations (BFEs), base flood depths, Special Flood Hazard Area (SFHA) boundaries or zone designations, or regulatory floodways on the Flood Insurance Rate Maps (FIRMs) and where applicable, in the supporting Flood Insurance Study (FIS) reports have been made final for the communities listed in the table below.

The FIRM and FIS report are the basis of the floodplain management measures that a community is required either to adopt or to show evidence of having in effect in order to qualify or remain qualified for participation in the Federal Emergency Management Agency's (FEMA's) National Flood Insurance Program (NFIP). In addition, the FIRM and FIS report are used by insurance agents and others to calculate appropriate flood insurance premium rates for buildings and the contents of those buildings.

DATES: The effective date of September 16, 2015 which has been established for the FIRM and, where applicable, the supporting FIS report showing the new or modified flood hazard information for each community.

ADDRESSES: The FIRM, and if applicable, the FIS report containing the final flood hazard information for each community is available for inspection at the respective Community Map Repository address listed in the tables below and will be available online through the FEMA Map Service Center at *www.msc.fema.gov* by the effective date indicated above.

FOR FURTHER INFORMATION CONTACT: Luis Rodriguez, Chief, Engineering Management Branch, Federal Insurance and Mitigation Administration, FEMA, 500 C Street SW., Washington, DC 20472, (202) 646–4064, or (email) *Luis.Rodriguez3@fema.dhs.gov;* or visit the FEMA Map Information eXchange (FMIX) online at *www.floodmaps.fema.gov/fhm/fmx_main.html.*

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency (FEMA) makes the final determinations listed below for the new or modified flood hazard information for each community listed. Notification of these changes has been published in newspapers of local circulation and 90 days have elapsed since that publication. The Deputy Associate Administrator for Mitigation has resolved any appeals resulting from this notification.

This final notice is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and 44 CFR part 67. FEMA has developed criteria for floodplain management in floodprone areas in accordance with 44 CFR part 60.

Interested lessees and owners of real property are encouraged to review the new or revised FIRM and FIS report available at the address cited below for each community or online through the FEMA Map Service Center at *www.msc.fema.gov.* The flood hazard determinations are made final in the watersheds and/or communities listed in the table below.

(Catalog of Federal Domestic Assistance No. 97.022, ''Flood Insurance.'')

Dated: July 28, 2015.

Roy E. Wright,

Deputy Associate Administrator for Insurance and Mitigation, Department of Homeland Security, Federal Emergency Management Agency.

I. Watershed-based studies:

LOWER LEVISA WATERSHED

Community	Community map repository address
Floyd County, Kentucky, and Incorporated Areas Docket No.: FEMA–B–1433	
City of Allen	City Hall, 22 Main Street, Allen, KY 41601.
City of Martin	City Hall, 11729 Main Street, Martin, KY 41649.
City of Prestonsburg	Municipal Building, 200 North Lake Drive, Prestonsburg, KY 41653.
City of Wayland	City Hall, 2643 King Kelly Coleman Highway, Wayland, KY 41666.
City of Wheelwright	City Hall, 1479 Kentucky Route 306, Wheelwright, KY 41669.
Unincorporated Areas of Floyd County	Courthouse Annex, 313 Westminister Street, Prestonsburg, KY 41653.
Johnson County, Kentucky, and Incorporated Areas Docket No.: FEMA–B–1433	
City of Paintsville	City Offices, 340 Main Street, Paintsville, KY 41240.
Unincorporated Areas of Johnson County	Johnson County Judge's Office, 908 3rd Street, Paintsville, KY 41240.

LOWER LEVISA WATERSHED—Continued

Community	Community map repository address
Knott County, Kentucky, and Incorporated Areas Docket No.: FEMA–B–1433	
City of Pippa Passes	Knott County Emergency Management, 40 Center Street, Hindman, KY 41822.
Unincorporated Areas of Knott County	Knott County Emergency Management, 40 Center Street, Hindman, KY 41822.
Lawrence County, KY, Kentucky Unincorporated Areas Docket No.: FEMA–B–1433	
City of Louisa	Louisa City Hall, 215 North Main Cross Street, Louisa, KY 41230.
Unincorporated Areas of Lawrence County	Lawrence County Judge's Office, 122 South Main Cross Street, 2nd Floor, Louisa, KY 41230.
Magoffin County, Kentucky, and Incorporated Areas Docket No.: FEMA–B–1433	
Unincorporated Areas of Magoffin County	Magoffin County Courthouse, Judges Office, 201 East Maple Street, Salyersville, KY 41465.
Morgan County, Kentucky, and Incorporated Areas Docket No.: FEMA–B–1433	
Unincorporated Areas of Morgan County	Morgan County Courthouse, 450 Prestonsburg Street, West Liberty, KY 41472.
Pike County, Kentucky, and Incorporated Areas Docket No.: FEMA–B–1433	
Unincorporated Areas of Pike County	Pike County Courthouse, 146 Main Street, Pikeville, KY 41501.

TUG FORK WATERSHED

Community	Community map repository address
Lawrence County, Kentucky Incorporated Areas Docket No.: FEMA–B–1433	
City of Louisa	Louisa City Hall, 215 North Main Cross Street, Louisa, KY 41230.
Unincorporated Areas of Lawrence County	Lawrence County Judge's Office, 122 South Main Cross Street, 2nd Floor, Louisa, KY 41230.
Martin County, Kentucky Incorporated Areas Docket No.: FEMA–B–1433	
City of Inez	Martin County Disaster Emergency Services, 100 Main Street, Inez, KY 41224.
Town of Warfield	Martin County Disaster Emergency Services, 100 Main Street, Inez, KY 41224.
Unincorporated Areas of Martin County	Martin County Disaster Emergency Services, 100 Main Street, Inez, KY 41224.
Pike County, Kentucky, and Incorporated Areas Docket No.: FEMA–B–1433	
Unincorporated Areas of Pike County	Pike County Courthouse, 146 Main Street, Pikeville, KY 41501.

II. Non-watershed-based studies:

Community	Community map repository address
Kings County, California, and Incorporated Areas Docket No.: FEMA–B–1440	
City of Lemoore	Planning Department, 711 West Cinnamon Drive, Lemoore, CA 93245.
Unincorporated Areas of Kings County	Community Development Agency, 1400 West Lacey Boulevard, Building 6, Hanford, CA 93230.

Community	Community map repository address
Rock County, Wisconsin, and Incorporated Areas Docket No.: FEMA–B–1356	
City of Beloit	City Hall, 100 State Street, Beloit, WI 53511.
City of Brodhead	City Hall, 1111 West 2nd Avenue, Brodhead, WI 53520.
City of Edgerton	City Hall, 12 Albion Street, Edgerton, WI 53534.
City of Evansville	City Hall, 31 South Madison Street, Evansville, WI 53536.
City of Janesville	City Hall, 18 North Jackson Street, Janesville, WI 53545.
City of Milton	City Hall, 430 East High Street, Milton, WI 53563.
Unincorporated Areas of Rock County	Rock County Courthouse, 51 South Main Street, Janesville, WI 53545.
Village of Clinton	Village Hall, 301 Cross Street, Clinton, WI 53525.
Village of Footville	Village Hall, 156 Depot Street, Footville, WI 53537.
Teton County, Wyoming, and Incorporated Areas Docket No.: FEMA–B–1427	
Unincorporated Areas of Teton County	Teton County Engineering Office, 320 South King Street, Jackson, WY 83001.

[FR Doc. 2015–20447 Filed 8–18–15; 8:45 am]

BILLING CODE 9110–12–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Internal Agency Docket No. FEMA–4237–DR]; [Docket ID FEMA–2015–0002]

Oglala Sioux Tribe; Major Disaster and Related Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the Oglala Sioux Tribe (FEMA–4237–DR), dated August 7, 2015, and related determinations.

DATES: Effective August 7, 2015.

FOR FURTHER INFORMATION CONTACT: Dean Webster, Office of Response and Recovery, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472, (202) 646–2833.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, in a letter dated August 7, 2015, the President issued a major disaster declaration under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121 *et seq.* (the ''Stafford Act''), as follows:

I have determined that the damage to the Pine Ridge Indian Reservation resulting from severe storms, straight-line winds, and flooding during the period of May 8–29, 2015, is of sufficient severity and magnitude to warrant a major disaster declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121 *et seq.* (the ''Stafford Act''). Therefore, I declare that such a major disaster exists on the Pine Ridge Indian Reservation.

In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes such amounts as you find necessary for Federal disaster assistance and administrative expenses.

You are authorized to provide Individual Assistance to the tribal members of the Oglala Sioux Tribe and Hazard Mitigation throughout the Pine Ridge Indian Reservation. Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under the Stafford Act for Hazard Mitigation and Other Needs Assistance will be limited to 75 percent of the total eligible costs.

Further, you are authorized to make changes to this declaration for the approved assistance to the extent allowable under the Stafford Act.

The time period prescribed for the implementation of section 310(a), Priority to Certain Applications for Public Facility and Public Housing Assistance, 42 U.S.C. 5153, shall be for a period not to exceed six months after the date of this declaration.

The Federal Emergency Management Agency (FEMA) hereby gives notice that pursuant to the authority vested in the Administrator, under Executive Order 12148, as amended, Gary R. Stanley, of FEMA is appointed to act as the Federal Coordinating Officer for this major disaster.

The following areas have been designated as adversely affected by this major disaster:

Tribal members of the Oglala Sioux Tribe of the Pine Ridge Indian Reservation for Individual Assistance.

All areas within the Pine Ridge Indian Reservation are eligible for assistance under the Hazard Mitigation Grant Program.

The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households In Presidentially Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050, Presidentially Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.

W. Craig Fugate,

Administrator, Federal Emergency Management Agency.

[FR Doc. 2015–20345 Filed 8–18–15; 8:45 am]

BILLING CODE 9111–23–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID FEMA–2015–0001; Internal Agency Docket No. FEMA–B–1523]

Proposed Flood Hazard Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: Comments are requested on proposed flood hazard determinations, which may include additions or modifications of any Base Flood Elevation (BFE), base flood depth, Special Flood Hazard Area (SFHA) boundary or zone designation, or regulatory floodway on the Flood Insurance Rate Maps (FIRMs), and where applicable, in the supporting Flood Insurance Study (FIS) reports for the communities listed in the table below. The purpose of this notice is to seek general information and comment regarding the preliminary FIRM, and where applicable, the FIS report that the

Federal Emergency Management Agency (FEMA) has provided to the affected communities. The FIRM and FIS report are the basis of the floodplain management measures that the community is required either to adopt or to show evidence of having in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP). In addition, the FIRM and FIS report, once effective, will be used by insurance agents and others to calculate appropriate flood insurance premium rates for new buildings and the contents of those buildings.

DATES: Comments are to be submitted on or before November 17, 2015.

ADDRESSES: The Preliminary FIRM, and where applicable, the FIS report for each community are available for inspection at both the online location and the respective Community Map Repository address listed in the tables below. Additionally, the current effective FIRM and FIS report for each community are accessible online through the FEMA Map Service Center at *www.msc.fema.gov* for comparison.

You may submit comments, identified by Docket No. FEMA–B–1523, to Luis Rodriguez, Chief, Engineering Management Branch, Federal Insurance and Mitigation Administration, FEMA, 500 C Street SW., Washington, DC 20472, (202) 646–4064, or (email) *Luis.Rodriguez3@fema.dhs.gov.*

FOR FURTHER INFORMATION CONTACT: Luis Rodriguez, Chief, Engineering Management Branch, Federal Insurance and Mitigation Administration, FEMA, 500 C Street SW., Washington, DC 20472, (202) 646–4064, or (email) *Luis.Rodriguez3@fema.dhs.gov;* or visit the FEMA Map Information eXchange (FMIX) online at *www.floodmaps.fema.gov/fhm/fmx_main.html.*

SUPPLEMENTARY INFORMATION: FEMA proposes to make flood hazard determinations for each community listed below, in accordance with section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and 44 CFR 67.4(a).

These proposed flood hazard determinations, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own or pursuant to policies established by other Federal, State, or regional entities. These flood hazard determinations are used to meet the floodplain management requirements of the NFIP and also are used to calculate the appropriate flood insurance premium rates for new buildings built after the FIRM and FIS report become effective.

The communities affected by the flood hazard determinations are provided in the tables below. Any request for reconsideration of the revised flood hazard information shown on the Preliminary FIRM and FIS report that satisfies the data requirements outlined in 44 CFR 67.6(b) is considered an appeal. Comments unrelated to the flood hazard determinations also will be considered before the FIRM and FIS report become effective.

Use of a Scientific Resolution Panel (SRP) is available to communities in support of the appeal resolution process. SRPs are independent panels of experts in hydrology, hydraulics, and other pertinent sciences established to review conflicting scientific and technical data and provide recommendations for resolution. Use of the SRP only may be exercised after FEMA and local communities have been engaged in a collaborative consultation process for at least 60 days without a mutually acceptable resolution of an appeal. Additional information regarding the SRP process can be found online at *http://floodsrp.org/pdfs/srp_fact_sheet.pdf.*

The watersheds and/or communities affected are listed in the tables below. The Preliminary FIRM, and where applicable, FIS report for each community are available for inspection at both the online location and the respective Community Map Repository address listed in the tables. For communities with multiple ongoing Preliminary studies, the studies can be identified by the unique project number and Preliminary FIRM date listed in the tables. Additionally, the current effective FIRM and FIS report for each community are accessible online through the FEMA Map Service Center at *www.msc.fema.gov* for comparison.

(Catalog of Federal Domestic Assistance No. 97.022, ''Flood Insurance.'')

Dated: July 24, 2015.

Roy E. Wright,

Deputy Associate Administrator for Insurance and Mitigation, Department of Homeland Security, Federal Emergency Management Agency.

I. Watershed-based studies:

LOWER SUWANNEE WATERSHED

Community	Community map repository address
Maps Available for Inspection Online at: http://www.fema.gov/preliminaryfloodhazarddata	
Gilchrist County, Florida, and Incorporated Areas	
City of Trenton	City Hall, 114 North Main Street, Trenton, FL 32690.
Town of Fanning Springs	City Hall, 17651 NW 90th Court, Fanning Springs, FL 32693.
Unincorporated Areas of Gilchrist County	Gilchrist County Building and Zoning Department, 209 SE First Street, Trenton, FL 32690.
Levy County, Florida, and Incorporated Areas	
Unincorporated Areas of Levy County	Levy County Building Department, 9010 NE 79th Avenue, Bronson, FL 32621.
Madison County, Florida, and Incorporated Areas	
Unincorporated Areas of Madison County	Madison County Building Department, 229 S.W. Pickney Street, Madison, FL 32340.

LOWER SUWANNEE WATERSHED—Continued

Community	Community map repository address
Suwannee County, Florida, and Incorporated Areas	
Unincorporated Areas of Suwannee County	County Coordinator's Office, Suwannee County Courthouse, 200 South Ohio/MLK Jr. Avenue, Live Oak, FL 32064.

TUG FORK WATERSHED

Community	Community map repository address
Maps Available for Inspection Online at: http://www.fema.gov/preliminaryfloodhazarddata	
Wayne County, West Virginia, and Incorporated Areas	
City of Kenova	Municipal Building, 1501 Pine Street, Kenova, WV 25530.
Town of Ceredo	Town Hall, 700 B Street, Ceredo, WV 25507.
Town of Fort Gay	Town Hall, 3407 Wayne Street, Fort Gay, WV 25514.
Unincorporated Areas of Wayne County	County Courthouse, 700 Hendricks Street, Wayne, WV 25570.

WHEELER LAKE WATERSHED

Community	Community map repository address
Maps Available for Inspection Online at: http://www.fema.gov/preliminaryfloodhazarddata	
Franklin County, Tennessee, and Incorporated Areas	
Unincorporated Areas of Franklin County	Franklin County Planning and Zoning Office, Courthouse Basement, Room Five, One South Jefferson Street, Winchester, TN 37398.
Lawrence County, Tennessee, and Incorporated Areas	
Unincorporated Areas of Lawrence County	Lawrence County Building Official's Office, County Courthouse, 240 West Gaines Street, Lawrenceburg, TN 38464.
Lincoln County, Tennessee, and Incorporated Areas	
Unincorporated Areas of Lincoln County	Lincoln County Courthouse, 312 West Market Street, Fayetteville, TN 37334.

II. Non-watershed-based studies:

Community	Community map repository address
Marion County, Florida, and Incorporated Areas	
Maps Available for Inspection Online at: http://www.fema.gov/preliminaryfloodhazarddata	
Project: 15–04–2839S Preliminary Date: March 31, 2015	
City of Ocala	Department of Public Works, 1805 Northeast 30th Avenue, Ocala, FL 34470.
Unincorporated Areas of Marion County	Marion County Growth Services, 2710 East Silver Springs Boulevard, Ocala, FL 34470.
Athens-Clarke County, Georgia (All Jurisdictions)	
Maps Available for Inspection Online at: http://www.fema.gov/preliminaryfloodhazarddata	
Project: 14–04–A055S Preliminary Date: February 13, 2015	
Athens-Clarke County	120 West Dougherty Street, Athens, GA 30601.

Community	Community map repository address
DeKalb County, Georgia, and Incorporated Areas	
Maps Available for Inspection Online at: http://www.fema.gov/preliminaryfloodhazarddata	
Project: 12–04–7371S Preliminary Date: January 2, 2015	
City of Lithonia	City Hall, 6920 Main Street, Lithonia, GA 30058.
City of Stone Mountain	City Hall, 875 Main Street, Stone Mountain, GA 30083.
Unincorporated Areas of DeKalb County	DeKalb County Public Works, Roads and Drainage Division, 727 Camp Road, Decatur, GA 30032.
Rockdale County, Georgia, and Incorporated Areas	
Maps Available for Inspection Online at: http://www.fema.gov/preliminaryfloodhazarddata	
Project: 12–04–7371S Preliminary Date: January 2, 2015	
City of Conyers	Planning and Inspection Services, 1174 Scott Street, Conyers, GA 30012.
Unincorporated Areas of Rockdale County	Rockdale County Administration and Services Building, 958 Milstead Avenue, Conyers, GA 30012.
Walton County, Georgia, and Incorporated Areas	
Maps Available for Inspection Online at: http://www.fema.gov/preliminaryfloodhazarddata	
Project: 12–04–7371S Preliminary Date: January 2, 2015	
City of Loganville	Planning and Development Office, 4385 Pecan Street, Loganville, GA 30052.
City of Monroe	City Hall, 215 North Broad Street, Monroe, GA 30655.
City of Social Circle	City Hall, 138 East Hightower Trail, Social Circle, GA 30025.
City of Walnut Grove	Walnut Grove City Hall, 2581 Leone Avenue, Loganville, GA 30052.
Town of Between	Between Town Hall, 2150 New Hope Church Road Southwest, Monroe, GA 30655.
Unincorporated Areas of Walton County	Walton County Planning and Development Office, 303 South Hammond Drive, Monroe, GA 30655.
Washington County, Maryland, and Incorporated Areas	
Maps Available for Inspection Online at: http://www.fema.gov/preliminaryfloodhazarddata	
Project: 14–03–3545S Preliminary Date: March 31, 2015	
City of Hagerstown	City Hall, One East Franklin Street, Hagerstown, MD 21740.
Town of Boonsboro	Town Hall, 21 North Main Street, Boonsboro, MD 21713.
Town of Clear Spring	Town Hall, 146 Cumberland Street, Clear Spring, MD 21722.
Town of Funkstown	Town Hall, 30 East Baltimore Street, Funkstown, MD 21734.
Town of Hancock	Town Hall, 126 West High Street, Hancock, MD 21750.
Town of Keedysville	Town Hall, 19 South Main Street, Keedysville, MD 21756.
Town of Sharpsburg	Town Hall, 106 East Main Street, Sharpsburg, MD 21782.
Town of Smithsburg	Town Hall, 21 West Water Street, Smithsburg, MD 21783.
Town of Williamsport	Town Hall, Two North Conococheague Street, Williamsport, MD 21795.
Unincorporated Areas of Washington County	Washington County Administrative Annex, 80 West Baltimore Street, Hagerstown, MD 21740.
Dukes County, Massachusetts (All Jurisdictions)	
Maps Available for Inspection Online at: http://www.fema.gov/preliminaryfloodhazarddata	
Project: 11–01–0527S Preliminary Dates: June 3, 2013 and April 27, 2015	
Town of Aquinnah	Town Hall, 65 State Road, Aquinnah, MA 02535.
Town of Chilmark	Town Hall, 401 Middle Road, Chilmark, MA 02535.
Town of Edgartown	Town Hall, 70 Main Street, Edgartown, MA 02539.
Town of Gosnold	Gosnold Town Hall, 28 Tower Hill Road, Cuttyhunk Island, MA 02713.
Town of Oak Bluffs	Town Hall, 56 School Street, Oak Bluffs, MA 02557.
Town of Tisbury	Tisbury Town Hall, 51 Spring Street, Vineyard Haven, MA 02568.
Town of West Tisbury	Town Hall, 1059 State Road, West Tisbury, MA 02575.

Community	Community map repository address
Bernalillo County, New Mexico, and Incorporated Areas	
Maps Available for Inspection Online at: http://www.fema.gov/preliminaryfloodhazarddata	
Project: 14–06–3984S Preliminary Date: February 23, 2015	
City of Albuquerque	Development Review Services Division, 600 2nd Street Northwest, Suite 201, Albuquerque, NM 87102.
Unincorporated Areas of Bernalillo County	Bernalillo County Public Works Division, 2400 Broadway Southeast, Albuquerque, NM 87102.
Bladen County, North Carolina, and Incorporated Areas	
Maps Available for Inspection Online at: http://www.fema.gov/preliminaryfloodhazarddata	
Project: 14–04–9706S Preliminary Date: April 30, 2014	
Unincorporated Areas of Bladen County	Bladen County Courthouse, 106 East Broad Street, Room 107, Elizabethtown, NC 28337.
Bladen County, North Carolina, and Incorporated Areas	
Maps Available for Inspection Online at: http://www.fema.gov/preliminaryfloodhazarddata	
Project: 14–04–9707S Preliminary Date: August 29, 2014	
Town of Bladenboro	Town Hall, 305 South Main Street, Bladenboro, NC 28320.
Unincorporated Areas of Bladen County	Bladen County Courthouse, 106 East Broad Street, Room 107, Elizabethtown, NC 28337.
Bladen County, North Carolina, and Incorporated Areas	
Maps Available for Inspection Online at: http://www.fema.gov/preliminaryfloodhazarddata	
Project: 14–04–9708S Preliminary Date: August 29, 2014	
Unincorporated Areas of Bladen County	Bladen County Courthouse, 106 East Broad Street, Room 107, Elizabethtown, NC 28337.
Brunswick County, North Carolina, and Incorporated Areas	
Maps Available for Inspection Online at: http://www.fema.gov/preliminaryfloodhazarddata	
Project: 11–04–8240S Preliminary Date: August 29, 2014	
City of Boiling Spring Lakes	City Hall, 9 East Boiling Spring Road, Boiling Spring Lakes, NC 28461.
City of Southport	City Hall, 201 East Moore Street, Southport, NC 28461.
Town of Belville	Belville Town Hall, 117 G Village Road, Leland, NC 28451.
Town of Calabash	Town Hall, 882 Persimmon Road, Calabash, NC 28567.
Town of Carolina Shores	Town Hall, 200 Persimmon Road, Carolina Shores, NC 28467.
Town of Caswell Beach	Town Hall, 1100 Caswell Beach Road, Caswell Beach, NC 28465.
Town of Holden Beach	Town Hall, 110 Rothschild Street, Holden Beach, NC 28462.
Town of Leland	Town Hall, 102 Town Hall Drive, Leland, NC 28451.
Town of Navassa	Town Hall, 334 Main Street, Navassa, NC 28451.
Town of Oak Island	Town Hall, 4601 East Oak Island Drive, Oak Island, NC 28465.
Town of Ocean Isle Beach	Town Hall, 3 West Third Street, Ocean Isle Beach, NC 28469.
Town of Shallotte	Town Hall, 106 Cheers Street, Shallotte, NC 28470.
Town of St. James	St. James Town Hall, 3628 St. James Drive, Southport, NC 28461.
Town of Sunset Beach	Town Hall, 700 Sunset Boulevard North, Sunset Beach, NC 28468.
Town of Varnamtown	Varnamtown Town Hall, 100 Varnamtown Road, Supply, NC 28462.
Unincorporated Areas of Brunswick County	Brunswick County Building Inspections Department, 75 Courthouse Drive, Building One, Bolivia, NC 28422.
Columbus County, North Carolina, and Incorporated Areas	
Maps Available for Inspection Online at: http://www.fema.gov/preliminaryfloodhazarddata	
Project: 11–04–8240S Preliminary Date: August 29, 2014	
City of Whiteville	City Hall, 317 South Madison Street, Whiteville, NC 28472.
Town of Boardman	Boardman Town Hall, 1241 Old Boardman Road, Evergreen, NC 28438.
Town of Cerro Gordo	Town Hall, 36 West Railroad Street, Cerro Gordo, NC 28430.
Town of Fair Bluff	Town Hall, 1175 Main Street, Fair Bluff, NC 28439.
Town of Tabor City	Town Manager's Office, 103 East Fourth Street, Tabor City, NC 28463.

Community	Community map repository address
Unincorporated Areas of Columbus County	Columbus County Tax Office, 110 Courthouse Square, Whiteville, NC 28472.
Duplin County, North Carolina, and Incorporated Areas	
Maps Available for Inspection Online at: http://www.fema.gov/preliminaryfloodhazarddata	
Project: 11–04–6510S Preliminary Date: April 30, 2014	
Town of Beulaville	Town Hall, 111 West Quinn Street, Beulaville, NC 28518.
Town of Wallace	Town Hall, 316 East Murray Street, Wallace, NC 28466.
Town of Warsaw	Town Hall, 121 South Front Street, Warsaw, NC 28398.
Unincorporated Areas of Duplin County	Duplin County Planning Department, 224 Seminary Street, Kenansville, NC 28349.
Duplin County, North Carolina, and Incorporated Areas	
Maps Available for Inspection Online at: http://www.fema.gov/preliminaryfloodhazarddata	
Project: 14–04–9708S Preliminary Date: August 29, 2014	
Town of Wallace	Town Hall, 316 East Murray Street, Wallace, NC 28466.
Unincorporated Areas of Duplin County	Duplin County Planning Department, 224 Seminary Street, Kenansville, NC 28349.
New Hanover County, North Carolina, and Incorporated Areas	
Maps Available for Inspection Online at: http://www.fema.gov/preliminaryfloodhazarddata	
Project: 11–04–6510S Preliminary Date: August 29, 2014	
City of Wilmington	Planning, Development and Transportation Department, Planning Division, 305 Chestnut Street, Wilmington, NC 28401.
Town of Carolina Beach	Town Hall, Planning Department, 1121 North Lake Park Boulevard, Carolina Beach, NC 28428.
Town of Kure Beach	Town Hall, Building Inspections, 117 Settlers Lane, Kure Beach, NC 28449.
Town of Wrightsville Beach	Town Hall, Planning and Parks Department, 321 Causeway Drive, Wrightsville Beach, NC 28480.
Unincorporated Areas of New Hanover County	New Hanover County Development Services Office, 230 Government Center Drive, Suite 110, Wilmington, NC 28403.
Onslow County, North Carolina, and Incorporated Areas	
Maps Available for Inspection Online at: http://www.fema.gov/preliminaryfloodhazarddata	
Project: 14–04–9708S Preliminary Date: August 29, 2014	
Town of Holly Ridge	Town Hall, 212 North Dyson Street, Holly Ridge, NC 28445.
Unincorporated Areas of Onslow County	Onslow County Floodplain Administration, 604 College Street, Jacksonville, NC 28540.
Pender County, North Carolina, and Incorporated Areas	
Maps Available for Inspection Online at: http://www.fema.gov/preliminaryfloodhazarddata	
Project: 11–04–6510S Preliminary Date: August 29, 2014	
Town of Atkinson	Town Hall, 200 North Town Hall Avenue, Atkinson, NC 28421.
Town of Burgaw	City Hall, 109 North Walker Street, Burgaw, NC 28425.
Town of Surf City	Building Inspection Department, 214 North New River Drive, Surf City, NC 28445.
Town of Topsail Beach	Building Inspection Department, 820 South Anderson Boulevard, Topsail Beach, NC 28445.
Town of Watha	Town Hall, 425 Watha Road, Watha, NC 28478.
Unincorporated Areas of Pender County	Pender County Planning Department, 805 South Walker Street, Burgaw, NC 28425.
Village of Saint Helena	Village Hall, 305 East Main Street, Saint Helena, NC 28425.

Community	Community map repository address
Pender County, North Carolina, and Incorporated Areas	
Maps Available for Inspection Online at: http://www.fema.gov/preliminaryfloodhazarddata	
Project: 14–04–9706S Preliminary Date: April 30, 2014	
Unincorporated Areas of Pender County	Pender County Planning Department, 805 South Walker Street, Burgaw, NC 28425.
Robeson County, North Carolina, and Incorporated Areas	
Maps Available for Inspection Online at: http://www.fema.gov/preliminaryfloodhazarddata	
Project: 11–04–8240S Preliminary Date: August 29, 2014	
City of Lumberton	Planning Department, 501 East 5th Street, Lumberton, NC 28358.
Town of Maxton	201 McCaskill Street, Maxton, NC 28364.
Town of Pembroke	Town Hall, 100 South Union Chapel Road, Pembroke, NC 28372.
Unincorporated Areas of Robeson County	Robeson County Inspections and Zoning Department, 415 Country Club Drive, Lumberton, NC 28358.
Sampson County, North Carolina, and Incorporated Areas	
Maps Available for Inspection Online at: http://www.fema.gov/preliminaryfloodhazarddata	
Project: 11–04–6510S Preliminary Date: April 30, 2014	
City of Clinton	City Hall, 227 Lisbon Street, Clinton, NC 28329.
Town of Autryville	Town Hall, 215 South Gray Street, Autryville, NC 28318.
Town of Garland	Town Hall, 190 South Church Street, Garland, NC 28441.
Town of Newton Grove	Town Hall, 304 West Weeksdale Street, Newton Grove, NC 28366.
Unincorporated Areas of Sampson County	Sampson County Inspections Department, 383 County Complex Road, Clinton, NC 28328.
Sampson County, North Carolina, and Incorporated Areas	
Maps Available for Inspection Online at: http://www.fema.gov/preliminaryfloodhazarddata	
Project: 14–04–9708S Preliminary Date: August 29, 2014	
Unincorporated Areas of Sampson County	Sampson County Inspections Department, 383 County Complex Road, Clinton, NC 28328.
Scotland County, North Carolina, and Incorporated Areas	
Maps Available for Inspection Online at: http://www.fema.gov/preliminaryfloodhazarddata	
Project: 14–04–9707S Preliminary Date: August 29, 2014	
Unincorporated Areas of Scotland County	Scotland County Government Administration Building, 507 West Covington Street, Laurinburg, NC 28352.
Richland County, South Carolina, and Incorporated Areas	
Maps Available for Inspection Online at: http://www.fema.gov/preliminaryfloodhazarddata	
Project: 11–04–7987S Preliminary Date: April 30, 2015	
City of Cayce	City Hall, 1800 12th Street, Cayce, SC 29033.
City of Columbia	Department of Utilities and Engineering, 1136 Washington Street, Columbia, SC 29201.
City of Forest Acres	City Hall, 5209 North Trenholm Road, Forest Acres, SC 29206.
Town of Arcadia Lakes	Arcadia Lakes Town Hall, 6911 North Trenholm Road, Suite Two, Columbia, SC 29206.
Town of Blythewood	Town Hall, 171 Langford Road, Blythewood, SC 29016.
Town of Eastover	Town Hall, 624 Main Street, Eastover, SC 29044.
Town of Irmo	Town Hall, 7300 Woodrow Street, Irmo, SC 29063.
Unincorporated Areas of Richland County	Richland County Department of Public Works, 400 Powell Road, Columbia, SC 29203.

Community	Community map repository address
Llano County, Texas, and Incorporated Areas	
Maps Available for Inspection Online at: http://www.fema.gov/preliminaryfloodhazarddata	
Project: 14–06–4736S Preliminary Date: January 15, 2015	
City of Llano	City Hall, 301 West Main Street, Llano, TX 78643.
Unincorporated Areas of Llano County	Llano County Land Development and Permitting, 100 West Sandstone Street, Suite 200A, Llano, TX 78643.

[FR Doc. 2015–20342 Filed 8–18–15; 8:45 am]

BILLING CODE 9110–12–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Internal Agency Docket No. FEMA–4235–DR; Docket ID FEMA–2015–0002]

Commonwealth of the Northern Mariana Islands; Major Disaster and Related Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the Commonwealth of the Northern Mariana Islands (FEMA–4235–DR), dated August 5, 2015, and related determinations.

DATES: *Effective Date:* August 5, 2015.

FOR FURTHER INFORMATION CONTACT: Dean Webster, Office of Response and Recovery, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472, (202) 646–2833.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, in a letter dated August 5, 2015, the President issued a major disaster declaration under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121 *et seq.* (the ''Stafford Act''), as follows:

I have determined that the damage in certain areas of the Commonwealth of the Northern Mariana Islands resulting from Typhoon Soudelor during the period of August 1–3, 2015, is of sufficient severity and magnitude to warrant a major disaster declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121 *et seq.* (the ''Stafford Act''). Therefore, I declare that such a major disaster exists in the Commonwealth of the Northern Mariana Islands.

In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes such amounts as you find necessary for Federal disaster assistance and administrative expenses.

You are authorized to provide Individual Assistance and assistance for debris removal and emergency protective measures (Categories A and B) under the Public Assistance program in the designated areas, Hazard Mitigation for the entire commonwealth, and any other forms of assistance under the Stafford Act that you deem appropriate subject to completion of Preliminary Damage Assessments (PDAs). Direct Federal assistance is authorized.

Consistent with the requirement that Federal assistance is supplemental, any Federal funds provided under the Stafford Act for Hazard Mitigation and Other Needs Assistance will be limited to 75 percent of the total eligible costs. Federal funds provided under the Stafford Act for Public Assistance also will be limited to 75 percent of the total eligible costs, with the exception of projects that meet the eligibility criteria for a higher Federal cost-sharing percentage under the Public Assistance Alternative Procedures Pilot Program for Debris Removal implemented pursuant to section 428 of the Stafford Act.

Further, you are authorized to make changes to this declaration for the approved assistance to the extent allowable under the Stafford Act.

The time period prescribed for the implementation of section 310(a), Priority to Certain Applications for Public Facility and Public Housing Assistance, 42 U.S.C. 5153, shall be for a period not to exceed six months after the date of this declaration.

The Federal Emergency Management Agency (FEMA) hereby gives notice that pursuant to the authority vested in the Administrator, under Executive Order 12148, as amended, Stephen M. De Blasio Sr., of FEMA is appointed to act as the Federal Coordinating Officer for this major disaster.

The following areas of the Commonwealth of the Northern Mariana Islands have been designated as adversely affected by this major disaster:

The island of Saipan for Individual Assistance.

The islands of Rota, Saipan, and Tinian for debris removal and emergency protective measures (Categories A and B), including direct federal assistance, under the Public Assistance program.

All areas within the Commonwealth of the Northern Mariana Islands are eligible for assistance under the Hazard Mitigation Grant Program.

The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households In Presidentially Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050, Presidentially Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.

W. Craig Fugate,

Administrator, Federal Emergency Management Agency.

[FR Doc. 2015–20446 Filed 8–18–15; 8:45 am]

BILLING CODE 9111–23–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Internal Agency Docket No. FEMA–4223–DR; Docket ID FEMA–2015–0002]

Texas; Amendment No. 12 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster declaration for the State of Texas (FEMA–4223–DR), dated May 29, 2015, and related determinations.

DATES: *Effective Date:* August 4, 2015.

FOR FURTHER INFORMATION CONTACT: Dean Webster, Office of Response and Recovery, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472, (202) 646–2833.

SUPPLEMENTARY INFORMATION: The notice of a major disaster declaration for the State of Texas is hereby amended to include the following areas among those areas determined to have been adversely

affected by the event declared a major disaster by the President in his declaration of May 29, 2015.

Bosque, Collingsworth, Colorado, Coryell, Duval, Hall, Hardin, Lubbock, McLennan, Palo Pinto, Somervell, Tom Green, Washington, and Young Counties for Public Assistance.

Brazoria, Erath, Jim Wells, Shelby, and Smith Counties for Public Assistance (already designated for Individual Assistance).

The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households In Presidentially Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050, Presidentially Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.

W. Craig Fugate,

Administrator, Federal Emergency Management Agency.

[FR Doc. 2015–20438 Filed 8–18–15; 8:45 am]

BILLING CODE 9111–23–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Internal Agency Docket No. FEMA–4236–DR]; [Docket ID FEMA–2015–0002]

West Virginia; Major Disaster and Related Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the State of West Virginia (FEMA–4236–DR), dated August 7, 2015, and related determinations.

DATES: Effective August 7, 2015.

FOR FURTHER INFORMATION CONTACT: Dean Webster, Office of Response and Recovery, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472, (202) 646–2833.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, in a letter dated August 7, 2015, the President issued a major disaster declaration under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121 *et seq.* (the ''Stafford Act''), as follows:

I have determined that the damage in certain areas of the State of West Virginia resulting from severe storms, straight-line winds, flooding, landslides, and mudslides during the period of July 10–14, 2015, is of sufficient severity and magnitude to warrant a major disaster declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121 *et seq.* (the ''Stafford Act''). Therefore, I declare that such a major disaster exists in the State of West Virginia.

In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes such amounts as you find necessary for Federal disaster assistance and administrative expenses.

You are authorized to provide Public Assistance in the designated areas and Hazard Mitigation throughout the State. Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under the Stafford Act for Hazard Mitigation will be limited to 75 percent of the total eligible costs. Federal funds provided under the Stafford Act for Public Assistance also will be limited to 75 percent of the total eligible costs, with the exception of projects that meet the eligibility criteria for a higher Federal cost-sharing percentage under the Public Assistance Alternative Procedures Pilot Program for Debris Removal implemented pursuant to section 428 of the Stafford Act.

Further, you are authorized to make changes to this declaration for the approved assistance to the extent allowable under the Stafford Act.

The Federal Emergency Management Agency (FEMA) hereby gives notice that pursuant to the authority vested in the Administrator, under Executive Order 12148, as amended, Regis Leo Phelan, of FEMA is appointed to act as the Federal Coordinating Officer for this major disaster.

The following areas of the State of West Virginia have been designated as adversely affected by this major disaster:

Braxton, Clay, Lincoln, Logan, Nicholas, Roane, Webster, and Wood Counties for Public Assistance.

All areas within the State of West Virginia are eligible for assistance under the Hazard Mitigation Grant Program.

The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households In Presidentially Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050, Presidentially Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.

W. Craig Fugate,

Administrator, Federal Emergency Management Agency.

[FR Doc. 2015–20347 Filed 8–18–15; 8:45 am]

BILLING CODE 9111–23–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID FEMA–2015–0001]

Final Flood Hazard Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Final Notice.

SUMMARY: Flood hazard determinations, which may include additions or modifications of Base Flood Elevations (BFEs), base flood depths, Special Flood Hazard Area (SFHA) boundaries or zone designations, or regulatory floodways on the Flood Insurance Rate Maps (FIRMs) and where applicable, in the supporting Flood Insurance Study (FIS) reports have been made final for the communities listed in the table below.

The FIRM and FIS report are the basis of the floodplain management measures that a community is required either to adopt or to show evidence of having in effect in order to qualify or remain qualified for participation in the Federal Emergency Management Agency's (FEMA's) National Flood Insurance Program (NFIP). In addition, the FIRM and FIS report are used by insurance agents and others to calculate appropriate flood insurance premium rates for buildings and the contents of those buildings.

DATES: The effective date of September 30, 2015 which has been established for the FIRM and, where applicable, the supporting FIS report showing the new or modified flood hazard information for each community.

ADDRESSES: The FIRM, and if applicable, the FIS report containing the final flood hazard information for each community is available for inspection at the respective Community Map Repository address listed in the tables below and will be available online through the FEMA Map Service Center at *www.msc.fema.gov* by the effective date indicated above.

FOR FURTHER INFORMATION CONTACT: Luis Rodriguez, Chief, Engineering Management Branch, Federal Insurance and Mitigation Administration, FEMA, 500 C Street SW., Washington, DC

20472, (202) 646–4064, or (email) *Luis.Rodriguez3@fema.dhs.gov;* or visit the FEMA Map Information eXchange (FMIX) online at *www.floodmaps.fema.gov/fhm/fmx_main.html.*

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency (FEMA) makes the final determinations listed below for the new or modified flood hazard information for each community listed. Notification of these changes has been published in newspapers of local circulation and 90 days have elapsed since that publication. The Deputy Associate Administrator for Mitigation has resolved any appeals resulting from this notification.

This final notice is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and 44 CFR part 67. FEMA has developed criteria for floodplain management in floodprone areas in accordance with 44 CFR part 60.

Interested lessees and owners of real property are encouraged to review the new or revised FIRM and FIS report available at the address cited below for each community or online through the FEMA Map Service Center at *www.msc.fema.gov.*

The flood hazard determinations are made final in the watersheds and/or communities listed in the table below.

(Catalog of Federal Domestic Assistance No. 97.022, ''Flood Insurance.'')

Dated: July 28, 2015.

Roy E. Wright,

Deputy Associate Administrator for Insurance and Mitigation, Department of Homeland Security, Federal Emergency Management Agency.

I. Watershed-based studies:

UPPER GRAND WATERSHED

Community	Community map repository address
Daviess County, Missouri, and Incorporated Areas Docket No.: FEMA–B–1404	
City of Gallatin	City Hall, 112 East Grand Street, Gallatin, MO 64650.
Town of Lock Springs	Lock Springs Town Hall, 200 Lake Street, Jamesport, MO 64648.
Unincorporated Areas of Daviess County	County Courthouse, 102 North Main Street, Gallatin, MO 64640.
Village of Jameson	Village Hall, 201 Main Street, Jameson, MO 64647.

II. Non-watershed-based studies:

Community	Community map repository address
Contra Costa County, California, and Incorporated Areas Docket No.: FEMA–B–1433	
City of Antioch	Engineering and Development, Services Division, 200 H Street, Antioch, CA 94509.
City of Hercules	Engineering Department, 111 Civic Drive, Hercules, CA 94547.
City of Martinez	Engineering Department, 525 Henrietta Street, Martinez, CA 94553.
City of Oakley	Public Works and Engineering, 3231 Main Street, Oakley, CA 94561.
City of Pinole	Public Works Department, 2131 Pear Street, Pinole, CA 94564.
City of Pittsburg	Engineering Record Section, City Hall, 65 Civic Avenue, Pittsburg, CA 94565.
City of Richmond	Engineering Division, 450 Civic Center Plaza, Richmond, CA 94804.
City of San Pablo	Planning/Zoning, 13831 San Pablo Avenue, San Pablo, CA 94806.
Unincorporated Areas of Contra Costa County	Public Works Department, 255 Glacier Drive, Martinez, CA 94553.
Schuyler County, Illinois, and Incorporated Areas Docket No.: FEMA–B–1434	
Unincorporated Areas of Schuyler County	Schuyler County Highway Department, 121 Henninger Drive, Rushville, IL 62681.
Kosciusko County, Indiana, and Incorporated Areas Docket No.: FEMA–B–1415	
City of Warsaw	Warsaw Planning Department, 102 South Buffalo Street, Warsaw, IN 46580.
Town of Leesburg	Leesburg Town Hall, 100 East Van Buren Street, Leesburg, IN 46538.
Town of Mentone	Mentone Town Hall, 201 West Main Street, Mentone, IN 46539.
Town of Milford	Kosciusko County Courthouse, Kosciusko County Area Planning, 100 West Center Street, Warsaw, IN 46580.
Town of North Webster	Kosciusko County Courthouse, Kosciusko County Area Planning, 100 West Center Street, Warsaw, IN 46580.
Town of Syracuse	Kosciusko County Courthouse, Kosciusko County Area Planning, 100 West Center Street, Warsaw, IN 46580.
Town of Winona Lake	Winona Lake Town Hall, 1310 Park Avenue, Winona Lake, IN 46590.
Unincorporated Areas of Kosciusko County	Kosciusko County Courthouse, Kosciusko County Area Planning, 100 West Center Street, Warsaw, IN 46580.

Community	Community map repository address
Porter County, Indiana, and Incorporated Areas Docket No.: FEMA–B–1348	
City of Portage	Building Department, 6070 Central Avenue, Portage, IN 46368.
City of Valparaiso	Building Department, 166 West Lincolnway, Valparaiso, IN 46383.
Town of Beverly Shores	Town Hall, 500 South Broadway, Beverly Shores, IN 46301.
Town of Burns Harbor	Building Department, 1240 North Boo Road, Burns Harbor, IN 46304.
Town of Chesterton	Building Department, 1490 Broadway, Suite 5, Chesterton, IN 46304.
Town of Dune Acres	Building Department, 1 East Road, Dune Acres, IN 46304.
Town of Hebron	Building Department, 106 East Sigler Street, Hebron, IN 46341.
Town of Ogden Dunes	Building Department, 115 Hillcrest Road, Ogden Dunes, IN 46368.
Town of Porter	Building Department, 303 Franklin Street, 2nd Floor, Porter, IN 46304.
Unincorporated Areas of Porter County	Porter County Plan Commission, 155 Indiana Avenue, Valparaiso, IN 46383.
Kandiyohi County, Minnesota, and Incorporated Areas Docket No.: FEMA–B–1440	
City of Lake Lillian	City Hall, 531 Lakeview Street, Lake Lillian, MN 56253.
City of New London	City Hall, 20 First Avenue Southwest, New London, MN 56273.
City of Raymond	City Office, 208 Cofield Street, Raymond, MN 56282.
City of Regal	Mayor's Residence, 14465 293rd Avenue Northeast, Belgrade, MN 56312.
City of Spicer	City Hall, 217 Hillcrest Avenue, Spicer, MN 56288.
City of Willmar	City Office Building, 333 6th Street Southwest, Willmar, MN 56201.
Unincorporated Areas of Kandiyohi County	Kandiyohi County Office Building, 400 Benson Avenue Southwest, Willmar, MN 56201.
Norman County, Minnesota, and Incorporated Areas Docket No.: FEMA–B–1311	
City of Ada	15 East 4th Street, Ada, MN 56510.
City of Borup	203 Main Avenue, Borup, MN 56519.
City of Halstad	404 5th Avenue East, Halstad, MN 56548.
City of Hendrum	308 Main Street East, Hendrum, MN 56550.
City of Perley	205 Main Street, Perley, MN 56574.
City of Shelly	101 West McKinley Avenue, Shelly, MN 56581.
City of Twin Valley	107 2nd Street SW, Twin Valley, MN 56584.
Unincorporated Areas of Norman County	16 rd Avenue East, Ada, MN 56510.
Strafford County, New Hampshire (All Jurisdictions) Docket No.: FEMA–B–1415	
City of Dover	City Office, 288 Central Avenue, Dover, NH 03820.
Town of Durham	Town Office, 15 Newmarket Road, Durham, NH 03824.
Town of Madbury	Town Hall, 13 Town Hall Road, Madbury, NH 03823.
Town of Rollinsford	Town Office, 667 Main Street, Rollinsford, NH 03869.
Washington County, Pennsylvania (All Jurisdictions) Docket No.: FEMA–B–1431	
Borough of Allenport	Borough Building, 1850 Main Street, Allenport, PA 15412.
Borough of Beallsville	Borough Building, 82A South Street, Beallsville, PA 15313.
Borough of Bentleyville	Borough Building, 900 Main Street, Suite 101, Bentleyville, PA 15314.
Borough of Burgettstown	Borough Administration Building, 1509 Main Street, Burgettstown, PA 15021.
Borough of California	Borough Zoning Office, 225 Third Street, California, PA 15419.
Borough of Canonsburg	Borough Building, 68 East Pike Street, Canonsburg, PA 15317.
Borough of Centerville	Centerville Borough Office, 100 East End Road, Brownsville, PA 15417.
Borough of Charleroi	Borough Municipal Building, 334 Fallowfield Avenue, Charleroi, PA 15022.
Borough of Coal Center	Borough Building, 132 Water Street, Coal Center, PA 15423.
Borough of Cokeburg	Borough Building, 99 Washington Street, Cokeburg, PA 15324.
Borough of Deemston	Deemston Borough Municipal Building, 1622 Morey Road, Frederick-town, PA 15333.
Borough of Donora	Borough Building, 603 Meldon Avenue, Donora, PA 15033.
Borough of Dunlevy	Borough Building, 2 Walnut Street, Dunlevy, PA 15432.
Borough of Elco	Borough Building, 510 Route 88, Elco, PA 15434.
Borough of Ellsworth	Borough Building, 23 Main Street, Ellsworth, PA 15331.
Borough of Finleyville	Borough Building, 3515 Washington Avenue, Finleyville, PA 15332.
Borough of Green Hills	Green Hills Borough Office, 2755 Park Avenue, Washington, PA 15301.

Community	Community map repository address
Borough of Houston	Borough Building, 42 Western Avenue, Houston, PA 15342.
Borough of Long Branch	Long Branch Borough Building, 440 Mount Tabor Road, Coal Center, PA 15423.
Borough of Marianna	Borough Building, 1 Procasky Road, Marianna, PA 15345.
Borough of Midway	Borough Office, 304 Noblestown Road, Midway, PA 15060.
Borough of New Eagle	Borough Building, 157 Main Street, New Eagle, PA 15067.
Borough of North Charleroi	Borough Building, 555 Walnut Avenue, North Charleroi, PA 15022.
Borough of Roscoe	Borough Municipal Building, 500 Arthur Avenue, Roscoe, PA 15477.
Borough of Speers	Speers Borough Hall, 300 Phillips Street, Charleroi, PA 15022.
Borough of Stockdale	Borough Office, 402 Locust Street, Stockdale, PA 15483.
Borough of Twilight	Twilight Borough Building, 8 Chestnut Road, Charleroi, PA 15022.
Borough of West Brownsville	Municipal Building, 235 Main Street, West Brownsville, PA 15417.
Borough of West Middletown	Borough Office, 18 West Main Street, West Middletown, PA 15379.
City of Monongahela	City Hall, 449 West Main Street, Monongahela, PA 15063.
City of Washington	City Hall, 55 West Maiden Street, Washington, PA 15301.
Township of Amwell	Amwell Township Municipal Building, 885 Amity Ridge Road, Amity, PA 15311.
Township of Blaine	Blaine Township Municipal Building, 40 Main Street, Taylorstown, PA 15365.
Township of Buffalo	Buffalo Township Office, 400 Buffalo Center Lane, Washington, PA 15301.
Township of Canton	Canton Township Municipal Building, 655 Grove Avenue, Washington, PA 15301.
Township of Carroll	Carroll Township Hall, 130 Baird Street, Monongahela, PA 15063.
Township of Cecil	Township Office, 3599 Millers Run Road, Suite 101, Cecil, PA 15321.
Township of Chartiers	Chartiers Township Municipal Center, Buccaneer Drive, Houston, PA 15342.
Township of Cross Creek	Cross Creek Township Municipal Building, 28 Clark Avenue, Avella, PA 15312.
Township of Donegal	Donegal Township Municipal Office, 34 North Liberty Street, West Alexander, PA 15376.
Township of East Bethlehem	East Bethlehem Township Office, 36 Water Street, Fredericktown, PA 15333.
Township of East Finley	East Finley Township Office Building, 1394 East Finley Drive, Claysville, PA 15323.
Township of Fallowfield	Fallowfield Township Building, 9 Memorial Drive, Charleroi, PA 15022.
Township of Hanover	Hanover Township Hall, 11 Municipal Drive, Burgettstown, PA 15021.
Township of Hopewell	Hopewell Township Building, 20 Parkview Road, Avella, PA 15312.
Township of Independence	Independence Township Building, 34 Campbell Street, Avella, PA 15312.
Township of Jefferson	Jefferson Township Building, 670 Cedar Grove Road, Burgettstown, PA 15021.
Township of Morris	Morris Township Municipal Building, 473 Sparta Road, Prosperity, PA 15329.
Township of Mount Pleasant	Mount Pleasant Township Building, 31 McCarrell Road, Hickory, PA 15340.
Township of North Bethlehem	North Bethlehem Township Municipal Building, 2178 East National Pike, Scenery Hill, PA 15360.
Township of North Franklin	North Franklin Township Municipal Building, 620 Franklin Farms Road, Washington, PA 15301.
Township of North Strabane	North Strabane Township Municipal Building, 1929 Route 519 South, Canonsburg, PA 15317.
Township of Nottingham	Nottingham Township Municipal Building, 909 Sugar Run Road Eighty Four, PA 15330.
Township of Peters	Peters Township Municipal Building, 610 East McMurray Road, McMurray, PA 15317.
Township of Robinson	Robinson Township Office, 8400 Noblestown Road, McDonald, PA 15057.
Township of Smith	Smith Township Building, 1848 Smith Township State Road, Slovan, PA 15078.
Township of Somerset	Somerset Township Municipal Building, 615 Vanceville Road, Eighty Four, PA 15330.
Township of South Franklin	South Franklin Township Building, 100 Municipal Road, Washington, PA 15301.
Township of South Strabane	South Strabane Township Building, 550 Washington Road, Washington, PA 15301.
Township of Union	Union Township Municipal Building, 3904 Finleyville-Elrama Road, Finleyville, PA 15332.
Township of West Bethlehem	West Bethlehem Township Municipal Building, 247 Jefferson Avenue, Marianna, PA 15345.
Township of West Finley	West Finley Township Office, 401 Beham Ridge Road, West Alexander, PA 15376.

Community	Community map repository address
Township of West Pike Run	West Pike Run Township Municipal Building, 238 Pike Run Drive, Daisytown, PA 15427.

[FR Doc. 2015–20439 Filed 8–18–15; 8:45 am]

BILLING CODE P

DEPARTMENT OF HOMELAND SECURITY

United States Immigration and Customs Enforcement

Agency Information Collection Activities: Extension, Without Change, of an Existing Information Collection; Comment Request

ACTION: 60-Day notice of information collection for review; Form No. I–515A; Notice to Student or Exchange Visitor; OMB Control No. 1653–0037.

The Department of Homeland Security, U.S. Immigration and Customs Enforcement (USICE), is submitting the following information collection request for review and clearance in accordance with the Paperwork Reduction Act of 1995. The information collection is published in the **Federal Register** to obtain comments from the public and affected agencies. Comments are encouraged and will be accepted for sixty days until October 19, 2015.

Written comments and suggestions regarding items contained in this notice and especially with regard to the estimated public burden and associated response time should be directed to the Department of Homeland Security (DHS), Scott Elmore, Forms Management Office, U.S. Immigrations and Customs Enforcement, 801 I Street NW., Mailstop 5800, Washington, DC 20536–5800.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Overview of This Information Collection

(1) *Type of Information Collection:* Extension, without change, of a currently approved information collection.

(2) *Title of the Form/Collection:* Notice to Student or Exchange Visitor.

(3) *Agency form number, if any, and the applicable component of the Department of Homeland Security sponsoring the collection:* (No. Form I–515A); U.S. Immigration and Customs Enforcement.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: Individuals or Households. When an academic student (F–1), vocational student (M–1), exchange visitor (J–1), or dependent (F–2, M–2 or J–2) is admitted to the United States as a nonimmigrant alien under section 101(a)(15) of the Immigration and Nationality Act (Act), he or she is required to have certain documentation. If the student or exchange visitor or dependent is missing documentation, he or she is provided with the Form I–515A, Notice to Student or Exchange Visitor. The Form I–515A provides a list of the documentation the student or exchange visitor or dependent will need to provide to the Department of Homeland Security (DHS), Student and Exchange Visitor Program (SEVP) office within 30 days of admission.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 10,701 responses at 10 minutes (0.1667 hours) per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 1,776. annual burden hours.

Dated: August 13, 2015.

Scott Elmore,

Program Manager, Forms Management Office, Office of the Chief Information Officer, U.S. Immigration and Customs Enforcement, Department of Homeland Security.

[FR Doc. 2015–20396 Filed 8–18–15; 8:45 am]

BILLING CODE 9111–28–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5832–N–09]

60-Day Notice of Proposed Information Collection: Loan Guarantee Recovery Fund Established Pursuant to the Church Arson Prevention Act of 1996

AGENCY: Office of Community Planning and Development, HUD.

ACTION: Notice.

SUMMARY: HUD is seeking approval from the Office of Management and Budget (OMB) for the information collection described below. In accordance with the Paperwork Reduction Act, HUD is requesting comment from all interested parties on the proposed collection of information. The purpose of this notice is to allow for 60 days of public comment.

DATES: *Comments Due Date:* October 19, 2015.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Colette Pollard, Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 7th Street SW., Room 4176, Washington, DC 20410–5000; telephone 202–402–3400 (this is not a toll-free number) or email at *Colette.Pollard@hud.gov* for a copy of the proposed forms or other available information. Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877–8339.

FOR FURTHER INFORMATION CONTACT: Jackie L. Williams, Ph.D., Director, Office of Rural Housing and Economic Development, Department of Housing and Urban Development, 451 7th Street SW., Washington, DC 20410; email *Jackie.L.Williams@hud.gov* telephone

202–402–4611. This is not a toll-free number. Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877–8339.

Copies of available documents submitted to OMB may be obtained from Ms. Pollard.

SUPPLEMENTARY INFORMATION: This notice informs the public that HUD is seeking approval from OMB for the information collection described in Section A.

A. Overview of Information Collection

Title of Information Collection: Loan Guarantee Recovery Fund established pursuant to the Church Arson Prevention Act of 1996.

OMB Approval Number: 2506–0159.

Type of Request Extension of currently approved collection.

Form Numbers: HUD–40076–LGA, SF–424.

Description of the need for the information and proposed use: The purpose of this submission is for the application of the Section 4 Loan Guarantee Recovery Fund loan guarantee process. Under this program, HUD provides loan guarantees to lending institutions that provide loans to houses of worship that have been the victims of hate crime or arson. Under the Loan Guarantee Agreement, the lending institution is required to provide repayment information to HUD on a monthly basis to ensure the lender is repaying the loan within the guidelines of the Loan Guarantee Agreement.

Respondents (*i.e.* affected public): 36.

Estimated Number of Respondents: 36.

Estimated Number of Responses: 432.

Frequency of Response: 24.

Average Hours per Response: 2.

Total Estimated Burdens: 864.

Note: Preparer of this notice may substitute the chart for everything beginning with estimated number of respondents above:

Information collection	Number of respondents	Frequency of response	Responses per annum	Burden hour per response	Annual burden hours	Hourly cost per response	Annual cost
Reports	18	12	216	2	432	$25	$10,800
Recordkeeping	18	12	216	2	432	$25	10,800
Totals	36	24	432		864		21,600

B. Solicitation of Public Comment

This notice is soliciting comments from members of the public and affected parties concerning the collection of information described in Section A on the following:

(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) 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 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.

HUD encourages interested parties to submit comments in response to these questions.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35.

Dated: August 12, 2015.

Harriet Tregoning,

Principal Deputy Assistant Secretary for Community Planning and Development.

[FR Doc. 2015–20487 Filed 8–18–15; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NRNHL–18873; PPWOCRADI0, PCU00RP14.R50000]

National Register of Historic Places; Notification of Pending Nominations and Related Actions

Nominations for the following properties being considered for listing or related actions in the National Register were received by the National Park Service before July 18, 2015. Pursuant to section 60.13 of 36 CFR part 60, written comments are being accepted concerning the significance of the nominated properties under the National Register criteria for evaluation. Comments may be forwarded by United States Postal Service, to the National Register of Historic Places, National Park Service, 1849 C St. NW., MS 2280, Washington, DC 20240; by all other carriers, National Register of Historic Places, National Park Service,1201 Eye St. NW., 8th floor, Washington, DC 20005; or by fax, 202–371–6447. Written or faxed comments should be submitted by September 3, 2015. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Dated: July 21, 2015.

J. Paul Loether,

Chief, National Register of Historic Places/National Historic Landmarks Program.

MISSOURI

Jackson County

Interstate Bakeries Corporation Headquarters, 12 E. Armour Blvd., Kansas City, 15000553

St. Louis Independent City

Central Institute for the Deaf Building, 800 S. Euclid Ave., St. Louis (Independent City), 15000554

Dutchtown South Historic District, Bounded by S. Grand Blvd., Delor & Liberty Sts., Alabama, Virginia & Bingham Aves., St. Louis (Independent City), 15000555

NEW YORK

Monroe County

Chili—West Historic District, 15–17 Ardmore, 5–75 Appleton, 14–48 Darien, 22–56 Hancock, 41–146 Lozier & 20–99 Somerset Sts., 50–432 Chili Ave., Rochester, 15000556

Sibley—Elmdorf Historic District, 23–405 Aberdeen, 20–324 Aldine, 447–551 Genesee, 157–320 Melrose, 187–325 Roslyn & 2–242 Trafalgar Sts., Rochester, 15000557

NORTH CAROLINA

Guilford County

Pickett Cotton Mills, 1200 Redding Dr., High Point, 15000558

OHIO

Cuyahoga County

Villa San Bernardo Historic District, 1160 Broadway Ave., Bedford, 15000559

Woodland—Larchmere Commercial Historic District, 12019–13165 Larchmere, 2618 N. Moreland, Cleveland, 15000560

Franklin County

South High School, 345 E. Deshler Ave., Columbus, 15000561

Hamilton County

Bon Air Flats, (Apartment Buildings in Ohio Urban Centers, 1870–1970 MPS) 615 Maple Ave., Cincinnati, 15000562

Mohawk Place Historic District, 241–290 McMicken Ave., 2009–2024 Mohawk Pl., 218–256 Mohawk St., 2026 Central Pkwy., Cincinnati, 15000563

SOUTH DAKOTA

Hutchinson County

First National Bank, Freeman, 394 S. Main St., Freeman, 15000564

Jerauld County

Harmony Friends Church, 225th St. & 372nd Ave., Wessington Springs, 15000565

Minnehaha County

Terrace Park and Japanese Gardens, 1100 W. 4th St., Sioux Falls, 15000566

[FR Doc. 2015–20455 Filed 8–18–15; 8:45 am]

BILLING CODE 4312–51–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–NERO–GATE–18926; PPNEGATEB0, PPMVSCS1Z.Y00000]

Amended Meeting Schedule for the Gateway National Recreation Area Fort Hancock 21st Century Advisory Committee

AGENCY: National Park Service, Interior.

ACTION: Amended notice of meetings.

SUMMARY: In accordance with the Federal Advisory Committee Act (5 U.S.C. Appendix 1–16), notice is hereby given of a change in the meeting schedule of the Gateway National Recreation Area Fort Hancock 21st Century Federal Advisory Committee September 11, 2015, meeting to September 18, 2015, at the Monmouth County Library, Eastern Branch, located at 1001 Route 35, Shrewsbury, New Jersey 07702 which was published in the **Federal Register**, Vol. 80, April 2, 2015, p. 17475.

The September 18, 2015, meeting will begin at 9:00 a.m. (EASTERN), with a public comment period at 11:30 a.m. (EASTERN). This meeting is open to the public. The October 23, 2015, meeting announced in the same notice, is cancelled.

FOR FURTHER INFORMATION CONTACT: John Warren, External Affairs Officer, Gateway National Recreation Area, Sandy Hook Unit, 26 Hudson Road, Highlands, New Jersey 07732, 917–829–0425, email *John_Warren@nps.gov.*

SUPPLEMENTARY INFORMATION: The Committee was established (**Federal Register**, Vol. 77, April 3, 2012, p. 20046) to provide advice to the Secretary of the Interior, through the Director of the National Park Service, on the development of a reuse plan and on matters relating to future uses of certain buildings at the Fort Hancock and Sandy Hook Proving Ground National Historic Landmark which lie within the Gateway National Recreation Area.

The new Committee Web site, *http://www.forthancock21.org*, includes summaries from all prior meetings. All Committee meetings are open to the public.

Dated: August 12, 2015.

Alma Ripps,

Chief, Office of Policy.

[FR Doc. 2015–20441 Filed 8–18–15; 8:45 am]

BILLING CODE 4310–EE–P

DEPARTMENT OF THE INTERIOR

Bureau of Safety and Environmental Enforcement

[Docket ID BSEE–2015–0008; OMB Control Number 1014–0005; 14XE1700DX EEEE500000 EX1SF0000.DAQ000]

Information Collection Activities: Relief or Reduction in Royalty Rates; Submitted for Office of Management and Budget (OMB) Review; Comment Request

ACTION: 30-day Notice.

SUMMARY: To comply with the Paperwork Reduction Act of 1995 (PRA), the Bureau of Safety and Environmental Enforcement (BSEE) is notifying the public that we have submitted to OMB an information collection request (ICR) to renew approval of the paperwork requirements in the regulations under *Relief or Reduction in Royalty Rates.* This notice also provides the public a second opportunity to comment on the revised paperwork burden of these regulatory requirements.

DATES: You must submit comments by September 18, 2015.

ADDRESSES: Submit comments by either fax (202) 395–5806 or email (*OIRA_Submission@omb.eop.gov*) directly to the Office of Information and Regulatory Affairs, OMB, Attention: Desk Officer for the Department of the Interior (1014–0005). Please provide a copy of your comments to BSEE by any of the means below.

- Electronically go to *http://www.regulations.gov.* In the Search box, enter BSEE–2015–0008 then click search. Follow the instructions to submit public comments and view all related materials. We will post all comments.
- Email *cheryl.blundon@bsee.gov,* fax (703) 787–1546, or mail or hand-carry comments to the Department of the Interior; Bureau of Safety and Environmental Enforcement; Regulations and Standards Branch; ATTN: Cheryl Blundon; 45600 Woodland Road, Sterling, VA 20166. Please reference ICR 1014–0005 in your comment and include your name and return address.

FOR FURTHER INFORMATION CONTACT: Cheryl Blundon, Regulations and Standards Branch, (703) 787–1607, to request additional information about this ICR. To see a copy of the entire ICR submitted to OMB, go to *http://www.reginfo.gov* (select Information Collection Review, Currently Under Review).

SUPPLEMENTARY INFORMATION:

Title: 30 CFR 203, *Relief or Reduction in Royalty Rates.*

OMB Control Number: 1014–0005.

Abstract: The Outer Continental Shelf (OCS) Lands Act, 43 U.S.C. 1337, as amended by the OCS Deep Water Royalty Relief Act (DWRRA), Public Law 104–58 and the Energy Policy Act of 2005, Public Law 109–058, gives the Secretary of the Interior (Secretary) the authority to reduce or eliminate royalty or any net profit share specified in OCS oil and gas leases to promote increased production. The DWRRA also authorized the Secretary to suspend royalties when necessary to promote development or recovery of marginal resources on producing or non-producing leases in the Gulf of Mexico (GOM) west of 87 degrees, 30 minutes West longitude.

Section 302 of the DWRRA provides that new production from a lease in existence on November 28, 1995, in a water depth of at least 200 meters, and in the GOM west of 87 degrees, 30 minutes West longitude qualifies for royalty suspension in certain situations. To grant a royalty suspension, the Secretary must determine that the new production or development would not be economic in the absence of royalty relief. The Secretary must then determine the volume of production on which no royalty would be due in order to make the new production from the lease economically viable. This determination is done on a case-by-case basis. Production from leases in the same water depth and area issued after

November 28, 2000, also can qualify for royalty suspension in addition to any that may be included in their lease terms.

In addition, Federal policy and statute require us to recover the cost of services that confer special benefits to identifiable non-Federal recipients. The Independent Offices Appropriation Act (31 U.S.C. 9701), Office of Management and Budget (OMB) Circular A–25, and the Omnibus Appropriations Bill (Pub. L. 104–134, 110 Stat. 1321, April 26, 1996) authorize the Bureau of Safety and Environmental Enforcement (BSEE) to collect these fees to reimburse us for the cost to process applications or assessments.

Regulations at 30 CFR part 203 implement these statutes and policy and require respondents to pay a fee to request royalty relief. OMB approved the information collection burden under this collection 1014–0005. Section 203.3(a) states that, ''We will specify the necessary fees for each of the types of royalty-relief applications and possible BSEE audits in a Notice to Lessees. We will periodically update the fees to reflect changes in costs, as well as provide other information necessary to administer royalty relief.''

Responses are mandatory and are required to obtain or retain a benefit. No questions of a sensitive nature are asked. BSEE will protect information from respondents considered proprietary under the Freedom of Information Act (5 U.S.C. 552) and DOI's implementing regulations (43 CFR 2) and under regulations at 30 CFR 203.61, *How do I assess my chances for getting relief*? and 30 CFR 250.197, *Data and information to be made available to the public or for limited inspection.*

The information collected under this subpart is used to make decisions on the economic viability of leases requesting a suspension or elimination of royalty or net profit share. These decisions have enormous monetary impact on both the lessee and the Federal Government. Royalty relief can lead to increased production of natural gas and oil, creating profits for lessees, and royalty and tax revenues for the Federal Government that they might not otherwise receive. We could not make an informed decision without the collection of information required by 30 CFR part 203.

Frequency: On occasion and as required by regulations.

Description of Respondents: Potential respondents comprise OCS Federal oil, gas, or sulphur lessees and/or operators.

Estimated Reporting and Recordkeeping Hour Burden: The estimated annual hour burden for this information collection is a total of 724 hours. The following chart details the individual components and estimated hour burdens. In calculating the burdens, we assumed that respondents perform certain requirements in the normal course of their activities. We consider these to be usual and customary and took that into account in estimating the burden.

BURDEN TABLE

Citation 30 CFR 203 and related NTL(s)	Reporting or recordkeeping requirement +	Application/audit fees (rounded)		
		Hour burden	Average number of annual responses	Annual burden hours (rounded)
2; 3; 4; 70	These sections contain general references to submitting reports, applications, requests, copies, demonstrating qualifications, for BSEE approval—burdens covered under specific requirements			0
Royalty Relief for Ultra-Deep Gas Wells and Deep Gas Wells on Shallow Water Leases				
31(c)	Request a refund of or recoup royalties from qualified ultra-deep wells.	1	1 request	1
35(a); 44(a); 47	Notify BSEE of intent to begin drilling and depth of target.	1	2 notifications	2
35(c), (d); 44(b), (d), (e)	Notify BSEE that production has begun, request confirmation of the size of RSV—provide any/all supporting documentation.	2	2 notifications	4
35(d); 44(e)	Request to extend the deadline for beginning production with required supporting documentation.	4	1 request	4
41(d)	Request a refund of or recoup royalties from qualified wells >200 meters but <400 meters.	1	1 request	1
35(a); 44(a); 47(a)	Notify BSEE of intent to begin drilling	1	2 notifications	2
35(c), (d); 44(b), (d), (e)	Notify BSEE that production has begun, request confirmation of the size of RSV, provide any/all supporting documentation (*i.e.,* request to extend deadline, credible activity schedule, etc).	2	2 notifications	4
46	Provide data from well to confirm and attest well drilled was an unsuccessful certified well with supporting documentation and request supplement (RSS).	8	1 response	8
49(b)	Notify BSEE or decision to exercise option to replace one set of deep gas royalty suspension terms for another set of such terms.	BSEE SOL requires that this reg text stay for legacy purposes only. Last time any respondent could use was 2004; hence, no burden.		
Subtotal			8 responses	20

BURDEN TABLE—Continued

Citation 30 CFR 203 and related NTL(s)	Reporting or recordkeeping requirement +	Application/audit fees (rounded)		
		Hour burden	Average number of annual responses	Annual burden hours (rounded)
End of Life and Special Royalty Relief *				
51; 83; 84; NTL	Application—leases that generate earnings that cannot sustain continued production (end-of-life lease); required supporting documentation; include payment confirmation receipt.	100	1 application every 10 years.	10
		application 1/10 × $8,000 = $800 *; audit 1/10 × $12,500 = $1,250		
52	Demonstrate ability to qualify/requalify for royalty relief or to re-qualify.	1	1 response	1
55	Renounce relief arrangement (end-of-life) (seldom, if ever will be used; minimal burden to prepare letter).	1	1 letter every 10 years	1
80; NTL	Application—apart from formal programs for royalty relief for marginal producing lease (Special Case Relief); required supporting documentation; include payment confirmation receipt.	250	1 application every 10 years.	25
		application 1/10 × $8,000 ** = $800 audit 1/10 × $12,500 = $1,250		
80; NTL	Application—apart from formal programs for royalty relief for marginal expansion project or marginal non-producing lease (Special Case Relief); required supporting documentation; include payment confirmation receipt.	1,000	1 application every 10 years.	100
		application 1/10 × $19,500 ** = $1,950; audit 1/10 × $18,750 = $1,875		
Subtotal			2 responses (rounded)	137
			$7,925 fees	
CPA Report				
81; 83–90; 63	Required reports; extension justification	Burden included with applications		0
		1 CPA report × $45,000/10 each report = $4,500		
Subtotal			1 response	$4,500
Deep Water Royalty Relief Act (DWRAA)				
61; 62; 64; 65; 71; 83; 85–89; NTL.	Application—preview assessment (seldom if ever will be used as applicants generally opt for binding determination by BSEE instead) and required supporting documentation; include payment confirmation receipt.	900	1 application every 10 years.	90
		application 1/10 × $28,500 = $2,850		
62; 64; 65; 71; 83; 85–89; NTL.	Application—leases in designated areas of GOM deep water acquired in lease sale before 11/28/95 or after 11/28/00 and are producing (deep water expansion project); required supporting documentation; include payment confirmation receipt.	2,000	1 application every 10 years.	200
		application 1/10 × $19,500 = $1,950		
62; 64; 65; 203.71; 81; 83; 85–89; NTL.	Application—leases in designated areas of deep water GOM, acquired in lease sale before 11/28/95 or after 11/28/00 that have not produced (pre-act or post-2000 deep water leases); required supporting documentation; include payment confirmation receipt.	2,000	1 application every 10 years.	200

BURDEN TABLE—Continued

Citation 30 CFR 203 and related NTL(s)	Reporting or recordkeeping requirement +	Application/audit fees (rounded)		
		Hour burden	Average number of annual responses	Annual burden hours (rounded)
		application 1/10 × $34,000 = $3,400 *; audit 1/10 × $37,500 = $3,750		
69; NTL	Application—short form to add or assign pre-Act lease and required supporting documentation; include payment confirmation receipt.	40	1 application every 10 years.	4
		application 1/10 × $1,000 = $100		
70; 81; 90; 76(c), (e); NTL	Submit post-production development report; extension justification. # Reserve right to audit (1 audit every 10 years) after production starts to confirm cost estimates of the application; include payment confirmation receipt.	50	1 report * every 10 years	5
		# 1 audit 1/10 × $18,750 = $1,875		
74; 75; 76(d); NTL	Redetermination and required supporting documentation; include payment confirmation receipt.	500	1 redetermination every 10 years.	50
		application 1/10 × $16,000 = $1,600 *		
77	Renounce relief arrangement (deep water) (seldom, if ever will be used; minimal burden to prepare letter).	1	1 letter every 10 years	1
79	Request reconsideration of BSEE field designation	This was a regulatory requirement for leases issued prior to 1995		0
79(c); 76(b)	Request extension of deadline to start construction	2	1 request every 10 years	1
81; 83–90	Required reports; extension justification	Burden included with applications		0
Subtotal			3 responses	551
			$15,525 fees	
Recordkeeping				
81(d)	Retain supporting cost records for post-production development/fabrication reports (records retained as usual/customary business practice; minimal burden to make available at BSEE request).	8	2 recordkeepers	16
Subtotal			2 recordkeepers	16
Total Annual Burden			16 Responses	724
			$27,950 Fees	

+ In the future, BSEE may require electronic filing of some submissions.
* CPA certification expense burden also imposed on applicant.
** These applications currently do not have a set fee since they are done on a case-by-case basis.
Note: Applications include numerous items such as: Transmittal letters, letters of request, modifications to applications, reapplications, etc.

Estimated Reporting and Recordkeeping Non-Hour Cost Burden: We have identified several non-hour cost burdens associated with the collection of information for a total of $27,950.

Under § 203.3, we charge lessees (respondents) applying for royalty relief an amount that covers the cost of processing their applications and auditing financial data when necessary to determine the proposed development's economic situation. As previously discussed, these fees may be revised as necessary to recover our costs in processing royalty relief applications.

This submission includes these audits and their associated fees. Since there have been no applications approved in the last 14 years under our formal programs for deepwater royalty relief or end of life, the estimated number of submittals is one every 10 years; but we include the audit and their respective fees due to the potential situation arising.

We estimate this cost burden to be approximately $23,450 annually. Refer to the burden table for a breakdown.

Under § 203.81, a report prepared by an independent certified public accountant (CPA) must accompany the application and post-production report (expansion project, short form, and preview assessment applications are excluded). The OCS Lands Act

applications will require this report only once; the DWRRA applications will require this report at two stages—with the application and post-production development report for successful applicants. We estimate an average cost for a report is $45,000 and that one CPA certification, during the information collection extension period, will be necessary if the applications are approved. This annual cost burden is $45,000/10 years = $4,500.

Therefore, the total of the two burdens is estimated at $27,950. We have not identified any other non-hour cost burdens associated with this collection of information.

Public Disclosure Statement: The PRA (44 U.S.C. 3501, *et seq.,)* provides that an agency may not conduct or sponsor a collection of information unless it displays a currently valid OMB control number. Until OMB approves a collection of information, you are not obligated to respond.

Comments: Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3501, *et seq.,*) requires each agency " . . . to provide notice . . . and otherwise consult with members of the public and affected agencies concerning each proposed collection of information . . . " Agencies must specifically solicit comments to: (a) Evaluate whether the collection is necessary or useful; (b) evaluate the accuracy of the burden of the proposed collection of information; (c) enhance the quality, usefulness, and clarity of the information to be collected; and (d) minimize the burden on the respondents, including the use of technology.

To comply with the public consultation process, on May 22, 2015, we published a **Federal Register** notice (80 FR 29740) announcing that we would submit this ICR to OMB for approval. The notice provided the required 60-day comment period. In addition, § 203.5 provides the OMB Control Number for the information collection requirements imposed by the 30 CFR 203 regulations. The regulation also informs the public that they may comment at any time on the collections of information and provides the address to which they should send comments. We received no comments in response to the **Federal Register** notice, nor did we receive any unsolicited comments.

Public Availability of Comments: Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Dated: August 4, 2015.

Robert W. Middleton,

Deputy Chief, Office of Offshore Regulatory Programs.

[FR Doc. 2015–20369 Filed 8–18–15; 8:45 am]

BILLING CODE 4310–VH–P

JUDICIAL CONFERENCE OF THE UNITED STATES

Hearings of the Judicial Conference Advisory Committees on the Federal Rules of Bankruptcy Procedure and the Federal Rules of Evidence

Federal Register citation of previous announcement: 80 FR 48120.

AGENCY: Judicial Conference of the United States, Advisory Committees on the Federal Rules of Bankruptcy, Procedure and the Federal Rules of Evidence.

ACTION: Revised Notice of Proposed Amendments and Open Hearings.

SUMMARY: The Advisory Committees on the Federal Rules of Bankruptcy Procedure and the Federal Rules of Evidence have proposed amendments to the following rules: Bankruptcy Rules 1001 and 1006. Evidence Rules 803 and 902.

The text of the proposed rules amendments and the accompanying Committee Notes can be found at the United States Federal Courts' Web site at: *http://www.uscourts.gov/rules-policies/proposed-amendments-published-public-comment.*

All written comments and suggestions with respect to the proposed amendments may be submitted on or after the opening of the period for public comment on August 14, 2015, but no later than February 16, 2016. Written comments must be submitted electronically, following the instructions provided at the Web site address provided above. In accordance with established procedures, all comments submitted are available for public inspection.

Public hearings are scheduled to be held on these proposed amendments as follows:

- Bankruptcy Rule 1006 in Washington, DC, on January 22, 2016, and in Pasadena, CA, on January 29, 2016;
- Rules of Evidence 803 and 902 in Phoenix, AZ, on January 6, 2016, and in Washington, DC, on February 12, 2016.

Those wishing to testify should contact the Secretary at the address below in writing at least 30 days before the hearing.

FOR FURTHER INFORMATION CONTACT: Rebecca A. Womeldorf, Secretary, Committee on Rules of Practice and Procedure of the Judicial Conference of the United States, Thurgood Marshall Federal Judiciary Building, One Columbus Circle NE., Suite 7–240, Washington, DC 20544, Telephone (202) 502–1820.

Dated: August 12, 2015.

Rebecca A. Womeldorf,

Secretary, Committee on Rules of Practice and Procedure, Judicial Conference of the United States.

[FR Doc. 2015–20254 Filed 8–18–15; 8:45 am]

BILLING CODE 2210–55–P

DEPARTMENT OF JUSTICE

[OMB Number 1110–0052]

Agency Information Collection Activities; Proposed eCollection eComments Requested; Extension Without Change, of a Previously Approved Collection Applicant Information Form (1–783)

AGENCY: Federal Bureau of Investigation, Department of Justice.

ACTION: 60-day notice.

SUMMARY: The Department of Justice (DOJ), Federal Bureau of Investigation (FBI), Criminal Justice Information Services (CJIS) Division, 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 of 1995.

DATES: Comments are encouraged and will be accepted for 60 days until October 19, 2015.

FOR FURTHER INFORMATION CONTACT: If you have additional 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 Gerry Lynn Brovey, Supervisory Information Liaison Specialist, FBI, CJIS, Resources Management Section, Administrative Unit, Module C–2, 1000 Custer Hollow Road, Clarksburg, West Virginia 26306 (facsimile: 304–625–5093).

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 Bureau of Justice Statistics, 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;

—Evaluate whether and if so how the quality, utility, and clarity of the information to be collected can be enhanced; 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

1 *Type of Information Collection:* Extension of a currently approved collection.

2 *The Title of the Form/Collection:* Applicant Information Form.

3 *The agency form number, if any, and the applicable component of the Department sponsoring the collection:* 1–783.

4 *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: Individuals. This collection is necessary for individuals to request a copy of their personal identification record to review it or to obtain a change, correction, or an update to the record.

5 *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* Annually, the FBI receives 309,345 identification requests, therefore there are 309,345 respondents. The form requires 5 minutes to complete.

6 *An estimate of the total public burden (in hours) associated with the collection:* There are an estimated 25,779 total annual burden hours associated with this collection.

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., 3E.405B, Washington, DC 20530.

Dated: August 14, 2015.

Jerri Murray,

Department Clearance Officer for PRA, U.S. Department of Justice.

[FR Doc. 2015–20469 Filed 8–18–15; 8:45 am]

BILLING CODE 4410–02–P

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. OSHA–2011–0862]

Hazardous Waste Operations and Emergency Response (HAZWOPER) Standard; Extension of the Office of Management and Budget's (OMB) Approval of Information Collection (Paperwork) Requirements

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Request for public comments.

SUMMARY: OSHA solicits public comments concerning its proposal to extend the Office of Management and Budget's (OMB) approval of the information collection requirements specified in the Hazardous Waste Operations and Emergency Response (HAZWOPER) Standard (29 CFR 1910.120).

DATES: Comments must be submitted (postmarked, sent, or received) by October 19, 2015.

ADDRESSES:

Electronically: You may submit comments and attachments electronically at *http://www.regulations.gov,* which is the Federal eRulemaking Portal. Follow the instructions online for submitting comments.

Facsimile: If your comments, including attachments, are not longer than 10 pages you may fax them to the OSHA Docket Office at (202) 693–1648.

Mail, hand delivery, express mail, messenger, or courier service: When using this method, you must submit your comments and attachments to the OSHA Docket Office, Docket No. OSHA–2011–0862, Occupational Safety and Health Administration, U.S. Department of Labor, Room N–2625, 200 Constitution Avenue NW., Washington, DC 20210. Deliveries (hand, express mail, messenger, and courier service) are accepted during the Department of Labor's and Docket Office's normal business hours, 8:15 a.m. to 4:45 p.m., e.t.

Instructions: All submissions must include the Agency name and the OSHA docket number (OSHA–2011–0862) for the Information Collection Request (ICR). All comments, including any personal information you provide, are placed in the public docket without change, and may be made available online at *http://www.regulations.gov.* For further information on submitting comments see the ''Public Participation'' heading in the section of this notice titled **SUPPLEMENTARY INFORMATION.**

Docket: To read or download comments or other material in the docket, go to *http://www.regulations.gov* or the OSHA Docket Office at the address above. All documents in the docket (including this **Federal Register** notice) are listed in the *http://www.regulations.gov* index; however, some information (*e.g.,* copyrighted material) is not publicly available to read or download from the Web site. All submissions, including copyrighted material, are available for inspection and copying at the OSHA Docket Office. You also may contact Theda Kenney at the address below to obtain a copy of the ICR.

FOR FURTHER INFORMATION CONTACT: Theda Kenney or Todd Owen, Directorate of Standards and Guidance, OSHA, U.S. Department of Labor, Room N–3609, 200 Constitution Avenue NW., Washington, DC 20210; telephone (202) 693–2222.

SUPPLEMENTARY INFORMATION:

I. Background

The Department of Labor, as part of its continuing effort to reduce paperwork and respondent (*i.e.,* employer) burden, conducts a preclearance consultation program to provide the public with an opportunity to comment on proposed and continuing information collection requirements in accord with the Paperwork Reduction Act of 1995 (PRA–95) (44 U.S.C. 3506(c)(2)(A)). This program ensures that information is in the desired format, reporting burden (time and costs) is minimal, collection instruments are clearly understood, and OSHA's estimate of the information collection burden is accurate. The Occupational Safety and Health Act of 1970 (the OSH Act) (29 U.S.C. 651 *et seq.*) authorizes information collection by employers as necessary or appropriate for enforcement of the OSH Act or for developing information regarding the causes and prevention of occupational injuries, illnesses, and accidents (29 U.S.C. 657). The OSH Act also requires that OSHA obtain such information with minimum burden upon employers, especially those operating small businesses, and to reduce to the maximum extent feasible

unnecessary duplication of efforts in obtaining information (29 U.S.C. 657).

The HAZWOPER Standard specifies a number of collection of information (paperwork) requirements. Employers can use the information collected under the HAZWOPER rule to develop the various programs the Standard requires and to ensure that their workers are trained properly about the safety and health hazards associated with hazardous waste operations and emergency response to hazardous waste releases. OSHA will use the records developed in response to this Standard to determine adequate compliance with the Standard's safety and health provisions. The employer's failure to collect and distribute the information required in this standard will affect significantly OSHA's effort to control and reduce injuries and fatalities. Such failure would also be contrary to the direction Congress provided in The Superfund Amendments and Reauthorization Act (SARA).

II. Special Issues for Comment

OSHA has a particular interest in comments on the following issues:

- Whether the proposed information collection requirements are necessary for the proper performance of the Agency's functions, including whether the information is useful;
- The accuracy of OSHA's estimate of the burden (time and costs) of the information collection requirements, including the validity of the methodology and assumptions used;
- The quality, utility, and clarity of the information collected; and
- Ways to minimize the burden on employers who must comply; for example, by using automated or other technological information collection and transmission techniques.

III. Proposed Actions

OSHA is requesting that the Office of Management and Budget (OMB) extend the approval of the collection of information (paperwork) requirements contained in the standard on Hazardous Waste Operations and Emergency Response (HAZWOPER) (29 CFR 1910.120). The Agency is requesting an adjustment decrease of 988 burden hours from the previous submission (from 262,539 hours to 261,551 hours). This adjustment is due primarily to a slight decline in the number of emergency response organizations from 30,125 to 30,052 (a decline of 73 organizations).

Type of Review: Extension of a currently approved collection.

Title: Hazardous Waste Operations and Emergency Response (HAZWOPER) Standard (29 CFR 1910.120).

OMB Control Number: 1218–0202.

Affected Public: Businesses or other for-profits; Not-for-profit organizations; Federal Government; State, Local, or Tribal Government.

Number of Respondents: 30,052.

Frequency of Response: On occasion.

Total Responses: 1,440,759.

Average Time per Response: Time per response varies from one minute (.02 hour) to maintain a certification record to 23 hours to prepare a written safety and health program.

Estimated Total Burden Hours: 261,551.

Estimated Cost (Operation and Maintenance): $3,124,960.

IV. Public Participation—Submission of Comments on This Notice and Internet Access to Comments and Submissions

You may submit comments in response to this document as follows: (1) Electronically at *http://www.regulations.gov,* which is the Federal eRulemaking Portal; (2) by facsimile; or (3) by hard copy. All comments, attachments, and other material must identify the Agency name and the OSHA docket number for this ICR (Docket No. OSHA–2011–0862). You may supplement electronic submissions by uploading document files electronically. If you wish to mail additional materials in reference to an electronic or facsimile submission, you must submit them to the OSHA Docket Office (see the section of this notice titled **ADDRESSES**). The additional materials must clearly identify your electronic comments by your name, date, and the docket number so the Agency can attach them to your comments.

Because of security procedures, the use of regular mail may cause a significant delay in the receipt of comments. For information about security procedures concerning the delivery of materials by hand, express delivery, messenger, or courier service, please contact the OSHA Docket Office at (202) 693–2350, (TTY (877) 889–5627).

Comments and submissions are posted without change at *http://www.regulations.gov.* Therefore, OSHA cautions commenters about submitting personal information such as their social security number and date of birth. Although all submissions are listed in the *http://www.regulations.gov* index, some information (*e.g.,* copyrighted material) is not publicly available to read or download from this Web site. All submissions, including copyrighted material, are available for inspection and copying at the OSHA Docket Office. Information on using the *http://www.regulations.gov* Web site to submit comments and access the docket is available at the Web site's ''User Tips'' link. Contact the OSHA Docket Office for information about materials not available from the Web site, and for assistance in using the Internet to locate docket submissions.

V. Authority and Signature

David Michaels, Ph.D., MPH, Assistant Secretary of Labor for Occupational Safety and Health, directed the preparation of this notice. The authority for this notice is the Paperwork Reduction Act of 1995 (44 U.S.C. 3506 *et seq.*) and Secretary of Labor's Order No. 1–2012 (77 FR 3912).

Signed at Washington, DC, on August 13, 2015.

David Michaels,

Assistant Secretary of Labor for Occupational Safety and Health.

[FR Doc. 2015–20470 Filed 8–18–15; 8:45 am]

BILLING CODE 4510–26–P

DEPARTMENT OF LABOR

Office of Workers' Compensation Programs

Proposed Extension of Existing Collection; Comment Request

ACTION: Notice.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden, conducts a preclearance consultation program to provide the general 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 (PRA95) [44 U.S.C. 3506(c)(2)(A)]. This program helps to 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, the Office of Workers' Compensation Programs is soliciting comments concerning the proposed collection: Pharmacy Billing Requirements. A copy of the proposed information collection request can be obtained by contacting the office listed below in the addresses section of this Notice.

DATES: Written comments must be submitted to the office listed in the

addresses section below on or before October 19, 2015.

ADDRESSES: Ms. Yoon Ferguson, U.S. Department of Labor, 200 Constitution Ave. NW., Room S–3323, Washington, DC 20210, telephone/fax (202) 354–9647, Email *ferguson.yoon@dol.gov.* Please use only one method of transmission for comments (mail, fax, or Email).

SUPPLEMENTARY INFORMATION:

I. Background: The Office of Workers' Compensation Programs (OWCP) is the agency responsible for administration of the Federal Employees' Compensation Act (FECA), 5 U.S.C. 8101 *et seq.*, the Black Lung Benefits Act (BLBA), 30 U.S.C. 901 *et seq.*, and the Energy Employees Occupational Illness Compensation Program Act of 2000 (EEOICPA), 42 U.S.C. 7384 *et seq.* All three of these statutes require that OWCP pay for covered medical treatment provided to beneficiaries; this medical treatment can include medicinal drugs dispensed by pharmacies. In order to determine whether amounts billed for drugs are appropriate, OWCP must receive the required data elements, including the name of the patient/beneficiary, the National Drug Code (NDC) number of the drugs prescribed, the quantity provided, the prescription number and the date the prescription was filled. The regulations implementing these statutes require the collection of information needed to enable OWCP to determine if bills for drugs submitted directly by pharmacies, or reimbursement requests submitted by claimants, should be paid. There is no standardized paper form for submission of the billing information collected in this Information Collection Request (ICR). Over the past several years, almost all pharmacy bills submitted to OWCP have been submitted electronically using one of the industry-wide standard formats for the electronic transmission of billing data through nationwide data clearinghouses devised by the National Council for Prescription Drug Programs (NCPDP). None of the electronic billing formats have been designed by or provided by OWCP; they are billing formats commonly accepted by other Federal programs and in the private health insurance industry for drugs. Nonetheless, the three programs (FECA, BLBA and EEOICPA) provide instructions for the submission of necessary pharmacy bill data elements in provider manuals distributed or made available to all pharmacies enrolled in the programs. This information collection is currently approved for use through January 31, 2016.

II. Review Focus: The Department of Labor 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: The Department of Labor is seeking public comments on the extension of this currently approved information collection.

Type of Review: Extension.

Agency: Office of Workers' Compensation Programs.

Title: Pharmacy Billing Requirements.

OMB Number: 1240–0050.

Affected Public: Business or other for-profit.

Total Respondents: 4,344.

Total Responses: 1,453,300.

Time per Response: 1–5 Minutes.

Frequency: On Occasion.

Estimated Total Burden Hours: 24,421.

Total Burden Cost (capital/startup): $0.

Total Burden Cost (operating/maintenance): $0.

Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget approval of the information collection request; they will also become a matter of public record.

Dated: August 13, 2015.

Yoon Ferguson,

Agency Clearance Officer, Office of Workers' Compensation Programs, U.S. Department of Labor.

[FR Doc. 2015–20457 Filed 8–18–15; 8:45 am]

BILLING CODE 4510–CR–P

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

[NARA–2015–059]

Agency Information Collection Activities: Submission for OMB Review; Comment Request

AGENCY: National Archives and Records Administration (NARA).

ACTION: Notice.

SUMMARY: NARA gives public notice that it has submitted to OMB for approval the information collection described in this notice. We invite you to comment on the proposed information collection pursuant to the Paperwork Reduction Act of 1995.

DATES: OMB must receive written comments at the address below on or before September 18, 2015.

ADDRESSES: Send comments to Mr. Nicholas A. Fraser, Desk Officer for NARA by mail to Office of Management and Budget; New Executive Office Building; Washington, DC 20503; by fax to 202–395–5167; or by email to *Nicholas_A._Fraser@omb.eop.gov*.

FOR FURTHER INFORMATION CONTACT: Direct requests for additional information or copies of the proposed information collection and supporting statement to Tamee Fechhelm by phone at 301–837–1694 or by fax at 301–713–7409.

SUPPLEMENTARY INFORMATION: Pursuant to the Paperwork Reduction Act of 1995 (Pub. L. 104–13), NARA invites the public and other Federal agencies to comment on proposed information collections. We published a notice of proposed collection for this information collection on June 9, 2015 (80 FR 32615 and 32616); we received no comments. NARA has therefore submitted the described information collection to OMB for approval.

In response to this notice, comments and suggestions should address one or more of the following points: (a) Whether the proposed information collection is necessary for NARA to properly perform its functions; (b) NARA's estimate of the burden of the proposed information collection and its accuracy; (c) ways NARA could enhance the quality, utility, and clarity of the information it collects; (d) ways NARA could minimize the burden on respondents of collecting the information, including the through information technology; and (e) whether the collection affects small businesses. In this notice, NARA solicits comments concerning the following information collection:

1. *Title:* Independent Researcher Listing Application

OMB number: 3095–0054.

Agency form number: NA Form 14115.

Type of review: Regular.

Affected public: Individuals or households.

Estimated number of respondents: 458.

Estimated time per response: 10 minutes.

Frequency of response: On occasion.

Estimated total annual burden hours: 76.

Abstract: To accommodate both the public and NARA staff, the Customer Services Division (RD–C1) of the National Archives maintains a listing of independent researchers for the public. We make use of various lists of independent researchers who perform freelance research for hire in the Washington, DC, area and send them upon request to researchers who cannot travel to the metropolitan area to conduct their own research. All interested independent researchers provide their contact information via this form. Collecting contact and other key information from each independent researcher and providing such information to the public when deemed appropriate will only increase business. This form is not a burden in any way to any independent researcher who voluntarily submits a completed form. Inclusion on the list will not be viewed or advertised as an endorsement by the National Archives and Records Administration (NARA). The listing is compiled and disseminated as a service to the public.

Dated: August 13, 2015.

Swarnali Haldar,

Executive for Information Services/CIO.

[FR Doc. 2015–20488 Filed 8–18–15; 8:45 am]

BILLING CODE 7515–01–P

NATIONAL SCIENCE FOUNDATION

Notice of Intent To Seek Approval To Renew an Information Collection for the NSF Graduate Research Fellowship Program

AGENCY: National Science Foundation.

ACTION: Notice and request for comments.

SUMMARY: The National Science Foundation (NSF) is announcing plans to request clearance of this collection. In accordance with the requirement of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 (Pub. L. 104–13), we are providing opportunity for public comment on this action plan for information collection.

DATES: Written comments on this notice must be received by October 19, 2015 to be assured of consideration. Comments received after that date will be considered to the extent practicable.

For Additional Information Or Comments: Contact Suzanne H. Plimpton, Reports Clearance Officer, National Science Foundation, 4201 Wilson Boulevard, Suite 1265, Arlington, Virginia 22230; telephone (703) 292–7556; or send email to *splimpto@nsf.gov.* Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339, which is accessible 24 hours a day, 7 days a week, 365 days a year (including federal holidays). You also may obtain a copy of the data collection instrument and instructions from Ms. Plimpton.

SUPPLEMENTARY INFORMATION:

Title Of Collection: Grantee Reporting Requirements for the Graduate Research Fellowship Program.

OMB Number: 3145–0223.

Expiration Date of Approval: December 31, 2015.

Type of Request: Intent to seek approval to renew an information collection.

Abstract

Proposed Project: The purpose of the NSF Graduate Research Fellowship Program is to help ensure the vitality and diversity of the scientific and engineering workforce of the United States. The program recognizes and supports outstanding graduate students who are pursuing research-based master's and doctoral degrees in science, technology, engineering, and mathematics (STEM) and in STEM education. The GRFP provides three years of support, to be used during a five-year fellowship period, for the graduate education of individuals who have demonstrated their potential for significant research achievements in STEM and STEM education.

The Graduate Research Fellowship Program uses several sources of information in assessing and documenting program performance and impact. These sources include reports from program evaluation, the GRFP Committee of Visitors, and data compiled from the applications. In addition, GRFP Fellows submit annual activity reports to NSF.

The GRFP Completion report is proposed as a continuing component of the annual reporting requirement for the program. This report, submitted by the GRFP Institution, certifies the completion status of Fellows at the institution (*e.g.,* in progress, completed, graduated, transferred, or withdrawn). The existing Completion Report, Grants Roster Report, and the Program Expense Report comprise the GRFP Annual Reporting requirements from the Grantee GRFP institution. Through submission of the Completion Report to NSF GRFP institutions certify the current status of all GRFP Fellows at the institution as either: In Progress, Graduated, Transferred, or Withdrawn. For Graduate Fellows with Graduated status, the graduation date is a required reporting element. Collection of this information allows the program to obtain information on the current status of Fellows, the number and/or percentage of Graduate Fellowship recipients who complete a science or engineering graduate degree, and an estimate of time to degree completion. The report must be certified and submitted by the institution's designated Coordinating Official (CO) annually.

Use of the Information: The completion report data provides NSF with accurate Fellow information regarding completion of the Fellows' graduate programs. The data is used by NSF in its assessment of the impact of its investments in the GRFP, and informs its program management.

Estimate of Burden: Overall average time will be 15 minutes per Fellow (8,250 Fellows) for a total of 2,063 hours for all institutions with Fellows. An estimate for institutions with 12 or fewer Fellows will be 1 hour, institutions with 12–48 fellows will be 4 hours, and institutions over 48 Fellows will be 10 hours.

Respondents: Academic institutions with NSF Graduate Fellows (GRFP Institutions).

Estimated Number of Responses per Report: One from each of the 271 current GRFP institutions.

Comments: Comments are invited on (a) whether the collection of information is necessary for the proper performance and function of the National Science Foundation, including whether the information shall be useful; (b) the accuracy of NSF's estimate of the burden of the proposed collection of information; (c) ways to enhance the utility and clarity of the information on respondents, including through the use of automated collection techniques or other forms of information technology; (d) ways to minimize the burden of the collection of information on those who are to respond and (e) the usefulness of the data to institutions.

Dated: August 14, 2015.

Suzanne H. Plimpton,

Reports Clearance Officer, National Science Foundation.

[FR Doc. 2015–20471 Filed 8–18–15; 8:45 am]

BILLING CODE 7555–01–P

NATIONAL SCIENCE FOUNDATION

Agency Information Collection Activities: Comment Request

AGENCY: National Science Foundation

ACTION: Submission for OMB review; comment request.

SUMMARY: The National Science Foundation (NSF) has submitted the following information collection requirement to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. This is the second notice for public comment; the first was published in the **Federal Register** at 80 FR 26099, and no comments were received. NSF is forwarding the proposed renewal submission to the Office of Management and Budget (OMB) for clearance simultaneously with the publication of this second notice. The full submission may be found at: *http://www.reginfo.gov/public/do/PRAMain*. 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 should be addressed to: Office of Information and Regulatory Affairs of OMB, Attention: Desk Officer for National Science Foundation, 725—17th Street NW. Room 10235, Washington, DC 20503, and to Suzanne H. Plimpton, Reports Clearance Officer, National Science Foundation, 4201 Wilson Boulevard, Suite 1265, Arlington, Virginia 22230 or send email to *splimpto@nsf.gov*. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339, which is accessible 24 hours a day, 7 days a week, 365 days a year (including federal holidays).

Comments regarding these information collections are best assured of having their full effect if received within 30 days of this notification. Copies of the submission(s) may be obtained by calling 703–292–7556.

NSF 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.

SUPPLEMENTARY INFORMATION: *Title Of Collection:* Grantee Reporting Requirements for Science and Technology Centers (STC): Integrative Partnerships

OMB Number: 3145–0194

Type of Request: Intent to seek approval to extend an information collection.

Abstract:

Proposed Project:

The Science and Technology Centers (STC): Integrative Partnerships Program supports innovation in the integrative conduct of research, education and knowledge transfer. Science and Technology Centers build intellectual and physical infrastructure within and between disciplines, weaving together knowledge creation, knowledge integration, and knowledge transfer. STCs conduct world-class research through partnerships of academic institutions, national laboratories, industrial organizations, and/or other public/private entities. New knowledge thus created is meaningfully linked to society.

STCs enable and foster excellent education, integrate research and education, and create bonds between learning and inquiry so that discovery and creativity more fully support the learning process. STCs capitalize on diversity through participation in center activities and demonstrate leadership in the involvement of groups underrepresented in science and engineering.

Centers selected will be required to submit annual reports on progress and plans, which will be used as a basis for performance review and determining the level of continued funding. To support this review and the management of a Center, STCs will be required to develop a set of management and performance indicators for submission annually to NSF via an NSF evaluation technical assistance contractor. These indicators are both quantitative and descriptive and may include, for example, the characteristics of center personnel and students; sources of financial support and in-kind support; expenditures by operational component; characteristics of industrial and/or other sector participation; research activities; education activities; knowledge transfer activities; patents, licenses; publications; degrees granted to students involved in Center activities; descriptions of significant advances and other outcomes of the STC effort. Part of this reporting will take the form of a database which will be owned by the institution and eventually made available to an evaluation contractor. This database will capture specific information to demonstrate progress towards achieving the goals of the program. Such reporting requirements will be included in the cooperative agreement which is binding between the academic institution and the NSF.

Each Center's annual report will address the following categories of activities: (1) Research, (2) education, (3) knowledge transfer, (4) partnerships, (5) diversity, (6) management and (7) budget issues.

For each of the categories the report will describe overall objectives for the year, problems the Center has encountered in making progress towards goals, anticipated problems in the following year, and specific outputs and outcomes.

Use of the Information: NSF will use the information to continue funding of the Centers, and to evaluate the progress of the program.

Estimate of Burden: 100 hours per center for 14 centers for a total of 1400 hours.

Respondents: Non-profit institutions; federal government.

Estimated Number of Responses per Report: One from each of the seventeen centers.

Dated: August 13, 2015.

Suzanne H. Plimpton,

Reports Clearance Officer, National Science Foundation.

[FR Doc. 2015–20431 Filed 8–18–15; 8:45 am]

BILLING CODE 7555–01–P

NATIONAL SCIENCE FOUNDATION

Agency Information Collection Activities: Comment Request

AGENCY: National Science Foundation.

ACTION: Submission for OMB Review; Comment Request.

SUMMARY: The National Science Foundation (NSF) has submitted the following information collection

requirement to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. This is the second notice for public comment; the first was published in the **Federal Register** at 80 FR 28713, and 56 comments were received. NSF is forwarding the proposed renewal submission to the Office of Management and Budget (OMB) for clearance simultaneously with the publication of this second notice. The full submission may be found at: *http://www.reginfo.gov/public/do/PRAMain.*

The National Science Foundation (NSF) is announcing plans to request renewed clearance of this collection. The primary purpose of this revision is to implement changes described in the Supplementary Information section of this notice. 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 should be addressed to: Office of Information and Regulatory Affairs of OMB, Attention: Desk Officer for National Science Foundation, 725—17th Street NW., Room 10235, Washington, DC 20503, and to Suzanne H. Plimpton, Reports Clearance Officer, National Science Foundation, 4201 Wilson Boulevard, Suite 1265, Arlington, Virginia 22230 or send email to *splimpto@nsf.gov.* Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339, which is accessible 24 hours a day, 7 days a week, 365 days a year (including federal holidays).

Comments regarding these information collections are best assured of having their full effect if received within 30 days of this notification. Copies of the submission(s) may be obtained by calling 703–292–7556.

NSF 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.

SUPPLEMENTARY INFORMATION:

Summary of Comments on the National Science Foundation Proposal and Award Policies and Procedures Guide and NSF's Responses

The draft NSF PAPPG was made available for review by the public on the NSF Web site at *http://www.nsf.gov/bfa/dias/policy/*. In response to the **Federal Register** notice published May 19, 2015, at 80 FR 28713, NSF received 56 comments from 12 different institutions/individuals; 33 comments were in response to the Grant Proposal Guide, and 23 were in response to the Award and Administration Guide. Following is the table showing the summaries of the comments received on the PAPPG sections, with NSF's response.

No.	Comment source	Topic & PAPPG section	Comment	NSF Response
1	University of Illinois at Urbana-Champaign.	Separate Sections for Intellectual Merit & Broader Impacts Chapter II.C.2d(i) and Exhibit II–1.	Clarify the discrepancy between the wording of the requirements for the project description's contents (II.C.2d(i)), and the Proposal Preparation Checklist (Exhibit II–1). The policy section does not address having "Intellectual Merit" as a required separate section within the narrative. Whereas the Checklist says "Project Description contains, as a separate section within the narrative, sections labeled "Intellectual Merit" and "Broader Impacts."	The checklist has been corrected to clarify NSF requirements.
2	University of Illinois at Urbana-Champaign.	Collaborators & Other Affiliations Chapter II.C.1e.	Remove ambiguity from Chapter II.C.1e. Collaborators & Other Affiliations Information (third bullet): "A list of all persons (including their organizational affiliations, if known), with whom the individual has had an association as thesis advisor, or with whom the individual has had an association within the last five years as a postgraduate-scholar sponsor." [emphasis added]. Does the requirement, "within the last five years", apply only to postdocs, or to both postdocs and graduate student advisees? The ambiguity could be avoided by separating the single item into two separate ones—one for former graduate students and one for postdocs.	NSF has revised this language to address the concern identified.
3	University of Illinois at Urbana-Champaign.	Miscellaneous Comment.	Increase the font size of NSF solicitations, preferably matching the NSF requirements for proposal documents. Currently, NSF solicitations are published in very small font that is difficult to read.	A user can adjust these settings manually on their computer. As such it is not necessary for the Foundation to take further action.
4	CHORUS	Public Access Plan Miscellaneous Comment.	In moving ahead, we urge NSF to continue to maintain and develop public-private partnerships. Such efforts will help the NSF contain costs, reduce the burden on researchers and their institutions, and ensure sustainable, broad public access to scholarly communication.	NSF thanks you for your comment.
5	CHORUS	Public Access Plan Miscellaneous Comment.	We are pleased to note that the Plan voices a strong commitment to ongoing consultation and collaboration with the diverse array of stakeholders in the scholarly communications community. That commitment has been evident in CHORUS' discussions with NSF over the past two years and we look forward to continuing to work with the NSF and other stakeholders to achieve our shared goal.	NSF thanks you for your comment.

No.	Comment source	Topic & PAPPG section	Comment	NSF Response
6	CHORUS	Public Access Plan Miscellaneous Comment.	CHORUS is involved with a number of initiatives (the CrossRef–DataCite Pilot, SHARE, and the RDA–WDS Publishing Data Services Working Group, and potentially, the RMap Project, Dataverse, Figshare, and Dryad) to investigate tools and services that support researchers with their data management plans and help funding bodies with compliance tracking. We believe the need to develop and evolve data standards is critical. We therefore strongly encourage NSF to actively partner with some or all of these organizations, which are already overseeing the development of standards that deploy existing tools (*e.g.*, DOIs, CrossRef's FundRef, and ORCID).	NSF thanks you for your comment.
7	CHORUS	Public Access Plan Miscellaneous Comment.	CHORUS is very interested in working with NSF and other funding agencies, publishers, data archive managers, and other stakeholders on developing mechanisms to connect articles and related datasets, for example, via developing publishers' systems to enable authors to submit their data to an appropriate archive and simultaneously link this to an article.	NSF thanks you for your comment.
8	COGR	Preliminary Proposals Chapter I.D.2.	The PI then forwards the proposal to the appropriate office at his/her organization, and the Authorized Organizational Representative (AOR) signs and submits the preliminary proposal via use of NSF's electronic systems. The existing requirements do not limit personnel to that of only the AOR in providing proposal certifications. Given the volume of proposals reviewed, we request that the current language remain.	NSF has always required certifications to be submitted by the AOR. As such, there is no change to this policy.
9	COGR	Submission Instructions Chapter I.G.2.	*In submission of a proposal for funding by the AOR, the AOR is required to provide certain proposal certifications. This certification process will concur concurrently with the submission of the proposal.* The revision of this section removes the ability to designate separate authorities to SRO's in FastLane for personnel other than the AOR to submit certain certifications. Additionally, it removes the current requirement to provide the required AOR certifications within five (5) working days following e-submission of the proposal. We request that the current language remain as is which allows more flexibility to meet required deadlines and reduces the burden of the AOR and the ability to make mistakes during peak deadline times.	For consistency with government-wide requirements already established in Grants.gov, NSF is making a policy change to require certifications to be submitted at the time of proposal submission. This also is consistent with the policies established by the other 25 grant making agencies of the Federal government.
10	COGR	Proposal Certifications Chapter II.C.1d.	*The AOR must use the ''Authorized Organizational Representative function'' in FastLane to sign and submit the proposal, including the proposal certifications. It is the proposing organization's responsibility to assure that only properly authorized individuals sign in this capacity.* We request that the current language remain which makes clear that SRO's can be authorized to electronically submit the proposal after review by the AOR.	For consistency with government-wide requirements already established in Grants.gov, NSF is making a policy change to require certifications to be submitted at the time of proposal submission. This also is consistent with the policies established by the other 25 grant making agencies of the Federal government.
11	COGR	Biographical Sketches Chapter II.C.2f(ii).	*A biographical sketch (limited to two pages) is required for each individual identified as senior personnel. ''Other Personnel'' biographical information can be uploaded along with the Biosketches for Senior Personnel in the Biosketches section of the proposal.* It is not clear that whether biosketches for non-senior personnel should be uploaded with the biosketches of the PI or with other senior/key personnel? Do the instructions to upload or insert individual biosketches only apply to senior/key personnel?	Language has been revised to clarify that biosketches for all personnel must be uploaded in a single file as an other supplementary document.

No.	Comment source	Topic & PAPPG section	Comment	NSF Response
12	COGR	Current and Pending Support Chapter II.C.2h.	. . . *All project support from whatever source (e.g., Federal, State, local or foreign government agencies, public or private foundations, industrial or other commercial organization, or internal institutional resources) must be listed. The proposed project and all other projects or activities requiring a portion of time of the PI and other senior personnel must be included, even if they receive no salary support from the project(s). The total award amount for the entire award period covered (including indirect costs) must be shown as well as the number of person-months per year to be devoted to the project, regardless of source of support.* While we recognize that current and pending support documentation has long been a requirement of NSF and other federal agencies, requiring this documentation at proposal submission adds additional administrative burden when the likelihood of being funded is unknown. We therefore ask that only those with favorable scientific review outcomes being considered for NSF funding be asked to submit current and pending support information. Providing this information post submission or at the time that the proposal has been selected for funding also means that the information will be more current, benefitting both NSF and the institution. In addition, we recommend that the request to have internal institutional resources identified, be limited to internal funds allocated toward specific projects. This will eliminate the unnecessary burden of reporting routine new faculty start-up packages that may include general equipment and space and/or voluntary time and effort dedicated toward another project or endeavor. We are further seeking confirmation that an institution can include zero (0) person months in appropriate situations who may commit to contribute to the scientific development or execution of the project, but are not committing any specific measurable effort to the project.	Language incorporated.
13	COGR	Dual Use Research of Concern Chapter II.D.14b.	*Proposing organizations are responsible for identifying NSF-funded life sciences proposals that could potentially be considered dual use research of concern as defined in the US Government Policy for Institutional Oversight of Life Sciences Dual Use Research of Concern. If the proposing organization identifies the proposal as dual use research of concern, the associated box must be checked on the Cover Sheet. (See also AAG Chapter VI.B.5 for additional information.)* We are requesting clarity on the use of identifying NSF-funded life sciences that could ''potentially'' be considered dual use research of concern as described above vs the ''identification'' of DURC as implied by the second paragraph. We request that the DURC determination be consistent with the USG Policy that requires institutions to provide notification to the USG funding agency of any research that involves one or more of the 15 listed agents and one or more of the seven listed experimental effects as defined in Section 6.2 of the USG Policy within thirty (30) calendar days of the institutional review of the research for DURC potential.	NSF has removed the DURC checkbox from the Cover Sheet. Certification language regarding DURC has been added to the listing of AOR certifications for compliance with government-wide requirements.
14	COGR	Life Sciences Dual Use Research of Concern AAG, Chapter VI.B.5b.	. . . *NSF awards are not expected to result in research that falls within the scope of this Policy. If, however, in conducting the activities supported under an award, the PI is concerned that any of the research results could potentially be considered Dual Use Research of Concern under this Policy, the PI or the grantee organization should promptly notify the cognizant NSF Program Officer.* See comments to Chapter II. D.14(b) above.	Language has been revised for compliance with government-wide requirements.
15	COGR	Reporting Requirements AAG, Chapter II.D.	Our membership has noted the difference in reporting dates between programmatic reporting (90 days) and financial reporting (120) days. We appreciate the change NSF has made in the AAG to revise the financial reporting from 90 days to 120 days but further request your consideration to reflect the same dates for programmatic reporting. This would allow institutions to reconcile charges for publications of its subrecipients while giving more time to incorporate the programmatic results into the prime recipients final programmatic report.	Language has been revised to change the due date of final reports and project outcomes reports to within 120 days following the end date the award.

No.	Comment source	Topic & PAPPG section	Comment	NSF Response
16	COGR	Public Access Plan AAG, Chapter VI.D.2.	We appreciate the significant efforts the NSF has made with the release of its Public Access plan and its recognition that managing investigator research data that result from Federal investments is a major challenge. We are grateful that the NSF's plan will be carried out in an incremental fashion allowing all stakeholder groups to collaborate on this important initiative. While the challenges our members will face to monitor and manage various agency plans will be rough, we do appreciate NSF's continued willingness to engage stakeholder groups and coordinate with other Federal agencies to identify infrastructure capabilities, resolve outstanding and shared concerns, and develop best practices and standards.	NSF thanks you for your comment.
17	Association of American Publishers/Division of Professional and Scholarly Publishing.	Public Access Plan	(1) Maintain commitment to proceed carefully, incrementally, and in close consultation with stakeholders to avoid unintended consequences (2) Ensure flexible approach to managing unique discipline communities to sustain the quality, integrity, and availability of high-quality peer-reviewed articles reporting on scientific research (3) Expand on opportunities to minimize administrative and researcher burdens and costs by using flexible approaches and public-private partnerships (4) Keep flexible data requirements that recognize the unique research practices of different fields, and encourage collaborative private sector solutions that minimize costs and burdens (5) Ensure adequate resources are available to support allowable costs for access to publications and data (6) Continue clear communication and engagement with scholarly community.	1. NSF thanks you for your comment. 2. NSF thanks you for your comment. Comments have been requested on NSF's implementation of the Public Access requirement in the PAPPG, and not on the Plan itself. 3. NSF thanks you for your comment. Comments have been requested on NSF's implementation of the Public Access requirement in the PAPPG, and not on the Plan itself. 4. NSF thanks you for your comment. The NSF policy on data sharing and data management plans remains unchanged. 5. NSF thanks you for your comment. The NSF policy on data sharing and data management plans remains unchanged. 6. NSF thanks you for your comment.
18	University of Wisconsin Madison.	When to Submit Proposals and Format of the Proposal Chapter I.F and Chapter II.B.	We are thankful for the consistency in the use of the 5 PM submitter's local time deadline and proposal formatting requirements. Regardless of the solicitation or the directorate issuing the solicitation, institutions will know what to expect and manage proposals accordingly. Such consistency reduces administrative burden on institutions and investigators, and we are grateful for that.	Thank you for your comment. No action required.
19	University of Wisconsin Madison.	Collaborators & Other Affiliations Chapter II.C.1e.	We welcome the separation of the information on collaborators and other affiliations. Doing so makes it easier to comply with the biosketch page limit. This also allows us to be more thorough with collaborator and other affiliation information, especially for those researchers who are very active collaborators.	Thank you for your comment. No action required.
20	University of Wisconsin Madison.	Project Description Chapter II.C.2d(iii).	That the Project Description must not contain URLs and must be self-contained helps create a level playing field in that all proposers must adhere to the same page limits. We appreciate this clarification and emphasis.	Thank you for your comment. No action required.
21	University of Wisconsin Madison.	Biographical Sketches Chapter II.C.2f(ii).	When biosketches for non-senior personnel will be included, should they be appended to the PI or another senior/key person's biosketch? Does the instruction to upload or insert individual biosketches only apply to senior/key personnel?	Language has been revised to clarify that biosketches for all Other Personnel and Equipment Users must be uploaded in a single file as an other supplementary document.

No.	Comment source	Topic & PAPPG section	Comment	NSF Response
22	University of Wisconsin Madison.	Current and Pending Support Chapter II.C.2h.	(1) The proposed requirement is that Current and Pending Support include project support from internal institutional resources. We are seeking more clarity regarding this proposed requirement. A variety of internal institutional resources may be available to support an investigator. Internal institutional resources may be awarded for a specific research project. In such cases, researchers have competed for resources to support a project with a specific scope of work. Internal institutional resources may also be used to support multiple projects. Resources may be made available in a variety of ways, for example, start-up packages or fellowships that can be used to support a faculty member's research program as a whole. Such funding may be used at the discretion of the researchers—to purchase supplies or equipment, or to help pay for personnel. Another possible use of internal institutional resources would be to support faculty salaries in addition to or in lieu of using a grant to pay for a faculty member's time and effort on a project. Given the variety of ways in which internal institutional resources may be used, would NSF be able to specify what types of situations warrant inclusion on a current and pending support document? (2) We are seeking confirmation that a PI or other senior personnel can list zero person months on a project. This may be appropriate, depending on the source of funding and the purpose of the project, *e.g.*, an equipment grant. That certain awards would not require effort is supported by OMB Memorandum 01-06, which states that ''some types of research programs, such as programs for equipment and instrumentation, doctoral dissertations, and student augmentation, do not require committed faculty effort, paid or unpaid by the Federal Government . . .'' (3) In lieu of requesting that the Current and Pending support information be provided at the time of proposal, NSF may wish to consider asking for it to be submitted only if an award is being contemplated, a JIT approach similar to NIH. This approach might decrease administrative burden for the senior personnel and the proposing organization as well as for NSF and its reviewers.	(1) COGR language incorporated from comment #12. (2) NSF recognizes that there may be confusion regarding a PI's or other senior personnel's responsibilities as it relates to reporting on projects where there is funding, but no time commitment. NSF plans to address this issue in a future issuance of the PAPPG. (3) Given the significance of this request, NSF will consider it in a future PAPPG.
23	University of Wisconsin Madison.	Dual Use Research of Concern Chapter II.D.14b.	The language in the second paragraph of GPG Chapter II.D.14.b states that the proposing organization is responsible for identifying proposals that could ''potentially be considered dual use research of concern'' [emphasis added]. But, the final paragraph in this section indicates that the proposing organization must check the appropriate box if it ''identifies the proposal as dual use research of concern'' [emphasis added]. There are two issues with these paragraphs. First, the final paragraph implies (intentionally or not) that the proposing organization has already made a judgment whether or not the proposal is DURC, whereas the second paragraph does not. The two paragraphs convey different messages, but should convey the same message. Second, the likelihood that a proposal would be identified as DURC is small because the chance that it would be put before the Institutional Review Entity (IRE) prior to submission is small. Given the administrative burden associated with the review for DURC and proposal success rates, it is possible that an investigator may notify the Institutional Review Entity of the potential of DURC only after a proposal is awarded. If an IRE does not make a determination prior to proposal submission, then the proposing organization will not be able to identify a proposal as DURC or check the box on the Cover Sheet. We would prefer that the language in the final paragraph convey the same message as the language in the second paragraph. Another alternative, consistent with USG policy, is that NSF could simply be notified in the event that research has been reviewed and the IRE has made a determination whether or not the research meets the definition of DURC. Consistency with the USG policy may relieve administrative burden.	
24	University of Wisconsin Madison.	Dual Use Research of Concern AAG, Chapter VI.B.5.	The language in the AAG states that the PI or grantee organization should promptly notify the NSF Program Officer if ''any of the research results could potentially be considered Dual Use Research of Concern'' [emphasis added]. The United States Government (USG) DURC policy requires us to contact the USG funding agency only after the review of the research has occurred and a determination has been made. The language in the AAG suggests that NSF is imposing a requirement which may create an additional burden and is not part of the USG policy and procedures.	Language has been revised for compliance with government-wide requirements.

No.	Comment source	Topic & PAPPG section	Comment	NSF Response
25	University of Wisconsin Madison.	Project Reporting and Grant Close-out AAG, Chapter II.D.2, 3.5 and Chapter III.E.	We note that the lack of uniformity in deadlines between programmatic reports (90 day deadlines) and financial reporting (120 days) may cause confusion. We note that the lack of uniformity in deadlines across Federal agencies may cause confusion, as well. Our recommendation would be to harmonize these deadlines as much as possible.	Language has been revised to change the due date of final reports and project outcomes reports to within 120 days following the expiration of the award.
26	University of Wisconsin Madison.	Basic Considerations AAG Chapter V.A.	This chapter opens with a statement that ''expenditures . . . must conform with NSF policies where articulated in the grant terms and conditions . . .'' We appreciate the addition of this language and the comment that ''NSF policies that have a post award requirement are implemented in the grant terms and conditions.''	Thank you for your comment. No action required.
27	University of Wisconsin Madison.	Indirect Costs AAG, Chapter V.D.1b.	In the second paragraph of this section, ''de minimus'' [sic] is misspelled.	Noted and corrected.
28	University of Wisconsin Madison.	Public Access Chapter VI.D.2c and VI.E.	We understand the importance of the public access policy. However, the administrative burden to comply with this policy for two dozen separate agencies is daunting. The requirements across the agencies differ in terms of what should be submitted, how compliance will be monitored, and when the implementation will occur. Agencies also are using a variety of repositories, which will require institutions to learn new systems and procedures. All of these factors accumulate and signify larger workloads. Our institution, like others, has devoted significant time and resources to learning how to use the PubMed Central system. We understand how it functions and have in-house expertise to help faculty members with questions and submissions. We encourage NSF to consider allowing use of an established, familiar system such as PubMed Central.	NSF thanks you for your comment. NSF's public access initiative is part of a US government-wide activity initiated by the Office of Science and Technology Policy (OSTP) that is consistent with NSF's primary mission of promoting the progress of science and helping to ensure the nation's future prosperity. Comments have been requested on NSF's implementation of the Public Access requirement in the PAPPG, and not on the Plan itself.
29	Wiley & Sons	Public Access	See backup documentation for additional details: (1) Embargoes and Petitions (2) Implementation and Repositories (3) Digital Data Sets.	NSF thanks you for your comment. Comments have been requested on NSF's implementation of the Public Access requirement in the PAPPG, and not on the Plan itself. NSF describes its approach to requesting a waiver to the 12-month embargo (or administrative interval) in Section 7.5.1 of the Public Access Plan (*http://www.nsf.gov/publications/pub_summ.jsp?ods_key=nsf15052*).
30	CalTech	NSF Grantee Relationships Introduction. D.	The discussion regarding Cooperative Agreements and the circumstances in which they should be used is very well written and quite helpful. There are many within the research community, on both the awarding and awardee sides, who have not had a clear understanding of the purposes of the Cooperative Agreement and the ways in which Cooperative Agreements differ from Grants and Contracts. This discussion will be very useful, particularly when working with the Audit community.	Thank you for your comment. No action required.
31	CalTech	Preliminary Proposals Chapter I.D.2.	We are very supportive of your decision to require that preliminary proposals be submitted through the Authorized Organizational Representative (AOR). It is extremely helpful for the central research administration office to become aware of the interest of a PI in submitting a proposal for a specific NSF program at the earliest possible time. By requiring the preliminary proposal to go through the AOR, we can become aware of potential issues that must be addressed internally before the full proposal is due.	Thank you for your comment. No action required.
32	CalTech	Voluntary Committed Cost Sharing Chapter II.C.2g(xi).	We are very well aware of NSF's position on Voluntary Committed Cost Sharing: It is not allowed unless it is an eligibility requirement that is clearly identified in the solicitation. Nevertheless, we also realize that there may be instances when investigators insist on the need to include voluntary committed cost sharing in their proposals. You have now provided a mechanism whereby that can be done, while staying within the overall NSF policy on voluntary committed cost sharing. The requirement not to include voluntary committed cost sharing in the budget or budget justification is very clear and will be easy to follow. Declaring that these resources will not be auditable by NSF will also make things easier for the post-award financial administration of the resulting grant.	Thank you for your comment. No action required.
33	CalTech	Conference Proposals Chapter II.D.9.	The additional information on allowable costs associated with Conference Proposals is helpful because it removes the ambiguity surrounding potentially allowable or not allowable costs in connection with conference grants. Clarity on this topic, particularly with regard to food and beverage costs associated with intramural meetings, is appreciated. It will make It easier for everyone, investigators, departmental research administrators, and post-award financial staff to understand when such costs are not allowed.	Thank you for your comment. No action required.

No.	Comment source	Topic & PAPPG section	Comment	NSF Response
34	CalTech	Long Term Disengagement of the PIAAG, Chapter II.B.2a.	NSF's adoption of the language in the Uniform Guidance on the long term disengagement of the PI will be of great assistance to investigators and research administrators, alike. When Federal agencies adopt uniform practices with regard to situations such as the absence or disengagement of Pies, it makes it easier for everyone involved to understand and follow the requirements. The notion of ''disengagement is a reflection of the significant changes that have occurred as a result of modern communications technology. It is a reality that we live with and the use of ''disengagement as a criterion for having to notify and involve the sponsor will reduce some of the administrative burdens associated with post-award administration.	Thank you for your comment. No action required.
35	CalTech	Project Reporting AAG, Chapter II.D.3.	We would appreciate your consideration of making these reports due 120 days after the end of the award, rather than the 90 day time period in the draft PAPPG. This would bring the reporting and closeout requirements associated with the technical aspects of the grant in line with the reporting and closeout requirements associated with the financial aspects of the grant: 120 days after the end date of the award.	Language has been revised to change the due date of final reports and project outcomes reports to within 120 days following the expiration of the award.
36	CalTech	Grant Closeout AAG, Chapter II.D.5.	NSF's adoption of the requirement for the closeout process to be completed within 120 days after the end of the project is greatly appreciated. Despite our best efforts, we have long had difficulty with the 90 day requirement for financial closeout, particularly when our award includes subawards. Giving us an added 30 days to complete this task should reduce the number of late closeouts and also reduce the instances when revised closeout activities are required. We hope that other Federal agencies will join NSF and NIH in recognizing the benefits of providing a more reasonable amount of time to complete the closeout process.	Thank you for your comment. No action required.
37	CalTech	Informal Resolution of Grant Administrative Disputes AAG, Chapter VII.B.	The revision of this section is appreciated. Although the use of this procedure is extremely rare, it is helpful if everyone can be clear on just how the process is supposed to work. This should save time and aggravation when it is necessary to resolve administrative disputes.	Thank you for your comment. No action required.
38	Cold Spring Harbor Laboratory.	Current and Pending Support Chapter II.C.2h.	We encourage the NSF to seize the opportunity to lessen the administrative burden for investigators and institutions by not having them submit current and pending support at the time of proposal submission. Only those with favorable scientific review outcomes being considered for NSF funding should be asked to submit current and pending support information. This information will be more up to date if acquired later in the application process. In addition, we recommend that the requirement to have internal institutional resources identified, be eliminated. This will remove the unnecessary burden of reporting routine new faculty start-up packages that may include general equipment, facilities and/or voluntary time and effort not dedicated toward a specific project or endeavor. The trend for Federal research funding agencies seems to be toward determining how much unrestricted support investigators may have available so that this information can potentially be used to sway funding decisions and final award budgets. With stagnant and decreasing federal research funding, additional institutional support for investigators and postdoctoral fellows is essential in order to help their research continue and make ends meet. We strongly encourage the NSF to break with this trend that puts investigators and institutions in a vicious circle in which their efforts to help support and sustain research may negatively impact their ability to secure Federal research funding. We urge the NSF to modify the proposed PAPPG text accordingly to eliminate the requirement to report internal institutional resources.	(1) Given the significance of this request, NSF will consider it in a future PAPPG. (2) COGR language incorporated from comment #12.

No.	Comment source	Topic & PAPPG section	Comment	NSF Response
39	American Society of Civil Engineers.	Public Access	ASCE is primarily concerned that the plan calls for a 12-month embargo, which would seriously impact the ability of ASCE to recover our cost. Compared to many areas of science and technology, civil engineering research moves at a more sedate rate. As such, civil engineering journals remain ''fresh'' for a longer period, selling over a longer period, and taking a correspondingly longer time for ASCE to re-coop our cost. ASCE believes that a 12-month embargo would impede ASCE's ability to continue to produce the high-quality journals that we currently do. The NSF plan includes conference proceedings, which many times are expanded and published as journal articles. Again, this leads to duplicate versions of results. Once again, thank you for the opportunity for ASCE to comment on the proposed Policies and Guidelines. ASCE, like other engineering and scientific societies, fulfills its role in the advancement of engineering by determining through the peer review process what is worthy of publication. While supporting open access, we must be careful not to lose the ''value-added'' by peer review is what sets apart top-flight research from mediocre work.	NSF thanks you for your comment. Comments have been requested on NSF's implementation of the Public Access requirement in the PAPPG, and not on the Plan itself. NSF describes its approach to requesting a waiver to the 12-month embargo (or administrative interval) in Section 7.5.1 of the Public Access Plan (*http://www.nsf.gov/publications/pub_summ.jsp?ods_key=nsf15052*).
40	UC Riverside, Bourns College of Engineering.	Preliminary Proposals Chapter I.D.2.	The change requiring submission of pre-proposals by the authorized representative adds some burden to the proposer, and thus partially defeats the purpose of reducing unnecessary effort.	It is vital that an institution be aware of commitments being made in a preliminary proposal. As such, AOR submission will be beneficial to the submitting organization.
41	UC Riverside, Bourns College of Engineering.	Format Chapter II.B.	Removing guidance information from the GPG is a very bad idea. Instead of streamlining the content, this would create an incomplete set of instructions. We need all of the guidance in one place for two reasons: (1) Not everyone involved with the proposal necessarily will be working in Fastlane, and (2) considerable work is done before upload, and finding unexpected instructions in Fastlane could create emergencies. Please don't let NSF become NIH, where the answer to every question is six links and four obsolete documents away. Put all of the instructions where we can find them.	NSF has added.
42	UC Riverside, Bourns College of Engineering.	Format Chapter II.B.1.	You should consider updating the formatting requirements. The fonts you identify were selected years (decades?) ago, and are optimized for print. All proposal submission and most proposal review now takes place on the screen, so you should consider allowing fonts that are optimized for the screen. These might include Calibri and Cambria. The standards regarding lines per inch and characters per line should be deleted; specifying font size and single-spacing should be sufficient. When a proposal is converted from, say, Word to PDF, it shrinks slightly. Moreover, since Fastlane distills Word documents and redistills PDFs, the proposer has no actual control over the final PDF version. This rule makes the proposer responsible for something that is ultimately out of his/her control.	Minor changes.
43	UC Riverside, Bourns College of Engineering.	Collaborators & Other Affiliations Chapter II.C.1e.	This will be an excellent change if implemented properly. I would strongly recommend specifying an NSF-wide format for this information. Our experience has been that even within an individual directorate (CISE), the requirements for this list vary. Today, a list produced for one proposal might require significant reformatting for the next proposal. It would be nice to eliminate the need for this extra work.	Thank you for your comment. NSF will explore the viability of such a suggestion.
44	UC Riverside, Bourns College of Engineering.	Cover Sheet Chapter II.C.2a.	Even though Fastlane is being phased out, three changes to the cover page would be nice: 1. Improve the Performance Site page programming. Often, each line must be entered and saved before the next line can be entered. Ideally, you could pre-populate this with information on the institution. 2. Make it possible to go to the remainder of the cover page before the first section is completed. 3. Add a legend indicating that the Beginning Investigator box is for BIO proposals only.	Thank you for your suggestion, however upgrades to FastLane are not feasible at this time. 3) Clarifying language has been added.
45	UC Riverside, Bourns College of Engineering.	Project Summary Chapter II.C.2b.	This is a good place to point out sloppy language throughout the GPG. If you want the project description written in the third person, instruct us to do that. The words ''must'' and ''should'' do not mean the same thing, and here you say ''should.'' The word ''should'' appears 265 times in this document. How many of those times do you really mean ''must'' or ''shall''? Statements like the following are of no value whatsoever: ''Additional instructions for preparation of the Project Summary are available in FastLane.'' What instructions? Where? If I don't track them down, will I be in danger of submitting a non-compliant proposal?	Thank you for your comments.
46	UC Riverside, Bourns College of Engineering.	Content Chapter II.C.2d(i).	What does ''relation to longer-term goals of the PI's project'' mean? What is the PI's project? It is not this proposed project, because then you would be asking how this proposal relates to this proposal.	Language has been revised.

No.	Comment source	Topic & PAPPG section	Comment	NSF Response
47	UC Riverside, Bourns College of Engineering.	Project Description Chapter II.C.2d(ii).	The prohibition on URLs seems extreme, and it is a step in the wrong direction. As you point out, the reviewers are under no obligation to look at them, so no harm is done in including them.	Thank you for your comments.
48	UC Riverside, Bourns College of Engineering.	Results from Prior NSF Support Chapter II.C.2d(iii).	This should be eliminated from NSF proposals. The program officer (and, indeed, the public) already has access to all of this information via project reports. A more effective use of space, time, and energy would be to invite the proposer to describe how this proposed project relates to prior or concurrent work.	Project reports are not publicly available and therefore is essential information for use by the reviewer in assessing the proposal.
49	UC Riverside, Bourns College of Engineering.	References Cited Chapter II.C.2e.	Since URLs are prohibited in the project description, it is likely that some URLs (to examples of outreach projects, for example) will end up in the References Cited list. Now we are at risk of disqualification since a URL does not contain all of the items each citation must have.	GPG Chapter II.C.2.d(iii)(d) already specifies that a complete bibliographic citation for each publication must be provided in either the References Cited section or the Results from Prior NSF Support section of the proposal, to avoid duplication.
50	UC Riverside, Bourns College of Engineering.	Biographical Sketches Chapter II.C.2f(ii).	We would strongly recommend that NSF provide a template for the entire biographical sketch. This will leave no question as to what can be included and what cannot. The instructions have a list of information that can't be included, but this is not exhaustive. What about honors and awards, for example? If a bio sketch contains everything required, in the order specified, plus a section on honors and awards, is it compliant or not? Today, the answer varies from program officer to program officer. As noted earlier, the elimination of the conflict list from the bio sketch is an excellent decision. The instructions on Other Personnel and the notation that biographical sketches cannot be uploaded as a group appear to be at odds. If someone is an Other Person rather than an Other Senior Person, how will it be possible to upload a biographical sketch?	(1) Upon review of this comment, NSF cannot validate the reviewer comment, as the instructions in that section do not contain a list of information not to include. (2) Language has been revised to clarify that biosketches for all personnel must be uploaded separately.
51	UC Riverside, Bourns College of Engineering.	Equipment Chapter II.C.2g(iii).	The term information technology systems should be defined, especially since NSF funds research on information technology systems.	2 CFR 200 (Uniform Guidance) does not define information technology, and as such NSF is consistent with government-wide requirements.
52	UC Riverside, Bourns College of Engineering.	Special Information/ International Conferences Chapter II.C.2j.	This is a good change, but it belongs in the instructions for the Cover Page, not the instructions for the supplementary documents.	Instructions have been added to the Cover Sheet section.
53	UC Riverside, Bourns College of Engineering.	Collaborative Proposals Chapter II.D.5.	A definition of ''within a reasonable timeframe'' would be helpful.	Noted.
54	UC Riverside, Bourns College of Engineering.	Conference Grants Chapter II.D.9.	The language ''may be appropriate or not appropriate'' is wishy-washy. Why not just say allowable and unallowable?	Comment incorporated.
55	University of Virginia	Participant Support Costs Chapter II.C.2g.	Are we to interpret the definition this way, removing the ''such as'' so as to broaden the definition beyond the examples mentioned?: ''Participant support costs means direct costs for items in connection with conferences, or training projects.'' Previous guidance from NSF included the ''such as'' examples mentioned as well as ''and other costs related to conferences and meetings'' but the new guidance removes that ''and other costs'' part and appears to limit PSC to the items used as examples. I am asking because conferences can include other costs such as venue rental, poster supplies, etc. that aren't part of what is listed after ''such as'' and we are trying to determine what part of a conference should be considered PSC and which parts should not. Any idea how we should interpret the new definition?	(1) Yes. (2) NSF deliberately revised the definition of participant support for consistency with the Uniform Guidance. Significant clarity has been added in the conferences section to highlight the types of costs that may be appropriate for inclusion in a conference budget, of which participant support is one.
56	Inside Public Access	Public Access	Statutory authority for the collection may also be an issue because there is no clear authority given by Congress for the US Public Access program. It was created by an Executive Branch memo. NSF needs to address this issue. (1) The strangeness of the NSF request. What is strange is that the collection of articles under Public Access has nothing to do with the proposal and award process, which is the subject of the PAPPG. (2) The burden of mandatory data sharing. (3) The issue of burden estimating. (4) Vague requirements create complexity.	NSF thanks you for your comment. NSF's public access initiative is part of a US government-wide activity initiated by the Office of Science and Technology Policy (OSTP) that is consistent with NSF's primary mission of promoting the progress of science and helping to ensure the nation's future prosperity. NSF has formally implemented its Public Access requirement in the PAPPG. Comments have been requested on NSF's implementation of the Public Access requirement in the PAPPG and not on the plan itself. The NSF policy on data sharing and data management plans remains unchanged.

Title of Collection: ''National Science Foundation Proposal & Award Policies & Procedures Guide. ''

OMB Approval Number: 3145–0058.

Type of Request: Intent to seek approval to extend with revision an information collection for three years.

Proposed Project: The National Science Foundation Act of 1950 (Public Law 81–507) sets forth NSF's mission and purpose:

''To promote the progress of science; to advance the national health, prosperity, and welfare; to secure the national defense. . . .''

The Act authorized and directed NSF to initiate and support:

- Basic scientific research and research fundamental to the engineering process;
- Programs to strengthen scientific and engineering research potential;
- Science and engineering education programs at all levels and in all the various fields of science and engineering;
- Programs that provide a source of information for policy formulation; and
- Other activities to promote these ends.

NSF's core purpose resonates clearly in everything it does: promoting achievement and progress in science and engineering and enhancing the potential for research and education to contribute to the Nation. While NSF's vision of the future and the mechanisms it uses to carry out its charges have evolved significantly over the last six decades, its ultimate mission remains the same.

Use of the Information: The regular submission of proposals to the Foundation is part of the collection of information and is used to help NSF fulfill this responsibility by initiating and supporting merit-selected research and education projects in all the scientific and engineering disciplines. NSF receives more than 50,000 proposals annually for new projects, and makes approximately 11,000 new awards.

Support is made primarily through grants, contracts, and other agreements awarded to approximately 2,000 colleges, universities, academic consortia, nonprofit institutions, and small businesses. The awards are based mainly on merit evaluations of proposals submitted to the Foundation.

The Foundation has a continuing commitment to monitor the operations of its information collection to identify and address excessive reporting burdens as well as to identify any real or apparent inequities based on gender, race, ethnicity, or disability of the proposed principal investigator(s)/project director(s) or the co-principal investigator(s)/co-project director(s).

Burden on the Public

It has been estimated that the public expends an average of approximately 120 burden hours for each proposal submitted. Since the Foundation expects to receive approximately 51,700 proposals in FY 2016, an estimated 6,204,000 burden hours will be placed on the public.

The Foundation has based its reporting burden on the review of approximately 51,700 new proposals expected during FY 2016. It has been estimated that anywhere from one hour to 20 hours may be required to review a proposal. We have estimated that approximately 5 hours are required to review an average proposal. Each proposal receives an average of 3 reviews, resulting in approximately 775,500 burden hours each year.

The information collected on the reviewer background questionnaire (NSF 428A) is used by managers to maintain an automated database of reviewers for the many disciplines represented by the proposals submitted to the Foundation. Information collected on gender, race, and ethnicity is used in meeting NSF needs for data to permit response to Congressional and other queries into equity issues. These data also are used in the design, implementation, and monitoring of NSF efforts to increase the participation of various groups in science, engineering, and education. The estimated burden for the Reviewer Background Information (NSF 428A) is estimated at 5 minutes per respondent with up to 10,000 potential new reviewers for a total of 833 hours.

The aggregate number of burden hours is estimated to be 6,980,333. The actual burden on respondents has not changed.

Dated: August 13, 2015.

Suzanne H. Plimpton,

Reports Clearance Officer, National Science Foundation.

[FR Doc. 2015–20365 Filed 8–18–15; 8:45 am]

BILLING CODE 7555–01–P

PENSION BENEFIT GUARANTY CORPORATION

Pendency for Request for Approval of Special Withdrawal Liability Rules: The Service Employees International Union Local 1 Cleveland Pension Plan

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Notice of pendency of request.

SUMMARY: This notice advises interested persons that the Pension Benefit Guaranty Corporation (''PBGC'') has received a request from the Service Employees International Union Local 1 Cleveland Pension Plan for approval of a plan amendment providing for special withdrawal liability rules. Under section 4203(f) of the Employee Retirement Income Security Act of 1974 and PBGC's regulation on Extension of Special Withdrawal Liability Rules, a multiemployer pension plan may, with PBGC approval, be amended to provide for special withdrawal liability rules similar to those that apply to the construction and entertainment industries. Such approval is granted only if PBGC determines that the rules apply to an industry with characteristics that make use of the special rules appropriate and that the rules will not pose a significant risk to the pension insurance system. Before granting an approval, PBGC's regulations require PBGC to give interested persons an opportunity to comment on the request. The purpose of this notice is to advise interested persons of the request and to solicit their views for it.

DATES: Comments must be received on or before October 5, 2015.

ADDRESSES: Comments may be submitted by any of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the Web site instructions for submitting comments.
- *Email: reg.comments@pbgc.gov.*
- *Fax:* 202–326–4224.
- *Mail or Hand Delivery:* Regulatory Affairs Group, Office of the General Counsel, Pension Benefit Guaranty Corporation, 1200 K Street NW., Washington, DC 20005–4026.

Comments received, including personal information provided, will be posted to *www.pbgc.gov.* Copies of comments may also be obtained by writing to Disclosure Division, Office of the General Counsel, Pension Benefit Guaranty Corporation, 1200 K Street NW., Washington, DC 20005–4026 or calling 202–326–4040 during normal business hours. (TTY and TDD users may call the Federal relay service toll-free at 1–800–877–8339 and ask to be connected to 202–326–4040.)

FOR FURTHER INFORMATION CONTACT: Bruce Perlin (*Perlin.Bruce@PBGC.gov*), 202–326–4020, ext. 6818 or Jon Chatalian (*Chatalian.Jon@PBGC.gov*), ext. 6757, Office of the Chief Counsel, Suite 340, 1200 K Street NW., Washington, DC 20005–4026; (TTY/TDD users may call the Federal relay

service toll-free at 1–800–877–8339 and ask to be connected to 202–326–4020.)

SUPPLEMENTARY INFORMATION:

Background

Section 4203(a) of the Employee Retirement Income Security Act of 1974, as amended by the Multiemployer Pension Plan Amendments Act of 1980 (''ERISA''), provides that a complete withdrawal from a multiemployer plan generally occurs when an employer permanently ceases to have an obligation to contribute under the plan or permanently ceases all covered operations under the plan. Under § 4205 of ERISA, a partial withdrawal generally occurs when an employer: (1) Reduces its contribution base units by seventy percent in each of three consecutive years; or (2) permanently ceases to have an obligation under one or more but fewer than all collective bargaining agreements under which the employer has been obligated to contribute under the plan, while continuing to perform work in the jurisdiction of the collective bargaining agreement of the type for which contributions were previously required or transfers such work to another location or to an entity or entities owned or controlled by the employer; or (3) permanently ceases to have an obligation to contribute under the plan for work performed at one or more but fewer than all of its facilities, while continuing to perform work at the facility of the type for which the obligation to contribute ceased.

Although the general rules on complete and partial withdrawal identify events that normally result in a diminution of the plan's contribution base, Congress recognized that, in certain industries and under certain circumstances, a complete or partial cessation of the obligation to contribute normally does not weaken the plan's contribution base. For that reason, Congress established special withdrawal rules for the construction and entertainment industries.

For construction industry plans and employers, § 4203(b)(2) of ERISA provides that a complete withdrawal occurs only if an employer ceases to have an obligation to contribute under a plan and the employer either continues to perform previously covered work in the jurisdiction of the collective bargaining agreement, or resumes such work within five years without renewing the obligation to contribute at the time of resumption. In the case of a plan terminated by mass withdrawal (within the meaning of ERISA § 4041(A)(2)), § 4203(b)(3) provides that the five year restriction on an employer resuming covered work is reduced to three years. Section 4203(c)(1) of ERISA applies the same special definition of complete withdrawal to the entertainment industry, except that the pertinent jurisdiction is the jurisdiction of the plan rather than the jurisdiction of the collective bargaining agreement. In contrast, the general definition of complete withdrawal in § 4203(a) of ERISA includes the permanent cessation of the obligation to contribute regardless of the continued activities of the withdrawn employer.

Congress also established special partial withdrawal liability rules for the construction and entertainment industries. Under § 4208(d)(1) of ERISA, ''[a]n employer to whom § 4203(b) (relating to the building and construction industry) applies is liable for a partial withdrawal only if the employer's obligation to contribute under the plan is continued for no more than an insubstantial portion of its work in the craft and area jurisdiction of the collective bargaining agreement of the type for which contributions are required.'' Under § 4208(d)(2) of ERISA, ''[a]n employer to whom § 4203(c) (relating to the entertainment industry) applies shall have no liability for a partial withdrawal except under the conditions and to the extent prescribed by the [PBGC] by regulation.''

Section 4203(f)(1) of ERISA provides that PBGC may prescribe regulations under which plans in other industries may be amended to provide for special withdrawal liability rules similar to the rules prescribed in § 4203(b) and (c) of ERISA. Section 4203(f)(2) of ERISA provides that such regulations shall permit the use of special withdrawal liability rules only in industries (or portions thereof) in which PBGC determines that the characteristics that would make use of such rules appropriate are clearly shown, and that the use of such rules will not pose a significant risk to the insurance system under Title IV of ERISA. Section 4208(e)(3) of ERISA provides that PBGC shall prescribe by regulation a procedure by which plans may be amended to adopt special partial withdrawal liability rules upon a finding by PBGC that the adoption of such rules is consistent with the purposes of Title IV of ERISA.

PBGC's regulations on Extension of Special Withdrawal Liability Rules (29 CFR part 4203) prescribe procedures for a multiemployer plan to ask PBGC to approve a plan amendment that establishes special complete or partial withdrawal liability rules. The regulation may be accessed on PBGC's Web site (*http://www.pbgc.gov*). Section 4203.5(b) of the regulation requires PBGC to publish a notice of the pendency of a request for approval of special withdrawal liability rules in the **Federal Register**, and to provide interested parties with an opportunity to comment on the request.

The Request

PBGC received a request, dated September 16, 2011, from the Service Employees International Union Local 1 Cleveland Pension Plan (the ''Plan''), for approval of a plan amendment providing for special withdrawal liability rules. Subsequently, the Plan requested that PBGC suspend review of the amendment. On January 24, 2014, the Plan requested that PBGC again consider the amendment and provided updated actuarial information. PBGC's summary of the actuarial reports provided by the Plan may be accessed on PBGC's Web site (*http://www.pbgc.gov*). A copy of the complete filing may be requested from the PBGC Disclosure Officer. The fax number is 202–326–4042. It may also be obtained by writing the Disclosure Officer, PBGC, 1200 K Street NW., Suite 11101, Washington, DC 20005.

In summary, the Plan is a multiemployer pension plan currently covering employees who work in the commercial building cleaning and security industries in the greater Cleveland, Ohio area. The Plan represents in its submission that the industry for which the rule is requested—the commercial building cleaning industry—has characteristics similar to those of the construction industry. According to the Plan's submission, the principal similarity is that when a contributing employer's contract to clean a building expires, the cleaning work will generally continue to be performed by employees covered by the Plan, irrespective of the employer retained to perform the cleaning services. Under the proposed amendment, a complete withdrawal of an employer whose employees substantially all work in the commercial building cleaning industry shall occur only when: (a) The employer ceases to have an obligation to contribute under the Plan and (b) the employer continues to perform work in the jurisdiction of the Plan of the type for which contributions were previously required or resumes such work within five (5) years after the date on which the obligation to contribute under the plan ceases and does not renew the obligation at the time of the resumption. In the case of termination by mass withdrawal (within the meaning of ERISA § 4041A(a)(2)), the proposed amendment provides that § 4203(b)(3),

the provision that allows a construction employer to resume covered work after three years of withdrawal opposed to the standard five year restriction, is not applicable to withdrawing commercial building cleaning industry employers. Therefore, in the event of a mass withdrawal, there is still a five year restriction on resuming covered work in the jurisdiction of the Plan. The request includes the actuarial data on which the Plan relies to support its contention that the amendment will not pose a significant risk to the insurance system under Title IV of ERISA.

Comments

All interested persons are invited to submit written comments on the pending exemption request. All comments will be made part of the administrative record.

Issued in Washington, DC, on this 12th day of August, 2015.

Alice C. Maroni,

Acting Director, Pension Benefit Guaranty Corporation.

[FR Doc. 2015–20505 Filed 8–18–15; 8:45 am]

BILLING CODE 7709–02–P

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 31753; File No. 812–14412]

Janus Investment Fund, et al.; Notice of Application

August 13, 2015.

AGENCY: Securities and Exchange Commission (''Commission'').

ACTION: Notice of an application for an order under section 12(d)(1)(J) of the Investment Company Act of 1940 (the ''Act'') for an exemption from sections 12(d)(1)(A), 12(d)(1)(B) and 12(d)(1)(C) of the Act, under sections 6(c) and 17(b) of the Act for an exemption from section 17(a) of the Act, and under section 6(c) of the Act for an exemption from rule 12d1–2(a) under the Act.

SUMMARY OF THE APPLICATION: The requested order would (a) permit certain registered open-end management investment companies that operate as ''funds of funds'' to acquire shares of certain registered open-end management investment companies, registered closed-end management companies, business development companies as defined by section 2(a)(48) of the Act (''business development companies''), and registered unit investment trusts (''UITs'') that are within and outside the same group of investment companies as the acquiring investment companies, and (b) permit funds of funds relying on rule 12d1–2 under the Act to invest in certain financial instruments.

APPLICANTS: Janus Investment Fund, Janus Aspen Series (together with Janus Investment Fund, the ''Trusts''), Janus Capital Management LLC (''Initial Adviser'') and Janus Distributors LLC (''Distributor'').

FILING DATES: The application was filed on January 6, 2015 and amended on April 14, 2015 and on July 31, 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 September 8, 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, 151 Detroit Street, Denver CO 80206.

FOR FURTHER INFORMATION CONTACT: Robert Shapiro, Senior Counsel, at (202) 551–7758 or Mary Kay Frech, 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. Janus Investment Fund is organized as a Massachusetts business trust and Janus Aspen Series is registered as a Delaware statutory trust. Each Trust is registered with the Commission as an open-end management investment company under the Act with multiple series.[1] Each Fund will pursue distinct investment objectives and strategies, will hold securities and may hold other instruments as well. A Fund may serve as a funding vehicle for variable annuity and variable life contracts (''Contracts,'' and owners of such Contracts, ''Contract Owners'') offered through separate accounts that are registered under the Act (''Registered Separate Accounts'') or exempt from registration under the Act (''Unregistered Separate Accounts,'' and together with Registered Separate Accounts, ''Separate Accounts'').[2]

2. The Initial Adviser is organized as a Delaware limited liability company and is registered as an ''investment adviser'' under the Investment Advisers Act of 1940 (the ''Advisers Act''). The Initial Adviser, or an entity controlling, controlled by, or under common control with the Initial Adviser, serves, or will serve, as the investment adviser for each of the Funds.[3] The Adviser may enter into sub-advisory agreements with one or more additional investment advisers to act as ''Sub-Advisers'' with respect to particular Funds (each, a ''Sub-Adviser''). Any Sub-Adviser to a Fund will be registered with the Commission as an investment adviser under the Advisers Act or not subject to such registration. The Distributor is a Broker (as defined below) and serves as the existing Funds' principal underwriter and distributor.

3. Applicants request relief to the extent necessary to permit: (a) Each Fund (each, a ''Fund of Funds,'' and collectively, the ''Funds of Funds'') to acquire shares of registered open-end management investment companies (each an ''Unaffiliated Open-End Investment Company''), registered closed-end management investment

[1] Applicants request that the order apply not only to any existing series of the Trusts, but that the order also extend to any future series of a Trust and any other existing or future registered open-end management investment companies and any series thereof that are part of the same ''group of investment companies,'' as defined in section 12(d)(1)(G)(ii) of the Act, as a Trust and are, or may in the future be, advised by the Initial Adviser or any other investment adviser controlling, controlled by, or under common control with the Initial Adviser (together with the existing series of the Trusts, each series a ''Fund,'' and collectively, the ''Funds''). All entities that currently intend to rely on the requested order are named as applicants. Any other entity that relies on the order in the future will comply with the terms and conditions of the application and the requested order.

[2] Applicants state that series of the Janus Aspen Series currently serve as funding vehicles for Separate Accounts, and that future Funds may also serve as funding vehicles for Separate Accounts.

[3] All references to the ''Initial Adviser'' include any successors in interest to Janus Capital Management LLC. A ''successor'' is limited to an entity that results from a reorganization into another jurisdiction or a change in the type of business organization. The term ''Adviser'' includes (i) the Initial Adviser and (ii) any entity controlling, controlled by, or under common control with the Initial Adviser that serves as an investment adviser to the Funds.

companies, business development companies (each registered closed-end management investment company and each business development company, an ''Unaffiliated Closed-End Investment Company'' and, together with the Unaffiliated Open-End Investment Companies, the ''Unaffiliated Investment Companies''), and UITs (the ''Unaffiliated UITs,'' and, collectively with the Unaffiliated Investment Companies, the ''Unaffiliated Funds''), in each case, that are not part of the same ''group of investment companies'' as the Funds of Funds;[4] (b) the Unaffiliated Funds, their principal underwriters and any broker or dealer registered under the Securities Exchange Act of 1934 (the ''1934 Act'') (''Broker'') to sell shares of such Unaffiliated Funds to the Funds of Funds; (c) the Funds of Funds to acquire shares of other registered investment companies, including open-end management investment companies and series thereof, registered closed-end management investment companies and business development companies, and UITs (if any), in the same group of investment companies as the Funds of Funds (collectively, the ''Affiliated Funds,'' and, together with the Unaffiliated Funds, the ''Underlying Funds'');[5] and (d) the Affiliated Funds, their principal underwriters and any Broker to sell shares of the Affiliated Funds to the Funds of Funds.[6]

Applicants also request an order under sections 6(c) and 17(b) of the Act to exempt applicants from section 17(a) to the extent necessary to permit Underlying Funds to sell their shares to Funds of Funds and to redeem their shares from Funds of Funds.

4. Certain Underlying Investment Companies may invest up to 25% of their assets in a wholly-owned and controlled subsidiary of the Underlying Investment Company, organized under the laws of the Cayman Islands as an exempted company or under the laws of another non-U.S. jurisdiction (each, a ''Wholly-Owned Subsidiary''), in order to invest in commodity-related instruments and certain other instruments. For an Underlying Investment Company that invests in a Wholly-Owned Subsidiary, an investment adviser to the Underlying Investment Company would serve as investment adviser to the Wholly-Owned Subsidiary.

5. Applicants also request an exemption under section 6(c) from rule 12d1–2 under the Act to permit any existing or future Fund that relies on section 12(d)(1)(G) of the Act (''Section 12(d)(1)(G) Fund of Funds'') and that otherwise complies with rule 12d1–2(a) under the Act to also invest, to the extent consistent with its investment objective(s), policies, strategies, and limitations, in financial instruments that may not be securities within the meaning of section 2(a)(36) of the Act (''Other Investments'').

Applicants' Legal Analysis

A. Section 12(d)(1)

1. Section 12(d)(1)(A) of the Act, in relevant part, prohibits a registered investment company from acquiring shares of an investment company if the securities represent more than 3% of the total outstanding voting stock of the acquired company, more than 5% of the total assets of the acquiring company, or, together with the securities of any other investment companies, more than 10% of the total assets of the acquiring company. Section 12(d)(1)(B) of the Act prohibits a registered open-end investment company, its principal underwriter, and any broker or dealer from selling the investment company's shares to another investment company if the sale will cause the acquiring company to own more than 3% of the acquired company's total outstanding voting stock, or if the sale will cause more than 10% of the acquired company's total outstanding voting stock to be owned by investment companies generally. Section 12(d)(1)(C) prohibits an investment company from acquiring any security issued by a registered closed-end investment company if such acquisition would result in the acquiring company, any other investment companies having the same investment adviser, and companies controlled by such investment companies, collectively, owning more than 10% of the outstanding voting stock of the registered closed-end investment company.

2. Section 12(d)(1)(J) 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 section 12(d)(1) if the exemption is consistent with the public interest and the protection of investors. Applicants seek an exemption under section 12(d)(1)(J) of the Act from the limitations of sections 12(d)(1)(A), (B) and (C) to the extent necessary to permit: (i) The Funds of Funds to acquire shares of Underlying Funds in excess of the limits set forth in section 12(d)(1)(A) and (C) of the Act; and (ii) the Underlying Funds, their principal underwriters and any Broker to sell shares of the Underlying Funds to the Funds of Funds in excess of the limits set forth in section 12(d)(1)(B) of the Act.

3. Applicants state that the proposed arrangement will not give rise to the policy concerns underlying sections 12(d)(1)(A), (B) and (C), which include concerns about undue influence by a fund of funds over underlying funds, excessive layering of fees, and overly complex fund structures. Accordingly, applicants believe that the requested exemption is consistent with the public interest and the protection of investors.

4. Applicants submit that the proposed structure will not result in the exercise of undue influence by the Fund of Funds or its affiliated persons over the Underlying Funds. Applicants assert that the concern about undue influence does not arise in connection with a Fund of Funds' investment in the Affiliated Funds because they are part of the same group of investment companies. To limit the control a Fund of Funds or Fund of Funds Affiliate[7]

[4] For purposes of the request for relief, the term ''group of investment companies'' means any two or more registered investment companies, including closed-end investment companies and business development companies, that hold themselves out to investors as related companies for purposes of investment and investor services.

[5] Certain of the Underlying Funds may be registered under the Act as either UITs or open-end management investment companies and have obtained exemptions from the Commission necessary to permit their shares to be listed and traded on a national securities exchange at negotiated prices and, accordingly, to operate as exchange-traded funds (collectively, ''ETFs'' and each, an ''ETF''). In addition, certain of the Underlying Funds may in the future pursue their investment objectives through a master-feeder arrangement in reliance on section 12(d)(1)(E) of the Act. In accordance with condition 12, a Fund of Funds may not invest in an Underlying Fund that operates as a feeder fund unless the feeder fund is part of the same ''group of investment companies'' as its corresponding master fund or the Fund of Funds. If a Fund of Funds invests in an Affiliated Fund that operates as a feeder fund and the corresponding master fund is not within the same ''group of investment companies'' as the Fund of Funds and Affiliated Fund, the master fund would be an Unaffiliated Fund for purposes of the application and its conditions.

[6] Applicants state that they do not believe that investments in business development companies present any particular considerations or concerns that may be different from those presented by investments in registered closed-end investment companies. In addition, applicants represent that the Funds of Funds will not invest in reliance on the order in business development companies or closed-end investment companies that are not listed and traded on a national securities exchange.

[7] A ''Fund of Funds Affiliate'' is the Adviser, any Sub-Adviser, promoter or principal underwriter of a Fund of Funds, as well as any person controlling, controlled by or under common control with any of those entities. An ''Unaffiliated Fund Affiliate'' is an investment adviser(s), sponsor, promoter or principal underwriter of any Unaffiliated Fund or any person controlling, controlled by or under common control with any of those entities.

may have over an Unaffiliated Fund, applicants propose a condition prohibiting the Adviser and any person controlling, controlled by or under common control with the Adviser, and any investment company and any issuer that would be an investment company but for section 3(c)(1) or section 3(c)(7) of the Act advised or sponsored by the Adviser or any person controlling, controlled by or under common control with the Adviser (collectively, the ''Group'') from controlling (individually or in the aggregate) an Unaffiliated Fund within the meaning of section 2(a)(9) of the Act. The same prohibition would apply to any Sub-Adviser to a Fund of Funds and any person controlling, controlled by or under common control with the Sub-Adviser, and any investment company or issuer that would be an investment company but for section 3(c)(1) or 3(c)(7) of the Act (or portion of such investment company or issuer) advised or sponsored by the Sub-Adviser or any person controlling, controlled by or under common control with the Sub-Adviser (collectively, the ''Sub-Adviser Group'').

5. With respect to closed-end Underlying Funds, applicants note that although closed-end funds may not be unduly influenced by a holder's right of redemption, closed-end Underlying Funds may be unduly influenced by a holder's ability to vote a large block of stock. To address this concern, applicants submit that, with respect to a Fund's investment in an Unaffiliated Closed-End Investment Company, (i) each member of the Group or Sub-Adviser Group that is an investment company or an issuer that would be an investment company but for section 3(c)(1) or 3(c)(7) of the Act will vote its shares of the Unaffiliated Closed-End Investment Company in the manner prescribed by section 12(d)(1)(E) of the Act and (ii) each other member of the Group or Sub-Adviser Group will vote its shares of the Unaffiliated Closed-End Investment Company in the same proportion as the vote of all other holders of the same type of such Unaffiliated Closed-End Investment Company's shares. Applicants state that, in this way, an Unaffiliated Closed-End Investment Company will be protected from undue influence by a Fund of Funds through the voting of the Unaffiliated Closed-End Investment Company's shares.

6. With respect to Separate Accounts, applicants state that a Registered Separate Account will seek voting instructions from its Contract Owners and will vote its shares of an Unaffiliated Fund in accordance with the instructions received and will vote those shares for which no instructions were received in the same proportion as the shares for which instructions were received. An Unregistered Separate Account will either: (i) Vote its shares of the Unaffiliated Fund in the same proportion as the vote of all other holders of the Unaffiliated Fund's shares; or (ii) seek voting instructions from its Contract Owners and vote its shares of the Unaffiliated Fund in accordance with the instructions received and vote those shares for which no instructions were received in the same proportion as the shares for which instructions were received.

7. Applicants propose other conditions to limit the potential for undue influence over the Unaffiliated Funds, including that no Fund of Funds or Fund of Funds Affiliate (except to the extent it is acting in its capacity as an investment adviser to an Unaffiliated Investment Company or sponsor to an Unaffiliated Trust) will cause an Unaffiliated Fund to purchase a security in an offering of securities during the existence of any underwriting or selling syndicate of which a principal underwriter is an Underwriting Affiliate (''Affiliated Underwriting'').[8]

8. To further ensure that an Unaffiliated Investment Company understands the implications of a Fund of Funds' investment under the requested exemptive relief, prior to its investment in the shares of an Unaffiliated Investment Company in excess of the limit of section 12(d)(1)(A)(i) of the Act, a Fund of Funds and the Unaffiliated Investment Company will execute an agreement stating, without limitation, that each of their boards of directors or trustees (for any entity, the ''Board'') and their investment advisers understand the terms and conditions of the order and agree to fulfill their responsibilities under the order (the ''Participation Agreement''). Applicants note that an Unaffiliated Investment Company (including an ETF or an Unaffiliated Closed-End Investment Company) would also retain its right to reject any initial investment by a Fund of Funds in excess of the limits in section 12(d)(1)(A)(i) of the Act by declining to execute the Participation Agreement with the Fund of Funds. In addition, an Unaffiliated Investment Company (other than an ETF or closed-end fund whose shares are purchased by a Fund of Funds in the secondary market) will retain its right at all times to reject any investment by a Fund of Funds. Finally, subject solely to the giving of notice to a Fund of Funds and the passage of a reasonable notice period, an Unaffiliated Fund (including an ETF or an Unaffiliated Closed-End Investment Company) could terminate a Participation Agreement with the Fund of Funds.

9. Applicants state that they do not believe that the proposed arrangement will result in excessive layering of fees. The Board of each Fund of Funds, including a majority of the trustees who are not ''interested persons'' within the meaning of section 2(a)(19) of the Act (the ''Independent Trustees''), will find that the management or advisory fees charged under a Fund of Funds' advisory contract are based on services provided that are in addition to, rather than duplicative of, services provided under the advisory contract(s) of any Underlying Fund in which the Fund of Funds may invest. In addition, the Adviser will waive fees otherwise payable to it by a Fund of Funds in an amount at least equal to any compensation (including fees received pursuant to any plan adopted by an Unaffiliated Investment Company under rule 12b-1 under the Act) received from an Unaffiliated Fund by the Adviser, or an affiliated person of the Adviser, other than any advisory fees paid to the Adviser or an affiliated person of the Adviser by the Unaffiliated Investment Company, in connection with the investment by the Fund of Funds in the Unaffiliated Fund.

10. Applicants state that, with respect to Registered Separate Accounts that invest in a Fund of Funds, no sales load will be charged at the Fund of Funds level or at the Underlying Fund level. Other sales charges and services fees, as defined in Rule 2830 of the NASD Conduct Rules (''NASD Conduct Rule 2830''), if any, will only be charged at the Fund of Funds level or at the Underlying Fund level, not both.[9] With respect to other investments in a Fund of Funds, any sales charges and/or service fees charged with respect to shares of a Fund of Funds will not exceed the limits applicable to funds of funds as set forth in NASD Conduct Rule 2830.

11. Applicants represent that each Fund of Funds will represent in the

[8] An ''Underwriting Affiliate'' is a principal underwriter in any underwriting or selling syndicate that is an officer, director, trustee, advisory board member, investment adviser, sub-adviser or employee of the Fund of Funds, or a person of which any such officer, director, trustee, investment adviser, sub-adviser, member of an advisory board or employee is an affiliated person. An Underwriting Affiliate does not include any person whose relationship to an Unaffiliated Fund is covered by section 10(f) of the Act.

[9] Any references to NASD Conduct Rule 2830 include any successor or replacement FINRA rule to NASD Conduct Rule 2830.

Participation Agreement that no insurance company sponsoring a Registered Separate Account funding Contracts will be permitted to invest in the Fund of Funds unless the insurance company has certified to the Fund of Funds that the aggregate of all fees and charges associated with each contract that invests in the Fund of Funds, including fees and charges at the Separate Account, Fund of Funds, and the Underlying Fund levels, are reasonable in relation to the services rendered, the expenses expected to be incurred, and the risks assumed by the insurance company.

12. Applicants submit that the proposed arrangement will not create an overly complex fund structure. Applicants note that no Underlying Fund will acquire securities of any other investment company or company relying on section 3(c)(1) or 3(c)(7) of the Act in excess of the limits contained in section 12(d)(1)(A) of the Act, except in certain circumstances identified in condition 12 below.

13. Applicants state that investments by an Underlying Investment Company in a Wholly-Owned Subsidiary also do not raise concerns about undue influence, layering of fees and complex structures. Applicants represent that, with respect to each Underlying Investment Company in which a Fund of Funds will invest that has a Wholly-Owned Subsidiary: (1) Such Underlying Investment Company will be the sole and legal beneficial owner of its Wholly-Owned Subsidiary; (2) an investment adviser to such Underlying Investment Company will manage the investments of both the Underlying Investment Company and its Wholly-Owned Subsidiary; (3) such Underlying Investment Company's investment in the Wholly-Owned Subsidiary enables the Underlying Investment Company to continue to qualify as a regulated investment company under subchapter M of the Internal Revenue Code of 1986; and (4) there will be no inappropriate layering of fees and expenses as a result of such Underlying Investment Company investing in a Wholly-Owned Subsidiary. Applicants further represent that an Underlying Investment Company that invests in a Wholly-Owned Subsidiary will consolidate its financial statements with the Wholly-Owned Subsidiary's financial statements, provided that the applicable accounting standards permit consolidation. In addition, in assessing compliance with the asset coverage requirements under section 18(f) of the Act, an Underlying Investment Company will deem the assets, liabilities and indebtedness of a Wholly-Owned Subsidiary in which the Underlying Investment Company invests as its own. In addition, the expenses of the Wholly-Owned Subsidiary are included in the total annual fund operating expenses in the prospectus of the relevant Underlying Investment Company.

B. Section 17(a)

1. Section 17(a) of the Act generally prohibits sales or purchases of securities between a registered investment company and its affiliated persons or affiliated persons of such persons. Section 2(a)(3) of the Act defines an ''affiliated person'' of another person to include (a) any person directly or indirectly owning, controlling, or holding with power to vote, 5% or more of the outstanding voting securities of the other person; (b) any person 5% or more of whose outstanding voting securities are directly or indirectly owned, controlled, or held with power to vote by the other person; and (c) any person directly or indirectly controlling, controlled by, or under common control with the other person.

2. Applicants state that the Funds of Funds and the Affiliated Funds may be deemed to be under the common control of the Adviser and, therefore, affiliated persons of one another. Applicants also state that a Fund of Funds and an Unaffiliated Fund also may be deemed to be affiliated persons of one another if the Fund of Funds owns 5% or more of the outstanding voting securities of such Unaffiliated Fund. Applicants state that the sale of shares by the Unaffiliated Open-End Investment Companies or Unaffiliated UITs to the Funds of Funds and the redemption of those shares by the Funds of Funds could be deemed to violate section 17(a) of the Act.[10]

3. Section 17(b) of the Act authorizes the Commission to grant an order permitting a transaction otherwise prohibited by section 17(a) if it finds that (i) The terms of the proposed transaction are fair and reasonable and do not involve overreaching on the part of any person concerned; (ii) the proposed transaction is consistent with the policies of each registered investment company concerned; and (iii) the proposed transaction is consistent with the general purposes of the Act. Section 6(c) of the Act permits the Commission to exempt any person or transactions from any provision of the Act if 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.

4. Applicants submit that the proposed transactions satisfy the standards for relief under sections 17(b) and 6(c) of the Act. Applicants state that the terms of the transactions are reasonable and fair and do not involve overreaching. Applicants state that the terms upon which an Underlying Fund will sell its shares to or purchase its shares from a Fund of Funds will be in accordance with the rules and regulations under the Act.[11] Applicants also state that the proposed transactions will be consistent with the policies of each Fund of Funds and each Underlying Fund, and with the general purposes of the Act.

C. Other Investments by Section 12(d)(1)(G) Funds of Funds

1. Section 12(d)(1)(G) of the Act provides that section 12(d)(1) will not apply to securities of an acquired company purchased by an acquiring company if: (i) The acquiring company and acquired company are part of the same ''group of investment companies,'' as defined in section 12(d)(1)(G)(ii) of the Act; (ii) the acquiring company holds only securities of acquired companies that are part of the same ''group of investment companies,'' as defined in section 12(d)(1)(G)(ii) of the Act, government securities, and short-term paper; (iii) the aggregate sales loads and distribution-related fees of the acquiring company and the acquired company are not excessive under rules adopted pursuant to section 22(b) or section 22(c) of the Act by a securities

[10] Applicants acknowledge that receipt of any compensation by (a) an affiliated person of a Fund of Funds, or an affiliated person of such person, for the purchase by the Fund of Funds of shares of an Underlying Fund or (b) an affiliated person of an Underlying Fund, or an affiliated person of such person, for the sale by the Underlying Fund of its shares to a Fund of Funds may be prohibited by section 17(e) (1) of the Act. The Participation Agreement also will include this acknowledgement.

[11] Applicants note that a Fund of Funds generally would purchase and sell shares of an Underlying Fund that operates as an ETF or a closed-end fund through secondary market transactions rather than through principal transactions with the Underlying Fund. Applicants nevertheless request relief from sections 17(a)(1) and (2) to permit each ETF or closed-end fund that is an affiliated person, or an affiliated person of an affiliated person, as defined in section 2(a)(3) of the Act, of a Fund of Funds to sell shares to or redeem shares from the Fund of Funds. This includes, in the case of sales and redemptions of shares of ETFs, in-kind transactions that accompany such sales and redemptions. Applicants are not seeking relief from section 17(a) for, and the requested relief will not apply to, transactions where an ETF or closed-end fund could be deemed an affiliated person, or an affiliated person of an affiliated person, of a Fund of Funds because an investment adviser to the ETF or closed-end fund or an entity controlling, controlled by or under common control with the investment adviser to the ETF or closed-end fund, is also an investment adviser to the Fund of Funds.

association registered under section 15A of the 1934 Act or by the Commission; and (iv) the acquired company has a policy that prohibits it from acquiring securities of registered open-end management investment companies or registered UITs in reliance on section 12(d)(1)(F) or (G) of the Act.

2. Rule 12d1–2 under the Act permits a registered open-end investment company or a registered UIT that relies on section 12(d)(1)(G) of the Act to acquire, in addition to securities issued by another registered investment company in the same group of investment companies, government securities, and short-term paper: (1) Securities issued by an investment company that is not in the same group of investment companies, when the acquisition is in reliance on section 12(d)(1)(A) or 12(d)(1)(F) of the Act; (2) securities (other than securities issued by an investment company); and (3) securities issued by a money market fund, when the investment is in reliance on rule 12d1–1 under the Act. For the purposes of rule 12d1–2, ''securities'' means any security as defined in section 2(a)(36) of the Act.

3. Applicants state that the proposed arrangement would comply with rule 12d1–2 under the Act, but for the fact that the Section 12(d)(1)(G) Funds of Funds may invest a portion of their assets in Other Investments. Applicants request an order under section 6(c) of the Act for an exemption from rule 12d1–2(a) to allow the Section 12(d)(1)(G) Funds of Funds to invest in Other Investments. Applicants assert that permitting a Section 12(d)(1)(G) Fund of Funds to invest in Other Investments as described in the application would not raise any of the concerns that section 12(d)(1) of the Act was intended to address.

4. Consistent with its fiduciary obligations under the Act, a Section 12(d)(1)(G) Fund of Funds' Board will review the advisory fees charged by the Section 12(d)(1)(G) Fund of Funds' investment adviser(s) to ensure that the fees are based on services provided that are in addition to, rather than duplicative of, services provided pursuant to the advisory agreement of any investment company in which the Section 12(d)(1)(G) Fund of Funds may invest.

Applicants' Conditions

A. Investments by Funds of Funds in Underlying Funds

Applicants agree that the order granting the requested relief to permit Funds of Funds to invest in Underlying Funds shall be subject to the following conditions:

1. The members of the Group will not control (individually or in the aggregate) an Unaffiliated Fund within the meaning of section 2(a)(9) of the Act. The members of a Sub-Adviser Group will not control (individually or in the aggregate) an Unaffiliated Fund within the meaning of section 2(a)(9) of the Act. With respect to a Fund's investment in an Unaffiliated Closed-End Investment Company, (i) each member of the Group or Sub-Adviser Group that is an investment company or an issuer that would be an investment company but for section 3(c)(1) or 3(c)(7) of the Act will vote its shares of the Unaffiliated Closed-End Investment Company in the manner prescribed by section 12(d)(1)(E) of the Act and (ii) each other member of the Group or Sub-Adviser Group will vote its shares of the Unaffiliated Closed-End Investment Company in the same proportion as the vote of all other holders of the same type of such Unaffiliated Closed-End Investment Company's shares. If, as a result of a decrease in the outstanding voting securities of any other Unaffiliated Fund, the Group or a Sub-Adviser Group, each in the aggregate, becomes a holder of more than 25% of the outstanding voting securities of such Unaffiliated Fund, then the Group or the Sub-Adviser Group (except for any member of the Group or Sub-Adviser Group that is a Separate Account) will vote its shares of the Unaffiliated Fund in the same proportion as the vote of all other holders of the Unaffiliated Fund's shares. A Registered Separate Account will seek voting instructions from its Contract Owners and will vote its shares of an Unaffiliated Fund in accordance with the instructions received and will vote those shares for which no instructions were received in the same proportion as the shares for which instructions were received. An Unregistered Separate Account will either: (i) Vote its shares of the Unaffiliated Fund in the same proportion as the vote of all other holders of the Unaffiliated Fund's shares; or (ii) seek voting instructions from its Contract Owners and vote its shares in accordance with the instructions received and vote those shares for which no instructions were received in the same proportion as the shares for which instructions were received. This condition will not apply to a Sub-Adviser Group with respect to an Unaffiliated Fund for which the Sub-Adviser or a person controlling, controlled by, or under common control with the Sub-Adviser acts as the investment adviser within the meaning of section 2(a)(20)(A) of the Act (in the case of an Unaffiliated Investment Company) or as the sponsor (in the case of an Unaffiliated UIT).

2. No Fund of Funds or Fund of Funds Affiliate will cause any existing or potential investment by the Fund of Funds in an Unaffiliated Fund to influence the terms of any services or transactions between the Fund of Funds or a Fund of Funds Affiliate and the Unaffiliated Fund or an Unaffiliated Fund Affiliate.

3. The Board of each Fund of Funds, including a majority of the Independent Trustees, will adopt procedures reasonably designed to ensure that the Adviser and any Sub-Adviser to the Fund of Funds are conducting the investment program of the Fund of Funds without taking into account any consideration received by the Fund of Funds or Fund of Funds Affiliate from an Unaffiliated Fund or an Unaffiliated Fund Affiliate in connection with any services or transactions.

4. Once an investment by a Fund of Funds in the securities of an Unaffiliated Investment Company exceeds the limit of section 12(d)(1)(A)(i) of the Act, the Board of the Unaffiliated Investment Company, including a majority of the Independent Trustees, will determine that any consideration paid by the Unaffiliated Investment Company to a Fund of Funds or a Fund of Funds Affiliate in connection with any services or transactions: (a) Is fair and reasonable in relation to the nature and quality of the services and benefits received by the Unaffiliated Investment Company; (b) is within the range of consideration that the Unaffiliated Investment Company would be required to pay to another unaffiliated entity in connection with the same services or transactions; and (c) does not involve overreaching on the part of any person concerned. This condition does not apply with respect to any services or transactions between an Unaffiliated Investment Company and its investment adviser(s), or any person controlling, controlled by, or under common control with such investment adviser(s).

5. No Fund of Funds or Fund of Funds Affiliate (except to the extent it is acting in its capacity as an investment adviser to an Unaffiliated Investment Company or sponsor to an Unaffiliated UIT) will cause an Unaffiliated Fund to purchase a security in any Affiliated Underwriting.

6. The Board of an Unaffiliated Investment Company, including a majority of the Independent Trustees, will adopt procedures reasonably

designed to monitor any purchases of securities by the Unaffiliated Investment Company in an Affiliated Underwriting once an investment by a Fund of Funds in the securities of the Unaffiliated Investment Company exceeds the limit of section 12(d)(1)(A)(i) of the Act, including any purchases made directly from an Underwriting Affiliate. The Board of the Unaffiliated Investment Company will review these purchases periodically, but no less frequently than annually, to determine whether the purchases were influenced by the investment by the Fund of Funds in the Unaffiliated Investment Company. The Board of the Unaffiliated Investment Company will consider, among other things: (a) Whether the purchases were consistent with the investment objectives and policies of the Unaffiliated Investment Company; (b) how the performance of securities purchased in an Affiliated Underwriting compares to the performance of comparable securities purchased during a comparable period of time in underwritings other than Affiliated Underwritings or to a benchmark such as a comparable market index; and (c) whether the amount of securities purchased by the Unaffiliated Investment Company in Affiliated Underwritings and the amount purchased directly from an Underwriting Affiliate have changed significantly from prior years. The Board of the Unaffiliated Investment Company will take any appropriate actions based on its review, including, if appropriate, the institution of procedures designed to ensure that purchases of securities in Affiliated Underwritings are in the best interest of shareholders.

7. Each Unaffiliated Investment Company will maintain and preserve permanently, in an easily accessible place, a written copy of the procedures described in the preceding condition, and any modifications to such procedures, and will maintain and preserve for a period of not less than six years from the end of the fiscal year in which any purchase in an Affiliated Underwriting occurred, the first two years in an easily accessible place, a written record of each purchase of securities in an Affiliated Underwriting once an investment by a Fund of Funds in the securities of an Unaffiliated Investment Company exceeds the limit of section 12(d)(1)(A)(i) of the Act, setting forth (1) the party from whom the securities were acquired, (2) the identity of the underwriting syndicate's members, (3) the terms of the purchase, and (4) the information or materials upon which the determinations of the Board of the Unaffiliated Investment Company were made.

8. Prior to its investment in shares of an Unaffiliated Investment Company in excess of the limit set forth in section 12(d)(1)(A)(i) of the Act, the Fund of Funds and the Unaffiliated Investment Company will execute a Participation Agreement stating, without limitation, that their Boards and their investment advisers understand the terms and conditions of the order and agree to fulfill their responsibilities under the order. At the time of its investment in shares of an Unaffiliated Investment Company in excess of the limit set forth in section 12(d)(1)(A)(i), a Fund of Funds will notify the Unaffiliated Investment Company of the investment. At such time, the Fund of Funds will also transmit to the Unaffiliated Investment Company a list of the names of each Fund of Funds Affiliate and Underwriting Affiliate. The Fund of Funds will notify the Unaffiliated Investment Company of any changes to the list as soon as reasonably practicable after a change occurs. The Unaffiliated Investment Company and the Fund of Funds will maintain and preserve a copy of the order, the Participation Agreement, and the list with any updated information for the duration of the investment and for a period of not less than six years thereafter, the first two years in an easily accessible place.

9. Before approving any advisory contract under section 15 of the Act, the Board of each Fund of Funds, including a majority of the Independent Trustees, shall find that the advisory fees charged under the advisory contract are based on services provided that are in addition to, rather than duplicative of, services provided under the advisory contract(s) of any Underlying Fund in which the Fund of Funds may invest. Such finding, and the basis upon which the finding was made, will be recorded fully in the minute books of the appropriate Fund of Funds.

10. The Adviser will waive fees otherwise payable to it by a Fund of Funds in an amount at least equal to any compensation (including fees received pursuant to any plan adopted by an Unaffiliated Investment Company pursuant to rule 12b-1 under the Act) received from an Unaffiliated Fund (or its Wholly-Owned Subsidiary) by the Adviser, or an affiliated person of the Adviser, other than any advisory fees paid to the Adviser or its affiliated person by the Unaffiliated Investment Company (or its Wholly-Owned-Subsidiary), in connection with the investment by the Fund of Funds in the Unaffiliated Fund. Any Sub-Adviser will waive fees otherwise payable to the Sub-Adviser, directly or indirectly, by the Fund of Funds in an amount at least equal to any compensation received by the Sub-Adviser, or an affiliated person of the Sub-Adviser, from an Unaffiliated Fund (or its Wholly-Owned Subsidiary), other than any advisory fees paid to the Sub-Adviser or its affiliated person by the Unaffiliated Investment Company (or its Wholly-Owned Subsidiary), in connection with the investment by the Fund of Funds in the Unaffiliated Fund made at the direction of the Sub-Adviser. In the event that the Sub-Adviser waives fees, the benefit of the waiver will be passed through to the applicable Fund of Funds.

11. With respect to Registered Separate Accounts that invest in a Fund of Funds, no sales load will be charged at the Fund of Funds level or at the Underlying Fund level. Other sales charges and service fees, as defined in NASD Conduct Rule 2830, if any, will only be charged at the Fund of Funds level or at the Underlying Fund level, not both. With respect to other investments in a Fund of Funds, any sales charges and/or service fees charged with respect to shares of a Fund of Funds will not exceed the limits applicable to funds of funds set forth in NASD Conduct Rule 2830.

12. No Underlying Fund will acquire securities of any other investment company or company relying on section 3(c)(1) or 3(c)(7) of the Act, in excess of the limits contained in section 12(d)(1)(A) of the Act, other than any Wholly-Owned Subsidiary as described in the application, and except to the extent that such Underlying Fund: (a) Acquires such securities in compliance with section 12(d)(1)(E) of the Act and is either an Affiliated Fund or is in the same ''group of investment companies'' as its corresponding master fund; (b) receives securities of another investment company as a dividend or as a result of a plan of reorganization of a company (other than a plan devised for the purpose of evading section 12(d)(1) of the Act); or (c) acquires (or is deemed to have acquired) securities of another investment company pursuant to exemptive relief from the Commission permitting such Underlying Fund to: (i) Acquire securities of one or more investment companies for short-term cash management purposes or (ii) engage in inter-fund borrowing and lending transactions. Further, no Wholly-Owned Subsidiary will acquire securities of any other investment company or company relying on section 3(c)(1) or 3(c)(7) of the Act other than money market funds that comply with

rule 2a–7 for short-term cash management purposes.

B. Other Investments by Section 12(d)(1)(G) Funds of Funds

In addition, applicants agree that the order granting the requested relief to permit Section 12(d)(1)(G) Funds of Funds to invest in Other Investments shall be subject to the following condition:

1. Applicants will comply with all provisions of rule 12d1–2 under the Act, except for paragraph (a)(2) to the extent that it restricts any Section 12(d)(1)(G) Fund of Funds from investing in Other Investments as described in the application.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Brent J. Fields,

Secretary.

[FR Doc. 2015–20413 Filed 8–18–15; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–75697; File No. SR–FINRA–2015–020]

Self-Regulatory Organizations; Financial Industry Regulatory Authority, Inc.; Notice of Designation of a Longer Period for Commission Action on a Proposed Rule Change To Expand FINRA's Alternative Trading System (''ATS'') Transparency Initiative To Publish OTC Equity Volume Executed Outside ATSs

August 13, 2015.

On June 23, 2015, Financial Industry Regulatory Authority, Inc. (''FINRA'') filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 19b–4 thereunder,[2] a proposed rule change to expand FINRA's alternative trading system transparency initiative to publish the remaining equity volume executed over-the-counter by FINRA members, including, among other trading activity, non-ATS electronic trading systems and internalized trades. The proposed rule change was published for comment in the **Federal Register** on July 9, 2015.[3] The Commission received two comments on the proposal.[4]

Section 19(b)(2) of the Act [5] provides that, within 45 days of the publication of notice of the filing of a proposed rule change, or within such longer period up to 90 days as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or as to which the self-regulatory organization consents, the Commission shall approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether the proposed rule change should be disapproved. The 45th day for this filing is August 23, 2015. The Commission is extending this 45-day time period. The Commission finds that it is appropriate to designate a longer period within which to take action on the proposed rule change so that it has sufficient time to consider the proposed rule change, comments received, and any response to comments submitted by FINRA.

Accordingly, the Commission, pursuant to Section 19(b)(2) of the Act,[6] designates October 7, 2015, as the date by which the Commission shall approve, disapprove, or institute proceedings to determine whether to disapprove the proposed rule change (File Number SR–FINRA–2015–020).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[7]

Brent J. Fields,

Secretary.

[FR Doc. 2015–20414 Filed 8–18–15; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 31754; 812–14356]

Pulteney Street Capital Management, LLC and PSP Family of Funds; Notice of Application

August 13, 2015.

AGENCY: Securities and Exchange Commission (''Commission'').

ACTION: Notice of an application under section 6(c) of the Investment Company Act of 1940 (''Act'') for an exemption from section 15(a) of the Act and rule 18f–2 under the Act, as well as from certain disclosure requirements in rule 20a-1 under the Act, Item 19(a)(3) of Form N–1A, Items 22(c)(1)(ii), 22(c)(1)(iii), 22(c)(8) and 22(c)(9) of Schedule 14A under the Securities Exchange Act of 1934, and sections 6–07(2)(a), (b), and (c) of Regulation S–X (''Disclosure Requirements''). The requested exemption would permit an investment adviser to hire and replace certain subadvisers without shareholder approval and grant relief from the Disclosure Requirements as they relate to fees paid to the subadvisers.

APPLICANTS: PSP Family of Funds (the ''Trust''), a Delaware statutory trust registered under the Act as an open-end management investment company, and Pulteney Street Capital Management, LLC, a Delaware limited liability company registered as an investment adviser under the Investment Advisers Act of 1940 (the ''Adviser,'' and, collectively with the Trust, the ''Applicants'').

FILING DATES: The application was filed on September 5, 2014 and amended on December 18, 2014, June 10, 2015, and July 27, 2015.

HEARING OR NOTIFICATION OF HEARING: An order granting the application 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 September 8, 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: Sean M. McCooey, PSP Family of Funds, 1345 Avenue of the Americas, 3rd Floor, New York, NY 10105; and Jeffrey T. Skinner, Esq., Kilpatrick, Townsend & Stockton LLP, 1001 W. Fourth Street, Winston-Salem, NC 27101.

FOR FURTHER INFORMATION CONTACT: Parisa Haghshenas, Senior Counsel, at (202) 551–6723, or Holly Hunter-Ceci, Branch Chief, at (202) 551–6869 (Division of Investment Management, Chief Counsel's Office).

SUPPLEMENTARY INFORMATION: The following is a summary of the

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 75356 (July 2, 2015), 80 FR 39463 (July 9, 2015) (''Notice'').

[4] *See* letter from Kerry Baker Relf, Head of Content Acquisition and Rights Management, Thomson Reuters to Brent J. Fields, Secretary, Commission, dated July 20, 2015 and letter from Theodore R. Lazo, Managing Director and Associate General Counsel, Securities Industry and Financial Markets Association, to Brent J. Fields, Secretary, Commission, dated July 30, 2015.

[5] 15 U.S.C. 78s(b)(2).

[6] *Id.*

[7] 17 CFR 200.30–3(a)(31).

application. The complete application may be obtained via the Commission's Web site by searching for the file number, or an applicant using the Company name box, at *http://www.sec.gov/search/search.htm* or by calling (202) 551–8090.

Summary of the Application

1. The Adviser will serve as the investment adviser to the Funds pursuant to an investment advisory agreement with the Trust (the ''Advisory Agreement'').[1] The Adviser will provide the Funds with continuous and comprehensive investment management services subject to the supervision of, and policies established by, each Fund's board of trustees (''Board''). The Advisory Agreement permits the Adviser, subject to the approval of the Board, to delegate to one or more subadvisers (each, a ''Subadviser'' and collectively, the ''Subadvisers'') the responsibility to provide the day-to-day portfolio investment management of each Fund, subject to the supervision and direction of the Adviser. The primary responsibility for managing the Funds will remain vested in the Adviser. The Adviser will hire, evaluate, allocate assets to and oversee the Subadvisers, including determining whether a Subadviser should be terminated, at all times subject to the authority of the Board.

2. Applicants request an exemption to permit the Adviser, subject to Board approval, to hire certain Subadvisers pursuant to Subadvisory Agreements and materially amend existing Subadvisory Agreements without obtaining the shareholder approval required under section 15(a) of the Act and rule 18f–2 under the Act.[2] Applicants also seek an exemption from the Disclosure Requirements to permit a Fund to disclose (as both a dollar amount and a percentage of the Fund's net assets): (a) The aggregate fees paid to the Adviser and any Affiliated Subadviser; and (b) the aggregate fees paid to Subadvisers other than Affiliated Subadvisers (collectively, ''Aggregate Fee Disclosure''). For any Fund that employs an Affiliated Subadviser, the Fund will provide separate disclosure of any fees paid to the Affiliated Subadviser.

3. Applicants agree that any order granting the requested relief will be subject to the terms and conditions stated in the Application. Such terms and conditions provide for, among other safeguards, appropriate disclosure to Fund shareholders and notification about subadvisory changes and enhanced Board oversight to protect the interests of the Funds' shareholders.

4. 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 provisions of the Act, or any rule thereunder, if such relief is necessary or appropriate in the public interest and consistent with the protection of investors and purposes fairly intended by the policy and provisions of the Act. Applicants believe that the requested relief meets this standard because, as further explained in the Application, the Advisory Agreements will remain subject to shareholder approval, while the role of the Subadvisers is substantially similar to that of individual portfolio managers, so that requiring shareholder approval of Subadvisory Agreements would impose unnecessary delays and expenses on the Funds. Applicants believe that the requested relief from the Disclosure Requirements meets this standard because it will improve the Adviser's ability to negotiate fees paid to the Subadvisers that are more advantageous for the Funds.

For the Commission, by the Division of Investment Management, under delegated authority.

Brent J. Fields,

Secretary.

[FR Doc. 2015–20412 Filed 8–18–15; 8:45 am]

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[1] Applicants request relief with respect to any future series of the Trust and other existing or future registered open-end management company or series thereof that: (a) Is advised by the Adviser, including any entity controlling, controlled by or under common control with the Adviser or its successors (included in the term ''Adviser''); (b) uses the manager of managers structure described in the application; and (c) complies with the terms and conditions of the application (any such series, a ''Fund'' and collectively, the ''Funds''). For purposes of the requested order, ''successor'' is limited to an entity that results from a reorganization into another jurisdiction or a change in the type of business organization.

[2] The requested relief will not extend to any Subadviser that is an affiliated person, as defined in section 2(a)(3) of the Act, of a Fund or the Adviser, other than by reason of serving as a subadviser to one or more of the Funds (''Affiliated Subadviser'').

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–75692; File No. SR–ICEEU–2015–009]

Self-Regulatory Organizations; ICE Clear Europe Limited; Order Approving Proposed Rule Change Relating to Finance Procedures To Add Clearstream Banking as a Triparty Collateral Service Provider

August 13, 2015.

I. Introduction

On May 5, 2015, ICE Clear Europe Limited (''ICE Clear Europe'') filed with the Securities and Exchange Commission (''Commission'') a proposed rule change pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] to amend its Finance Procedures in order to facilitate CDS Clearing Members' use of Clearstream Banking as a triparty collateral service provider. The proposed rule change was published for comment in the **Federal Register** on May 15, 2015.[3] On June 29, 2015, the Commission extended the time period in which to either approve, disapprove, or institute proceedings to determine whether to disapprove the proposed rule change to August 13, 2015.[4] The Commission did not receive comment letters regarding the proposed change. For the reasons discussed below, the Commission is granting approval of the proposed rule change.

II. Description of the Proposed Rule Change

ICE Clear Europe proposes to modify the Finance Procedures to allow Clearstream Banking to serve as a triparty collateral service provider for initial or original margin provided in respect of all product categories, including CDS Contracts. Clearstream Banking currently serves as a triparty collateral service provider solely for original margin provided in respect of F&O Contracts.

Specifically, paragraph 3.1 of the Finance Procedures will be revised to remove the existing restriction that Clearstream Banking may only act as a triparty collateral service provider with respect to Original Margin in respect of F&O Contracts. As a result of such

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Securities Exchange Act Release No. 34–74922 (May 11, 2015), 80 FR 28035 (May 15, 2015) (File No. SR–ICEEU–2015–009).

[4] Securities Exchange Act Release No. 34–75320 (June 29, 2015), 80 FR 38488 (July 6, 2015) (File No. SR–ICEEU–2015–009).

change, Clearstream Banking would be permitted to act as a triparty collateral service provider for initial or original margin in respect of any product category, including the CDS product category. (The other currently authorized triparty collateral service provider, Euroclear Bank, is similarly eligible to act as such for any product category.) A correction would also be made in paragraph 3.20 to provide that the specified instruction deadlines apply to triparty collateral arrangements with both Euroclear Bank and Clearstream Banking.

III. Discussion and Commission Findings

Section 19(b)(2)(C) of the Act [5] directs the Commission to approve a proposed rule change of a self-regulatory organization if the Commission finds that such proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to such self-regulatory organization. Section 17A(b)(3)(F) of the Act [6] requires, among other things, that the rules of a clearing agency are designed to promote the prompt and accurate clearance and settlement of securities transactions and, to the extent applicable, derivative agreements, contracts, and transactions and assure the safeguarding of securities and funds which are in the custody or control of the clearing agency or for which it is responsible.

The Commission finds that the proposed rule change is consistent with section 17A of the Act [7] and the rules thereunder applicable to ICE Clear Europe. The proposed rule change will provide Clearing Members with the option to use Clearstream Banking as a triparty collateral service provider with respect to initial and original margin for the CDS (and FX) product categories. According to ICE Clear Europe, the proposed rule change does not otherwise change the substantive terms of the service. Based on ICE Clear Europe's representation regarding its experience with Clearstream Banking as triparty collateral service provider with respect to original margin for the F&O product category, the use of Clearstream Banking can be appropriately extended to other product categories. As such, the Commission believes that the proposed rule change would allow ICE Clear Europe's Clearing Members to use an additional triparty collateral service provider that offers appropriate safeguarding of securities and funds while maintaining ICE Clear Europe's ability to access initial margin when appropriate. The Commission therefore finds that the proposed rule change is 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 assure the safeguarding of securities and funds which are in the custody or control of the clearing agency or for which it is responsible, in accordance with section 17A(b)(3)(F) of the Act.[8]

IV. Conclusion

On the basis of the foregoing, the Commission finds that the proposal is consistent with the requirements of the Act and in particular with the requirements of section 17A of the Act [9] and the rules and regulations thereunder.

It is therefore ordered, pursuant to section 19(b)(2) of the Act,[10] that the proposed rule change (File No. SR–ICEEU–2015–009) be, and hereby is, approved.[11]

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[12]

Brent J. Fields,

Secretary.

[FR Doc. 2015–20420 Filed 8–18–15; 8:45 am]

BILLING CODE 8011–01–P

[5] 15 U.S.C. 78s(b)(2)(C).

[6] 15 U.S.C. 78q–1(b)(3)(F).

[7] 15 U.S.C. 78q–1.

[8] 15 U.S.C. 78q–1(b)(3)(F).

[9] 15 U.S.C. 78q–1.

[10] 15 U.S.C. 78s(b)(2).

[11] In approving the proposed rule change, the Commission considered the proposal's impact on efficiency, competition and capital formation. 15 U.S.C. 78c(f).

[12] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 31759; 812–14517]

ALPS ETMF Trust, et al.; Notice of Application

August 13, 2015.

AGENCY: Securities and Exchange Commission (''Commission'').

ACTION: Notice of an application for an order under section 6(c) of the Investment Company Act of 1940 (''Act'') for an exemption from sections 2(a)(32), 5(a)(1), 22(d) and 22(e) of the Act and rule 22c–1 under the Act, under sections 6(c) and 17(b) of the Act for an exemption from sections 17(a)(1) and (a)(2) of the Act, and under section 12(d)(1)(J) of the Act for an exemption from sections 12(d)(1)(A) and (B) of the Act.

APPLICANTS: ALPS ETMF Trust (the ''Trust''), ALPS Advisors, Inc. (the ''Adviser'') and ALPS Distributors, Inc., and ALPS Portfolio Solutions Distributor, Inc. (each, a ''Distributor'').

SUMMARY: Applicants request an order (''Order'') that permits: (a) Actively managed series of certain open-end management investment companies to issue shares (''Shares'') redeemable in large aggregations only (''Creation Units''); (b) secondary market transactions in Shares to occur at the next-determined net asset value plus or minus a market-determined premium or discount that may vary during the trading day; (c) certain series to pay redemption proceeds, under certain circumstances, more than seven days from the tender of Shares for redemption; (d) certain affiliated persons of the series to deposit securities into, and receive securities from, the series in connection with the purchase and redemption of Creation Units; (e) certain registered management investment companies and unit investment trusts outside of the same group of investment companies as the series to acquire Shares; and (f) certain series to create and redeem Shares in kind in a master-feeder structure. The Order would incorporate by reference terms and conditions of a previous order granting the same relief sought by applicants, as that order may be amended from time to time (''Reference Order'').[1]

FILING DATES: The application was filed on July 21, 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 September 8, 2015, and should be accompanied by proof of service on applicants, in the form of an affidavit or, for lawyers, a certificate of service. Pursuant to rule 0–5 under the Act, hearing requests should state the nature of the writer's interest, any facts bearing upon the desirability of a hearing on the matter, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Commission's Secretary.

ADDRESSES: The Commission: Brent J. Fields, Secretary, U.S. Securities and Exchange Commission, 100 F Street NE.,

[1] Eaton Vance Management, *et al.,* Investment Company Act Rel. Nos. 31333 (Nov. 6, 2014) (notice) and 31361 (Dec. 2, 2014) (order).

Washington, DC 20549–1090.
Applicants: 1290 Broadway, Suite 1100, Denver, CO 80203.

FOR FURTHER INFORMATION CONTACT: Jean E. Minarick, Senior Counsel, or Dalia Osman Blass, Assistant Chief Counsel, 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

1. The Trust will be registered as an open-end management investment company under the Act and is a business trust organized under the laws of the state of Delaware. Applicants seek relief with respect to one Fund (as defined below, the ''Initial Fund''). The portfolio positions of each Fund will consist of securities and other assets selected and managed by its Adviser or Subadviser (as defined below) to pursue the Fund's investment objective.

2. The Adviser, a Colorado corporation, will be the investment adviser to the Initial Fund. An Adviser (as defined below) will serve as investment adviser to each Fund. The Adviser is, and any other Adviser will be, registered as an investment adviser under the Investment Advisers Act of 1940 (''Advisers Act''). The Adviser and the Trust may retain one or more subadvisers (each a ''Subadviser'') to manage the portfolios of the Fund. Any Subadviser will be registered, or not subject to registration, under the Advisers Act.

3. Each Distributor is a Colorado corporation and a broker-dealer registered under the Securities Exchange Act of 1934 and will act as the principal underwriter of Shares of the Fund. Applicants request that the requested relief apply to any distributor of Shares, whether affiliated or unaffiliated with the Adviser (included in the term ''Distributor''). Any Distributor will comply with the terms and conditions of the Order.

Applicants' Requested Exemptive Relief

4. Applicants seek the requested Order under section 6(c) of the Act for an exemption from sections 2(a)(32), 5(a)(1), 22(d) and 22(e) of the Act and rule 22c–1 under the Act, under sections 6(c) and 17(b) of the Act for an exemption from sections 17(a)(1) and 17(a)(2) of the Act, and under section 12(d)(1)(J) of the Act for an exemption from sections 12(d)(1)(A) and (B) of the Act. The requested Order would permit applicants to offer exchange-traded managed funds. Because the relief requested is the same as the relief granted by the Commission under the Reference Order and because the Adviser has entered into, or anticipates entering into, a licensing agreement with Eaton Vance Management, or an affiliate thereof in order to offer exchange-traded managed funds,[2] the Order would incorporate by reference the terms and conditions of the Reference Order.

5. Applicants request that the Order apply to the Initial Fund and to any other existing or future open-end management investment company or series thereof that: (a) Is advised by the Adviser or any entity controlling, controlled by, or under common control with the Adviser (any such entity included in the term ''Adviser''); and (b) operates as an exchange-traded managed fund as described in the Reference Order; and (c) complies with the terms and conditions of the Order and of the Reference Order, which is incorporated by reference herein (each such company or series and Initial Fund, a ''Fund'').[3]

6. Section 6(c) of the Act provides that the Commission may exempt any person, security or transaction, or any class of persons, securities or transactions, from any provisions of the Act, if and to the extent that 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. Section 17(b) of the Act authorizes the Commission to exempt a proposed transaction from section 17(a) of the Act if evidence establishes that the terms of the transaction, including the consideration to be paid or received, are reasonable and fair and do not involve overreaching on the part of any person concerned, and the proposed transaction is consistent with the policies of the registered investment company and the general purposes of the Act. Section 12(d)(1)(J) 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 section 12(d)(1) if the exemption is consistent with the public interest and the protection of investors.

7. Applicants submit that for the reasons stated in the Reference Order: (1) With respect to the relief requested pursuant to section 6(c) of the Act, the relief is 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; (2) with respect to the relief request pursuant to section 17(b) of the Act, the proposed transactions are reasonable and fair and do not involve overreaching on the part of any person concerned, are consistent with the policies of each registered investment company concerned and consistent with the general purposes of the Act; and (3) with respect to the relief requested pursuant to section 12(d)(1)(J) of the Act, the relief is consistent with the public interest and the protection of investors.

By the Division of Investment Management, pursuant to delegated authority.

Brent J. Fields,

Secretary.

[FR Doc. 2015–20409 Filed 8–18–15; 8:45 am]

BILLING CODE 8011–01–P

[2] Eaton Vance Management has obtained patents with respect to certain aspects of the Funds' method of operation as exchange-traded managed funds.

[3] All entities that currently intend to rely on the Order are named as applicants. Any other entity that relies on the Order in the future will comply with the terms and conditions of the Order and of the Reference Order, which is incorporated by reference herein.

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–75696; File No. SR–NYSEMKT–2015–58]

Self-Regulatory Organizations; NYSE MKT LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Amending Rule 79A—Equities To Delete Supplementary Material .20 Requiring Prior Floor Official Approval Before a Designated Market Maker Can Initiate Certain Trades More Than One or Two Dollars Away From the Last Sale

August 13, 2015.

Pursuant to section 19(b)(1)[1] of the Securities Exchange Act of 1934 (''Act'')[2] and Rule 19b–4 thereunder,[3] notice is hereby given that on July 29, 2015, NYSE MKT LLC (''Exchange'' or ''NYSE MKT'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend Rule 79A—Equities to delete Supplementary Material .20 requiring prior Floor Official approval before a Designated Market Maker (''DMM'') can initiate certain trades more than one or two dollars away from the last sale. The text of the proposed rule change is available on the Exchange's Web site at *www.nyse.com*, at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend Rule 79A—Equities (''Rule 79A'') to delete Supplementary Material .20, which requires prior Floor Official approval for certain DMM dealer trades more than one or two dollars away from the last sale, and to make conforming amendments to Rules 48—Equities (''Rule 48''), 80C—Equities (''Rule 80C'') and Rule 476A to delete references to Rule 79A.20.

Background

Currently, except with respect to inactively traded securities the Exchange shall from time to time identify, Rule 79A.20(a) requires DMMs to obtain prior Floor Official approval for all transactions in stocks by the DMM as dealer (when the market is slow)[4] or transactions in which the DMM as dealer is reaching across the market[5] (when the market is fast) that are made at (i) $1.00 or more away from the last sale when such last sale is under $20 per share or (ii) $2.00 or more away from the last sale when such last sale is at $20 per share or over. The Rule also provides that in unusual market situations, a Floor Governor, Senior Floor Official, or Executive Floor Official[6] has the discretion to determine that a different price parameter other than that required in subdivision (a) of the Rule is appropriate when the last sale is at $100 per share or over.[7]

The principles embodied in Rule 79A.20 are based on New York Stock Exchange LLC (''NYSE'') Rule 79A.20 and were originally aimed at preventing undue price dislocation by the specialist at the opening.[8] Gradually, the NYSE rule was extended to all trades significantly away from the last sale.[9] The NYSE rule also functioned in part as a safeguard against market manipulation by specialists and Floor brokers as well as a control on price volatility by requiring a Floor Official who was not party to the transaction to review and approve all proposed transactions exceeding the rule's parameters before the trade was published to the consolidated tape, thereby ensuring that specialists were maintaining appropriate price continuity and depth, and that Floor brokers were not transacting in the trading crowd at unduly wide variations from the last sale.[10]

In 2006, the Commission approved the NYSE's adoption of a ''hybrid market'' under which NYSE systems assumed the function of matching and executing electronically-entered orders but specialists remained the responsible broker-dealer for orders on the Exchange's limit order book.[11] In 2007, as a result of the increasing automation of trading and the accompanying decentralization of pricing decisions away from specialists, the NYSE comprehensively amended Rule 79A.20. In that filing, the NYSE virtually eliminated Rule 79A.20 approvals in all situations except those prescribed in the current Rule.[12]

Since that time, additional, significant market structure changes have continued to obviate the need for Rule 79A.20. In particular, in 2008, the NYSE and the Exchange adopted the New Market Model, which transformed specialists into DMMs, who are no longer agents for the Exchange's limit order book and whose trading activity on the Exchange is limited to proprietary trading.[13] Also in 2008, the NYSE greatly enhanced the transparency of its marketplace and improved the quality of the opening and closing auctions by introducing a real-time order imbalance information data feed (''Order Imbalance Information'').[14] Further, DMMs now also have the ability to electronically open and close trading on the Exchange, which was not available to specialists in 2007.[15] In 2015, the Exchange eliminated Liquidity Replenishment Points (''LRP'') and the Gap Quote Policy and amended Rule

[4] For purposes of the Rule, the Exchange is considered a ''slow'' market when displaying a bid or offer (or both) that is not entitled to protection of Rule 611 under Regulation NMS. *See* Rule 79A.20(a). DMM dealer transactions in slow markets include the opening, reopening, and closing transactions.

[5] A DMM reaches across the market when the DMM buys from the Exchange offer or sells to the Exchange bid.

[6] Pursuant to Rules 46—Equities and 46A—Equities, Floor Governors, Senior Floor Officials and Executive Floor Officials are one of several ranks of the broader category of Floor Officials, including, in order of increasing seniority, Floor Officials, Senior Floor Officials, Executive Floor Officials, Floor Governors and Executive Floor Governors.

[7] *See* Rule 79A.20(b).

[8] On October 1, 2008, the Commission approved the Exchange's rule proposal to establish new membership, member firm conduct, and equity trading rules that were based on the existing NYSE rules to reflect that equities trading on the Exchange would be supported by the NYSE's trading system. *See Securities* Exchange Act Release Nos. 58705 (Oct. 1, 2008), 73 FR 58995 (Oct. 8. 2008) (SR–Amex–2008–63) (approval order) and 59022 (Nov. 26, 2008), 73 FR 73683 (Dec. 3, 2008) (SR–NYSEALTR–2008–10) (amending equity rules to conform to NYSE New Market Model Pilot rules) (''Release No. 59022''). Because the Exchange's rules are based on the existing NYSE rules, the Exchange believes that pre-October 1, 2008 NYSE rule filings provide guidance concerning Exchange equity rules.

[9] *See* Securities Exchange Act Release No. 56209 (August 6, 2007), 72 FR 45290, 45291 (August 13, 2007) (SR–NYSE–2007–65) (''Release No. 56209'').

[10] *See id.*

[11] *See* Securities Exchange Act Release No. 53539 (March 22, 2006), 71 FR 16353 (March 31, 2006) (SR–NYSE–2004–05).

[12] *See* Release No. 56209, *supra* note 9, at 45291. At the time, the rule was set forth in Supplementary Material .30 of Rule 79A. The rule was re-numbered as Supplementary Material .20 in 2008. *See* Securities Exchange Act Release No. 58184 (July 17, 2008), 73 FR 42853 (July 23, 2008) (SR–NYSE–2008–46); *see also* Release No. 59022, *supra* note 8.

[13] *See* Securities Exchange Act Release No. 58845(October 24, 2008), 73 FR 64379, 64381 (October 29, 2008) (SR–NYSE–2008–46). *See also* Release No. 59022, *supra* note 8.

[14] *See* Securities Exchange Act Release No. 57861 (May 23, 2008), 73 FR 31905 (June 4, 2008) (SR–NYSE–2008–42). *See also* Securities Exchange Act Release No. 59816 (April 23, 2009), 74 FR 19614 (April 29, 2009) (SR–NYSEAmex–2009–13) (modifying the reference price at which the Exchange reports Order Imbalance Information and clarifying what information is included in and excluded from the Order Imbalance Information Reports). In 2009, the Exchange further enhanced the transparency of its informational data feed for imbalances by including d-Quotes and all other e-Quotes containing pegging instructions eligible to participate in the closing transaction in the Order Imbalance Information data feed. *See* Rule 70(1)—Equities & Supplementary Material .25; Securities Exchange Act Release No. 60151 (June 19, 2009), 74 FR 30653 (June 26, 2009) (SR–NYSEAmex–2009–29).

[15] *See* Rule 123D—Equities (openings); Rule 123C.10—Equities (closings). *See generally* Rule 104(b)—Equities.

79A.20 to remove references to these Exchange-specific volatility mechanisms. Rule 79A.20 had previously required Floor Official review and approval of DMMs dealer trades one or two points away from the last sale following these intra-day ''slow'' market scenarios.[16] Finally, also in 2015, the Exchange amended Rule 1000 to reject marketable orders of over 1,000,000 shares upon arrival. Such orders were ineligible for automatic execution and caused the Exchange to suspend automatic executions and disseminate a ''slow'' quote condition.[17]

Proposed Rule Change

The Exchange proposes to delete Rule 79A.20. As discussed below, the situations where the Rule would be invoked are now limited to the open, reopenings and the close, where market transparency and existing safeguards render the Rule unnecessary and duplicative of other rules requiring Floor Official approval.

As noted above, the recent elimination of LRPs and the Gap Quote Policy removed the remaining intra-day events when the Exchange's market was ''slow'' and DMM pricing decisions that could trigger Rule 79A.20 approvals. As such, trading circumstances warranting Rule 79A.20 review are now limited to manual DMM participation when a security moves one or two dollars from the last sale (based on whether the security is under $20 or $20 and over) at either the open, close or, more rarely, intraday during reopenings.

In light of the transparency surrounding the open and close and the involvement of Floor Officials in those processes, the Exchange believes that there is no longer a need for Floor Officials to separately approve individual DMM transactions under Rule 79A.20. First, as described above, the NYSE significantly enhanced the transparency surrounding the open and close with the introduction of a real-time Order Imbalance Information data feed in 2008, which the Exchange adopted. This proprietary data feed, disseminated prior to the open pursuant to Rule 15(c)(1)—Equities [18] and prior to close pursuant to Rule 123C(6)—Equities,[19] reflects real-time order imbalances that accumulate prior to the opening and closing transactions on the Exchange and the price at which interest eligible to participate in the opening or closing transactions may be executed in full.

Second, in addition to disseminating Order Imbalance Information, the Exchange's Rules require the timely communication of price dislocations and unusual market situations, including delayed openings, to the marketplace. Rule 15(a)—Equities provides that if the opening transaction in a security will be at a price that represents a change of more than the ''applicable price change'' specified in the Rule (representing a numerical or percentage change from the security's closing price per share or, in the case of an IPO, the security's offering price), the DMM arranging the opening transaction or the Exchange must issue a pre-opening indication (a ''Rule 15 Indication''), which represents a range of where a security may open. The Rule 15 Indication is a price range that is published on the Exchange's proprietary data feeds prior to the scheduled opening time. A Rule 15 Indication includes the security and the price range within which the DMM anticipates the opening transaction will occur, and would include any orally-represented Floor broker interest for the open.

Similarly, Rule 123D—Equities Mandatory Indications are required for an opening that will result in a ''significant'' price change from the previous close. For securities priced under $10, indications are required under Rule 123D(1) if the price change is one dollar or more; for securities between $10 and $99.99, indications are required for price movements of the lesser of 10% or three dollars; and for securities over $100, indications are required for price movements of five dollars or more. Rule 123D(1)—Equities requires DMMs to disseminate one or more indications in connection with any delayed opening where a security has not opened or been quoted by 10 a.m. (''Rule 123D Mandatory Indication''). The DMM is responsible for publishing the Rule 123D Mandatory Indication and, when determining the price range for the indication, take into consideration Floor broker interest that has been orally entered and what, at a given time, the DMM anticipates the dealer participation in the opening transaction would be. Rule 123D Mandatory Indications are published to the Consolidated Tape.

Importantly, all Rule 123D Mandatory Indications require the supervision and approval of a Floor Official. Rule 123D approvals are therefore similar to Rule 79A.20 approvals. In fact, on NYSE, almost half of Floor Official approvals under Rule 79A.20 also occur in situations where a mandatory indication was published pursuant to Rule 123D. In these circumstances, requiring the Floor Official to separately approve a price movement under Rule 79A.20 would be duplicative.

The Exchange further notes that the Floor Official approval requirements of Rule 79A.20 impede the ability of a DMM to open or close a security electronically at the Exchange if the security were to open one or two points away from the last sale. As a practical matter, the only way for Floor Officials to approve trades more than one or two dollars away from the last sale in the case of an electronic open or close would be to turn a fast market into a ''slow'' one and potentially open the security after 9:30 a.m., which was one of the rationales for eliminating virtually all Rule 79A.20 approvals in 2007 on the NYSE.[20]

With respect to the separate Rule 79A.20 requirement that the DMM obtain Floor Official approvals when the market is fast and the DMM as dealer is reaching across the market, *i.e.*, selling at the bid and buying at the offer, the Exchange similarly believes that such approvals are unnecessary and duplicative of other safeguards. As

[16] *See* Securities Exchange Act Release No. 74064 (January 15, 2015), 80 FR 3273 (January 22, 2015) (SR–NYSEMKT–2015–02). *See also* note 4, *supra.*

[17] *See* Securities Exchange Act Release No. 74650 (April 6, 2015), 80 FR 19389 (April 10, 2015) (SR–NYSEMKT–2015–21).

[18] Pursuant to Rule 15(c)(1)—Equities, Order Imbalance Information disseminated prior to the open includes all interest eligible for execution in the opening transaction of the security in Exchange systems, *i.e.,* electronic interest, including Floor broker electronic interest, entered into Exchange systems prior to the opening. Pre-opening Order Imbalance Information is disseminated approximately every five minutes between 8:30 a.m. Eastern Time (''ET'') and 9:00 a.m. ET.; approximately every minute between 9:00 a.m. ET and 9:20 a.m. ET; and approximately every 15 seconds between 9:20 a.m. ET and the opening of trading in that security. *See* Rule 15(c)(3)—Equities.

[19] Pursuant to Rule 123C(6)—Equities, Order Imbalance Information disseminated prior to the close includes, among other things: (1) The Mandatory Market on Close (''MOC'')/Limit on Close (''LOC'') Imbalance Publication; (2) a data field indicating the price at which closing-only interest (*i.e.,* MOC orders, marketable LOC orders, and CO orders opposite the imbalance) may be executed in full; and, (3) a data field indicating the price at which interest in the Display Book (*e.g.*, Minimum Display Reserve Orders, Floor broker reserve e-Quotes not designated to be excluded from the aggregated agency interest information available to the DMM, d-Quotes and pegged e-Quotes at the price indicated on the order as the base price to be used to calculate the range of discretion and Stop orders) as well as all closing-only orders (MOC, marketable LOC, and CO orders opposite the imbalance) may be executed in full. Pre-closing Order Imbalance Information is disseminated every fifteen seconds between 3:40 p.m. and 3:50 p.m.; thereafter, it is disseminated every five seconds between 3:50 p.m. and 4:00 p.m. Commencing at 3:55 p.m., the Order Imbalance Information disseminated by the Exchange also includes d-Quotes and all other e-Quotes containing pegging instructions eligible to participate in the closing transaction and Stop orders.

[20] *See* Release No. 56209, *supra* note 9, at 45291.

noted above, the application of Rule 79A.20 is limited to the opening, reopenings and the close, where this scenario would not arise. Moreover, the Exchange believes that obtaining Floor Official approval when a DMM is reaching across a fast market is impractical in today's market place because, especially in the most actively traded Exchange securities, the automated marketplace simply moves too fast.

Even if obtaining Floor Official approvals were practical, the Exchange believes that the combination of volatility and system controls in place that were unavailable in 2007 render such approvals unnecessary. DMM dealer trades one or two points away from the last sale that reach across the market would continue to be subject to the Limit Up/Limit Down (''LULD'') price controls, as provided for in Rule 80C(a)(4)—Equities, the Trading Collars, as provided for in Rule 1000(c)—Equities, and the numerical guidelines for determining whether a clearly erroneous execution has occurred under Rule 128—Equities. In addition, as the NYSE noted in a different context,[21] as the marketplace has become more electronic, DMM units have increased their utilization of technology to reduce risk exposure by using algorithms to adjust prices quickly in response to market dynamics, which in turn has contributed to reducing the potential for significant and/or rapid movements in the market and help DMMs satisfy their obligation to maintain a fair and orderly market in assigned securities pursuant to Rule 104—Equities, particularly in times of market stress. The Exchange believes that these risk controls provide a further significant limitation on the ability of DMMs to initiate a move of more than one or two dollars away from the last sale trade in fast markets, especially in light of the tight spreads on the NYSE, which is similarly proposing to delete Rule 79A.20.[22]

Finally, DMM pricing decisions at the open and close and during fast markets are subject to specific DMM obligations with respect to the quality of the markets in securities to which they are assigned. In general, transactions on the Exchange by a DMM for the DMM's account must be effected in a reasonable and orderly manner in relation to the condition of the general market and the market in the particular stock.

As noted, DMMs have affirmative obligations under Rule 104(a)—Equities to engage in a course of dealings for their own account to assist in the maintenance of a fair and orderly market insofar as reasonably practicable. Specifically, Rule 104(f)(ii)—Equities sets forth the DMM's obligation to act as reasonably necessary to ensure appropriate depth and maintain reasonable price variations between transactions (also known as price continuity) and prevent unexpected variations in trading. Further, under Rule 123D(1)—Equities, openings and reopenings must be fair and orderly, reflecting the DMM's professional assessment of market conditions at the time, and appropriate consideration of the balance of supply and demand as reflected by orders represented in the market. The Exchange also supplies DMMs with suggested Depth Guidelines for each security in which a DMM is registered, and DMMs are expected to quote and trade with reference to the Depth Guidelines. Further, the DMM's affirmative obligation includes obligations to re-enter the market when reaching across to execute against available interest. For instance, under Rule 104(h)—Equities, DMMs can engage in conditional transactions that establish or increase a position and that reach across the market without restriction provided such transactions are followed by appropriate re-entry on the opposite side of the market commensurate with the size of the DMM's transaction.[23] The Exchange issues guidelines, called price participation points (''PPP''), that identify the price at or before which a DMM is expected to re-enter the market after effecting a conditional transaction.[24] DMM trading activity on the Exchange is actively monitored for compliance with each of these obligations.

The Exchange believes that the availability and dissemination of Order Imbalance Information, Rule 15 Indications and 123D Mandatory Indications, together with the DMM's existing affirmative and other obligations pursuant to Rule 104, provide an appropriate framework in today's market structure for ensuring that opening or closing transactions that occur at a price significantly away from the last sale price are communicated to all market participants. In particular, because of this transparency, the open and close are subject to greater scrutiny by all market participants, which in of itself serves as a check on where a DMM opens or closes a security. The Exchange therefore believes that the need for a Floor Official to review a DMM's actions at the open or close, which was adopted in a time when there was no market-wide transparency regarding pricing of the open or close, is redundant of existing oversight of the open and close.

For all of these reasons, the Exchange believes that requiring separate Floor Official approvals for one and two dollar price movements is no longer necessary.

The Exchange also proposes to delete references to Rule 79A.20 from Rules 48, 80C and 476A. In the case of Rule 48, the reference to be removed would be to Rule 79A.30—Equities. Rule 48 was not updated when the text of the Rule was moved from Supplementary Material .30 to .20.[25] The Exchange believes these proposed changes will add transparency and clarity to the Exchange's rules.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with section 6(b) of the Act,[26] in general, and furthers the objectives of section 6(b)(5) of the Act,[27] in particular, because it is designed to prevent fraudulent and manipulative acts and practices, promote just and equitable principles of trade, remove impediments to and perfect the mechanism of a free and open market and a national market system, and protect investors and the public interest. In particular, the Exchange believes that eliminating Rule 79A.20 would remove impediments to and perfect the mechanism of a free and open market and a national market system by eliminating redundant approvals from the remaining manual processes at the open and close of trading. The Exchange believes that eliminating Rule 79A.20 approvals would not be inconsistent with the public interest and the protection of investors because the transparency surrounding the open and close and the information available to the marketplace enables investors and the public to assess whether a security would open or close outside the one or two point parameter, thereby obviating the need for a single Floor Official to oversight the open and close. Further, the Exchange believes that eliminating Rule

[21] *See* Securities Exchange Act Release No. 71360 (January 21, 2014), 79 FR 4366, 4367 (January 27, 2014) (SR–NYSE–2014–02).

[22] For instance, in May 2015, the quoted spread on the NYSE for stocks below $20 a share was $0.048; the quoted spread for stocks above $20 was $0.466. For all NYSE-listed securities, the quoted spread in May 2015 was $0.314. *See* SR–NYSE–2015–33.

[23] *See* Rule 104(h)(iii)—Equities. Immediate re-entry is required after certain Conditional Transactions.

[24] *See* Rule 104(h)(iii)(A)—Equities.

[25] *See* note 12 *supra.*

[26] 15 U.S.C. 78f(b).

[27] 15 U.S.C. 78f(b)(5).

79A.20 approvals would not be inconsistent with the public interest and the protection of investors because other safeguards will remain in place to ensure that DMMs maintain appropriate price continuity and depth and do not transact at unduly wide price variations, thereby establishing substantially the same result. As noted above, pursuant to Rule 123D—Equities, Floor Officials would remain involved in supervising when the open would occur at a price significantly away from the last sale, which is when the majority of Rule 79A.20 approvals currently occur, and DMM trading will also remain subject to Exchange rules, including the obligation to maintain a fair and orderly market under Rule 104—Equities.

The Exchange further believes that deleting corresponding references to Rule 79A.20 in other rules would remove impediments to and perfects the mechanism of a free and open market by reducing potential confusion and adding transparency and clarity to the Exchange's rules, thereby ensuring that members, regulators and the public can more easily navigate and understand the Exchange's rulebook.

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 intended to address competitive issues but rather to eliminate redundant approvals of manual trades on its trading Floor.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has filed the proposed rule change pursuant to section 19(b)(3)(A)(iii) of the Act [28] and Rule 19b–4(f)(6) thereunder.[29] Because the proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative prior to 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to section 19(b)(3)(A) of the Act and Rule 19b–4(f)(6)(iii) thereunder.

A proposed rule change filed under Rule 19b–4(f)(6) [30] normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b–4(f)(6)(iii),[31] the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest.

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings under section 19(b)(2)(B) [32] of the Act to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–NYSEMKT–2015–58 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSEMKT–2015–58. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSEMKT–2015–58 and should be submitted on or before September 9, 2015.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[33]

Brent J. Fields,

Secretary.

[FR Doc. 2015–20415 Filed 8–18–15; 8:45 am]

BILLING CODE 8011–01–P

[28] 15 U.S.C. 78s(b)(3)(A)(iii).

[29] 17 CFR 240.19b–4(f)(6).

[30] 17 CFR 240.19b–4(f)(6).

[31] 17 CFR 240.19b–4(f)(6)(iii).

[32] 15 U.S.C. 78s(b)(2)(B).

[33] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 31757; 812–14516]

Ivy NextShares, et al.; Notice of Application

August 13, 2015.

AGENCY: Securities and Exchange Commission.

ACTION: Notice of an application for an order under section 6(c) of the Investment Company Act of 1940 (''Act'') for an exemption from sections 2(a)(32), 5(a)(1), 22(d) and 22(e) of the Act and rule 22c–1 under the Act, under sections 6(c) and 17(b) of the Act for an exemption from sections 17(a)(1) and (a)(2) of the Act, and under section 12(d)(1)(J) of the Act for an exemption from sections 12(d)(1)(A) and (B) of the Act.

APPLICANTS: Ivy NextShares (the ''Trust''), Ivy Investment Management Company (the ''Manager'') and Ivy Funds Distributor, Inc. (the ''Distributor'').

SUMMARY: Applicants request an order (''Order'') that permits: (a) Actively managed series of certain open-end management investment companies to issue shares (''Shares'') redeemable in large aggregations only (''Creation Units''); (b) secondary market transactions in Shares to occur at the next-determined net asset value plus or minus a market-determined premium or discount that may vary during the trading day; (c) certain series to pay redemption proceeds, under certain circumstances, more than seven days from the tender of Shares for redemption; (d) certain affiliated persons of the series to deposit securities into, and receive securities from, the series in connection with the purchase and redemption of Creation Units; (e) certain registered management investment companies and unit investment trusts outside of the same group of investment companies as the series to acquire Shares; and (f) certain series to create and redeem Shares in kind in a master-feeder structure. The Order would incorporate by reference terms and conditions of a previous order granting the same relief sought by applicants, as that order may be amended from time to time (''Reference Order'').[1]

DATES: Filing Dates: The application was filed on July 21, 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 September 8, 2015, and should be accompanied by proof of service on applicants, in the form of an affidavit or, for lawyers, a certificate of service. Pursuant to rule 0–5 under the Act, hearing requests should state the nature of the writer's interest, any facts bearing upon the desirability of a hearing on the matter, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Commission's Secretary.

ADDRESSES: The Commission: Brent J. Fields, Secretary, U.S. Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090. Applicants: 6300 Lamar Avenue Overland Park, Kansas 66202.

FOR FURTHER INFORMATION CONTACT: Jean E. Minarick, Senior Counsel, or Dalia Osman Blass, Assistant Chief Counsel, 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

1. The Trust will be registered as an open-end management investment company under the Act and is a business trust organized under the laws of Delaware. Applicants seek relief with respect to three Funds (as defined below, and those Funds, the ''Initial Funds''). The portfolio positions of each Fund will consist of securities and other assets selected and managed by its Manager or Subadviser (as defined below) to pursue the Fund's investment objective.

2. The Manager, a Delaware corporation, will be the investment manager to the Initial Funds. A Manager (as defined below) will serve as investment manager to each Fund. The Manager is, and any other Manager will be, registered as an investment adviser under the Investment Advisers Act of 1940 (''Advisers Act''). The Manager and the Trust may retain one or more subadvisers (each a ''Subadviser'') to manage the portfolios of the Funds. Any Subadviser will be registered, or not subject to registration, under the Advisers Act.

3. The Distributor is a Florida Corporation and a broker-dealer registered under the Securities Exchange Act of 1934 and will act as the principal underwriter of Shares of the Funds. Applicants request that the requested relief apply to any distributor of Shares, whether affiliated or unaffiliated with the Manager (included in the term ''Distributor''). Any Distributor will comply with the terms and conditions of the Order.

Applicants' Requested Exemptive Relief

4. Applicants seek the requested Order under section 6(c) of the Act for an exemption from sections 2(a)(32), 5(a)(1), 22(d) and 22(e) of the Act and rule 22c–1 under the Act, under sections 6(c) and 17(b) of the Act for an exemption from sections 17(a)(1) and 17(a)(2) of the Act, and under section 12(d)(1)(J) of the Act for an exemption from sections 12(d)(1)(A) and (B) of the Act. The requested Order would permit applicants to offer exchange-traded managed funds. Because the relief requested is the same as the relief granted by the Commission under the Reference Order and because the Manager has entered into, or anticipates entering into, a licensing agreement with Eaton Vance Management, or an affiliate thereof in order to offer exchange-traded managed funds,[2] the Order would incorporate by reference the terms and conditions of the Reference Order.

5. Applicants request that the Order apply to the Initial Funds and to any other existing or future open-end management investment company or series thereof that: (a) Is advised by the Manager or any entity controlling, controlled by, or under common control with the Manager (any such entity included in the term ''Manager''); and (b) operates as an exchange-traded managed fund as described in the Reference Order; and (c) complies with the terms and conditions of the Order and of the Reference Order, which is incorporated by reference herein (each such company or series and Initial Fund, a ''Fund'').[3]

6. Section 6(c) of the Act provides that the Commission may exempt any person, security or transaction, or any class of persons, securities or transactions, from any provisions of the Act, if and to the extent that 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. Section 17(b) of the Act authorizes the Commission to exempt a proposed transaction from section 17(a) of the Act if evidence establishes that the terms of the transaction, including the consideration to be paid or received, are reasonable and fair and do not involve overreaching on the part of any person concerned, and the proposed transaction is consistent with the policies of the registered investment company and the general purposes of the Act. Section 12(d)(1)(J) 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 section 12(d)(1) if the

[1] Eaton Vance Management, *et al.,* Investment Company Act Rel. Nos. 31333 (Nov. 6, 2014) (notice) and 31361 (Dec. 2, 2014) (order).

[2] Eaton Vance Management has obtained patents with respect to certain aspects of the Funds' method of operation as exchange-traded managed funds.

[3] All entities that currently intend to rely on the Order are named as applicants. Any other entity that relies on the Order in the future will comply with the terms and conditions of the Order and of the Reference Order, which is incorporated by reference herein.

exemption is consistent with the public interest and the protection of investors.

7. Applicants submit that for the reasons stated in the Reference Order: (1) With respect to the relief requested pursuant to section 6(c) of the Act, the relief is 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; (2) with respect to the relief request pursuant to section 17(b) of the Act, the proposed transactions are reasonable and fair and do not involve overreaching on the part of any person concerned, are consistent with the policies of each registered investment company concerned and consistent with the general purposes of the Act; and (3) with respect to the relief requested pursuant to section 12(d)(1)(J) of the Act, the relief is consistent with the public interest and the protection of investors.

By the Division of Investment Management, pursuant to delegated authority.

Brent J. Fields,

Secretary.

[FR Doc. 2015–20411 Filed 8–18–15; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 31758; 812–14352]

FEG Absolute Access TEI Fund LLC and FEG Investors, LLC; Notice of Application

August 13, 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 and for an order pursuant to section 17(d) of the Act and rule 17d–1 under the Act.

SUMMARY OF APPLICATION: Applicants request an order to permit certain registered closed-end management investment companies to issue multiple classes of limited liability company units (''Units'') with sales loads and/or asset-based distribution and/or service fees and contingent deferred sales loads (''CDSCs'').

APPLICANTS: FEG Absolute Access TEI Fund LLC (the ''Fund''), FEG Absolute Access Fund LLC (the ''Master Fund''), and FEG Investors, LLC (the ''Adviser'').

FILING DATES: The application was filed on August 22, 2014, and amended on January 9, 2015, and June 26, 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 September 8, 2015, and should be accompanied by proof of service on applicants, in the form of an affidavit or, for lawyers, a certificate of service. Pursuant to rule 0–5 under the Act, hearing requests should state the nature of the writer's interest, any facts bearing upon the desirability of a hearing on the matter, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Commission's Secretary.

ADDRESSES: Secretary, U.S. Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090; Applicants, 201 East Fifth Street, Suite 1600, Cincinnati, OH 45202.

FOR FURTHER INFORMATION CONTACT: Christine Y. Greenlees, Senior Counsel, at (202) 551–6879 or David P. Bartels, 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 and the Master Fund are non-diversified closed-end management investment companies registered under the Act and organized as Delaware limited liability companies.[1] The Adviser, a Delaware limited liability company, is registered with the Commission as an investment adviser under the Investment Advisers Act of 1940 and serves as investment adviser to the Master Fund. Foreside Fund Services, LLC, a registered broker-dealer under the Securities Exchange Act of 1934 (''1934 Act''), currently acts as Distributor (as defined below) for the Units[2] of the Fund. Any future placement agent or distributor/principal underwriter of the Fund (the ''Distributor'') will be unaffiliated with the Adviser.

2. The Fund continuously offers Units in private placements in reliance on the provisions of Regulation D under the Securities Act of 1933, as amended (''Securities Act'').[3] Concurrent with this application for exemptive relief, the Fund is planning to publicly offer its Units. Units of the Fund will not be listed on any national securities exchange and do not trade on an over-the-counter system such as NASDAQ. Applicants do not currently expect that a substantial and regular secondary market for the Units will develop.

3. The Fund currently issues a single class of Units (the ''Initial Class'') at net asset value per Unit. The Initial Class is not currently subject to any distribution and/or service fees. Units that are not subject to a sales load or distribution and/or service fees when purchased will not subsequently be subject to a sales load or distribution and/or service fees. Investors who subscribe for Units and are admitted to the Fund become members (''Members'') of the Fund. If the requested relief is granted, the Fund intends to redesignate its Initial Class as ''Class I.'' Additionally, if the requested relief is granted, the Fund currently intends to continuously offer at least two additional classes of Units, ''Class II'' and ''Class III,'' with each class having its own fee and expense structure. For Class III Units, sales of the Units will be subject to a front-end sales load based on the offering price of the Units (*i.e.,* net asset value) for the Distributor's services in conjunction with the sale of Units and/or the services provided to Members (the ''Distribution Fee''). Any waiver of, scheduled variation in, or elimination of a Distribution Fee will comply with the requirements of rule 22d–1 under the Act as if that rule applied to closed-end management investment companies. Each class may (but would not necessarily) be subject to asset-based distribution and/or service fees. Each

[1] The Fund currently serves as the sole feeder fund in a master-feeder structure operating in accordance with section 12(d)(1)(E) of the Act and invests substantially all of its assets in the Master Fund through a Cayman Islands limited duration company (the ''Offshore Fund''). Applicants state that, consistent with section 12(d)(1)(E) of the 1940 Act, the Fund holds no investment security other than the securities of the Master Fund. If the requested relief is granted, the Offshore Fund will be dissolved and the Fund will invest directly in the Master Fund in compliance with section 12(d)(1)(E) of the 1940 Act.

[2] ''Units'' includes any other equivalent designation of a proportionate ownership interest of the Fund (or any other registered closed-end management investment company relying on the requested order).

[3] Units of the Fund are only sold to ''accredited investors,'' as defined in Regulation D under the Securities Act.

class would be subject to minimum purchase requirements.

4. In order to provide a limited degree of liquidity to Members, the Fund may from time to time offer to repurchase Units at their then current net asset value pursuant to rule 13e–4 under the 1934 Act pursuant to written tenders by Members.[4] Repurchases will be made at such times, in such amounts and on such terms as may be determined by the Fund's board of directors (''Board''), in its sole discretion.[5] The Adviser expects to ordinarily recommend that the Board authorize the Fund to offer to repurchase Units from Members semi-annually with June 30 and December 31 valuation dates.

5. Applicants request that the order also apply to any other continuously offered registered closed-end management investment company existing now or in the future for which the Adviser or any entity controlling, controlled by, or under common control with the Adviser acts as investment adviser, and which provides periodic liquidity with respect to its Units pursuant to rule 13e–4 under the 1934 Act.[6]

6. Applicants represent that any asset-based service and/or distribution fees will comply with the provisions of rule 2830(d) of the Conduct Rules of the National Association of Securities Dealers, Inc. (''NASD Conduct Rule 2830'').[7] Applicants also represent that the Fund will disclose in its prospectus the fees, expenses and other characteristics of each class of Units offered for sale by the prospectus as is required for open-end multiple class funds under Form N–1A. The Fund will disclose fund expenses borne by Members as if it were an open-end management investment company during the reporting period in Member reports and describe in its prospectus any arrangements that result in breakpoints in, or elimination of, sales loads with respect to each class of Units offered for sale by that prospectus.[8] The Fund will also comply with any requirements that may be adopted by the Commission or FINRA 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.[9] In addition, applicants will comply with applicable enhanced fee disclosure requirements for fund of funds, including registered funds of hedge funds.[10]

7. The Fund will allocate all expenses incurred by it among the various classes of Units 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 a Fund allocated to a particular class of Units will be borne on a pro rata basis by each outstanding Unit of that class. Applicants state that the Fund will comply with the provisions of rule 18f–3 under the Act as if it were an open-end investment company.

8. Although the Fund does not currently intend to impose CDSCs, the Fund will only impose a CDSC in compliance with rule 6c–10 as if that rule applied to closed-end management investment companies. Applicants further state that, in the event it imposes CDSCs, the Fund will apply the CDSCs (and any waivers or scheduled variations of the CDSCs) uniformly to all Members of a given class and consistently with the requirements of rule 22d–1 under the Act.

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 Units of the Fund may be prohibited by section 18(c).

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 permitting multiple classes of Units of the Fund 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 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 Fund to issue multiple classes of Units.

4. Applicants believe that the proposed allocation of expenses relating to distribution and voting rights is equitable and will not discriminate against any group or class of Members. Applicants submit that the proposed arrangements would permit the Fund to facilitate the distribution of its Units and provide investors with a broader choice of Member options. 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 the Fund will comply with the provisions of rule 18f–3 as if it were an open-end investment company.

[4] Likewise, the Master Fund's repurchase offers will be conducted pursuant to rule 13e–4 under the 1934 Act.

[5] Units will be subject to an early repurchase fee at a rate of 2% of the aggregate net asset value of the Member's Units repurchased by the Fund (the ''Early Repurchase Fee'') if the interval between the date of purchase of the Units and the valuation date with respect to the repurchase of those Units is less than eighteen months. The Early Repurchase Fee will apply equally to all classes of Units of the Fund, consistent with section 18 of the Act and rule 18f–3 under the Act. To the extent the Fund determines to waive, impose scheduled variations of, or eliminate the Early Repurchase Fee, it will do so consistently with the requirements of rule 22d–1 under the Act and the Fund's waiver of, scheduled variation in, or elimination of, the Early Repurchase Fee will apply uniformly to all classes of shares of the Fund.

[6] Any Fund relying on this relief will do so in a manner consistent with the terms and conditions of the application. Applicants represent that each investment company presently intending to rely on the order requested in the application is listed as an applicant.

[7] All references to NASD Conduct Rule 2830 include any successor or replacement rule that may be adopted by the Financial Industry Regulatory Authority (''FINRA'').

[8] *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).

[9] *See* Confirmation Requirements and Point of Sale Disclosure Requirements for Transactions in Certain Mutual Funds and Other Securities, and Other Confirmation Requirement Amendments, and Amendments to the Registration Form for Mutual Funds, Investment Company Act Release No. 26341 (Jan. 29, 2004) (proposing release).

[10] 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.

CDSCs

1. Rule 6c–10 under the Act permits open-end investment companies to impose CDSCs, subject to certain conditions. Applicants state that although the Fund does not currently intend to impose CDSCs, the Fund will only impose a CDSC in compliance with rule 6c–10 as if that rule applied to closed-end management investment companies. The Fund would also make required disclosures in accordance with the requirements of Form N–1A concerning CDSCs as if the Fund were an open-end investment company. Applicants further state that, in the event it imposes CDSCs, the Fund will apply the CDSCs (and any waivers or scheduled variations of the CDSCs) uniformly to all Members of a given class and consistently with the requirements of rule 22d–1 under the Act.

Early Repurchase Fees

1. To the extent the Fund determines to waive, impose scheduled variations of, or eliminate the Early Repurchase Fee, it will do so consistently with the requirements of Rule 22d–1 under the Act and the Fund's waiver of, scheduled variation in, or elimination of, the Early Repurchase Fee will apply uniformly to all classes of Units of the Fund.

Asset-Based Service and/or 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 permit the Fund to impose asset-based service and/or distribution fees. Applicants have agreed to comply with rules 12b–1 and 17d–3 as if those rules applied to closed-end investment companies.

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 also believe that the requested relief meets the standards for relief in section 17(d) of the Act and rule 17d–1 thereunder.

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 and 22d–1 under the Act, as amended from time to time or replaced, as if those rules applied to closed-end management investment companies, and will comply with the NASD Conduct Rule 2830, 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. 2015–20410 Filed 8–18–15; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–75694; File No. SR–NASDAQ–2015–089]

Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Notice of Filing of Proposed Rule Change Relating to the Listing and Trading of the 1–3 Month Enhanced Short Duration ETF, a Series of Plus Trust

August 13, 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 July 29, 2015, The NASDAQ Stock Market LLC (''NASDAQ'' or the ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in in Items I and II below, which Items have been prepared by NASDAQ. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

NASDAQ proposes to list and trade the shares of the 1–3 Month Enhanced Short Duration ETF[3] (the ''Fund''), a series of Plus Trust (the ''Trust''), under NASDAQ Rule 5735, entitled Managed Fund Shares (''Managed Fund Shares'').[4] The shares of the Fund are collectively referred to herein as the ''Shares.''

The text of the proposed rule change is available at *http://nasdaq.cchwallstreet.com/,* at NASDAQ's principal office, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, NASDAQ included statements concerning the purpose of, and basis for, the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. NASDAQ has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

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[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] ''ETF'' is exchange-traded fund.

[4] The Commission approved NASDAQ Rule 5735 in Securities Exchange Act Release No. 57962 (June 13, 2008) 73 FR 35175 (June 20, 2008) (SR–NASDAQ–2008–039). The Commission has already considered and approved the listing of several actively-managed funds on the Exchange pursuant to Rule 5735. *See, e.g.,* Securities Exchange Act Release Nos. 66489 (February 29, 2012), 77 FR 13379 (March 6, 2012) (SR–NASDAQ–2012–004) (order approving listing and trading of WisdomTree Emerging Markets Corporate Bond Fund); 70829 (November 7, 2013), 78 FR 68482 (November 14, 2013) (SR–NASDAQ–2013–122) (order approving listing and trading of the First Trust High Income Fund of First Trust Exchange-Traded Fund VI); and 74448 (March 5, 2015), 80 FR 12832 (March 11, 2015) (SR–NASDAQ–2015–012) (order approving listing and trading of WisdomTree Western Unconstrained Bond Fund). Additionally, the Commission has previously approved the listing of actively-managed funds on NYSE Arca, Inc. (''Arca'') pursuant to Rule 8.600 of that exchange. *See, e.g.,* Securities Exchange Act Release Nos. 64643 (June 10, 2011), 76 FR 35062 (June 15, 2011) (SR–NYSEArca–2011–21) (order approving listing and trading of WisdomTree Global Real Return Fund); and 67559 (August 1, 2012), 77 FR 47482 (August 8, 2012) (SR–NYSEArca–2012–57) (order approving listing and trading of QAM Equity Hedge ETF). The Exchange believes the proposed rule change raises no significant issues not previously addressed by the Commission.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to list and trade the Shares of the Fund under NASDAQ Rule 5735, which governs the listing and trading of Managed Fund Shares [5] on the Exchange. The Fund will be an actively managed ETF. The Shares will be offered by the Trust, which was established as a Delaware statutory trust on December 10, 2014.[6] The Trust is registered with the Commission as an investment company and has filed a registration statement on Form N–1A (''Registration Statement'') with the Commission.[7] The Fund is a series of the Trust.

New York Alaska ETF Management, LLC will be the investment adviser (''Adviser'') to the Fund. Foreside Fund Services, LLC (the ''Distributor'') will be the principal underwriter and distributor of the Fund's Shares. The Bank of New York Mellon (''BNY Mellon'') will act as the administrator, accounting agent, custodian, and transfer agent to the Fund.

Paragraph (g) of Rule 5735 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.[8] In addition, paragraph (g) 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, non-public information regarding the open-end fund's portfolio. Rule 5735(g) is similar to NASDAQ Rule 5705(b)(5)(A)(i); however, paragraph (g) in connection with the establishment of a ''fire wall'' between the investment adviser and the broker-dealer reflects the applicable open-end fund's portfolio, not an underlying benchmark index, as is the case with index-based funds. The Adviser is not registered as a broker-dealer and is not affiliated with a broker-dealer. In the event (a) the Adviser becomes newly affiliated with a broker-dealer or registers as a broker-dealer, 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 and/or such broker-dealer affiliate, if applicable, regarding access to information concerning the composition and/or changes to the portfolio and will be subject to procedures designed to prevent the use and dissemination of material non-public information regarding such portfolio.

Description of 1–3 Month Enhanced Short Duration ETF Principal Investments

The Fund's investment objective is to seek current income consistent with preservation of capital and daily liquidity. Under normal market conditions,[9] the Fund would invest substantially all of its net assets (exclusive of collateral with respect to securities lending, repurchase, and reverse repurchase agreement transactions) in U.S. Treasury securities, which include bills, notes, and bonds issued by the U.S. Treasury, that have remaining maturities of greater than or equal to one month and less than three months. U.S. Treasury bills, notes and bonds are direct obligations of the U.S. Treasury. U.S. Treasury bills have initial maturities of one year or less, U.S. Treasury notes from two to 10 years, and U.S. Treasury bonds more than 10 years. While U.S. Treasury securities are supported by the full faith and credit of the U.S. government, such securities are nonetheless subject to credit risk, albeit minimal (*i.e.,* the risk that the U.S. government may be, or may be perceived to be, unable to make interest and principal payments).

All of the Fund's assets will be invested in U.S. dollar-denominated securities.

In order to enhance income, the Fund intends to enter into securities lending, repurchase agreement, and/or reverse repurchase agreement [10] transactions in an amount equal to not more than 33% of the Fund's total assets, consistent with the requirements of the 1940 Act.[11]

[5] 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) (the ''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 Index Fund Shares, listed and traded on the Exchange under NASDAQ Rule 5705, 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.

[6] The Commission has issued an order granting certain exemptive relief to the Trust under the 1940 Act (the ''Exemptive Order''). *See* Investment Company Act Release No. 31709 (July 8, 2015). The Trust's application for exemptive relief under the 1940 Act states that the Fund will comply with the federal securities laws in accepting securities for deposits and satisfying redemptions with redemption securities, including that the securities accepted for deposits and the securities used to satisfy redemption requests are sold in transactions that would be exempt from registration under the Securities Act of 1933 (15 U.S.C. 77a).

[7] *See* Registration Statement on Form N–1A for the Trust filed on January 23, 2015 (File Nos. 333–201658 and 811–23019). The descriptions of the Fund and the Shares contained herein are based, in part, on information in the Registration Statement.

[8] 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 its 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.

[9] The term ''under normal market conditions'' includes, but is not limited to, the absence of extreme volatility or trading halts in the fixed income markets or the financial markets generally; 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. In response to adverse market, economic, political, or other conditions the Fund reserves the right to invest in cash, without limitation, as determined by the Adviser or Sub-Adviser [sic]. In the event the Fund engages in these temporary defensive strategies that are inconsistent with its investment strategies, the Fund's ability to achieve its investment objectives may be limited. The U.S. Treasury securities in which the Fund may invest will include variable rate U.S. Treasury securities, whose rates are adjusted daily (or at such other increment as may later be determined by the Department of the U.S. Treasury) to correspond with the rate paid on one-month or three-month U.S. Treasury securities, as applicable.

[10] A ''repurchase agreement'' (also known as a repo) is the purchase of securities with the agreement to sell the securities back at a higher price at a specific future date. A ''reverse repurchase agreement'' (also known as a reverse repo) is the sale of securities with the agreement to buy them back at a higher price at a specific future date. For the party that is selling the security and agreeing to repurchase it in the future, it is a reverse repo; for the party on the other end of the transaction that is buying the security and agreeing to sell in the future, it is a repurchase agreement.

[11] Securities lending by funds may implicate certain sections of the 1940 Act. For example, the transfer of a fund's portfolio securities to a borrower implicates section 17(f) of the 1940 Act (15 U.S.C. 80a–17(f)), which generally requires that a fund's

Continued

The Fund may lend its portfolio of securities to broker/dealers, institutional investors, banks, and insurance and/or reinsurance companies located in the member countries of The Organization for Economic Co-operation and Development (''OECD'').[12] Securities lending allows the Fund to retain ownership of the securities loaned and, at the same time, to earn additional income. Loans will be made only to parties who have been reviewed and deemed satisfactory by the Adviser, pursuant to guidelines adopted by the Trust's Board of Trustees (''Board of Trustees''), and which provide collateral under master agreements issued by SIFMA (The Securities Industry and Financial Markets Association) or ISLA (International Securities Lending Association), which is either (i) 102% cash or (ii) 102%–115% U.S. Treasury securities of the market value of the loaned securities. The collateral is marked to market daily. When the Fund lends portfolio securities, its investment performance will continue to reflect changes in the value of the securities loaned, and the Fund will also receive a fee or interest on the collateral.

The Fund may enter into repurchase and reverse repurchase agreements with broker/dealers, institutional investors, banks, and insurance and/or reinsurance companies located in the member countries of the OECD. Repurchase transactions involve the purchase of securities with an agreement to resell the securities at an agreed-upon price, date and interest payment. Reverse repurchase transactions involve the sale of securities with an agreement to repurchase the securities at an agreed-upon price, date and interest payment and have the characteristics of borrowing. With respect to repurchase agreements and reverse repurchase agreements, proceeds (collateral) received under master agreements issued by SIFMA or ICMA (International Capital Markets Association) must be equal to or greater than the market value of the sold securities and either (i) cash, (ii) U.S Treasury securities, or (iii) debt securities secured by U.S. Treasury Securities (such debt securities typically will be issued pursuant to Rule 144A and will be secured by a pledge to the note holder of U.S. Treasury Securities with a market value equal to or greater than the face value of the debt security). All collateral will have a maturity of three months or less. The collateral is marked to market daily and valued in accordance with the Fund's valuation procedures. The price paid to repurchase the security reflects interest accrued during the term of the agreement.

Other Investments

In order to seek its investment objective, the Fund will not employ other strategies outside of the above-described ''Principal Investments.''[13]

Investment Restrictions

Under normal market conditions, the Fund will invest substantially all, but not less than, 80% of its net assets (exclusive of collateral with respect to securities lending, repurchase, and reverse repurchase agreement transactions), plus any borrowings for investment purposes, in U.S. Treasury securities, which include bills, notes, and bonds issued by the U.S. Treasury, that have remaining maturities of greater than or equal to one month and less than three months.

The Fund may hold up to an aggregate amount of 15% of its net assets in illiquid securities, including repurchase and reverse repurchase agreements maturing in more than seven days, and other illiquid assets (calculated at the time of investment). 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 securities or other illiquid assets. Illiquid securities and other 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.[14]

The Fund intends to qualify for and to elect to be treated as a separate regulated investment company under Subchapter M of the Internal Revenue Code of 1986.[15]

Net Asset Value

The net asset value (''NAV'') per Share for the Fund is computed by dividing the value of the net assets of the Fund (*i.e.,* the value of its total assets less total liabilities) by the total number of Shares outstanding). Expenses and fees, including the management fee, are accrued daily and taken into account for purposes of determining NAV. The NAV will be determined on each business day as of the close of trading (ordinarily 4:00 p.m. Eastern Time (''E.T.'')) on the New York Stock Exchange (''NYSE''), now under the umbrella of the Intercontinental Exchange (''ICE'').

For purposes of calculating NAV, portfolio securities and other assets for which market quotes are readily available are valued at market value. Market value is generally determined on the basis of last reported sales prices, or if no sales are reported, based on quotes

portfolio securities be held by an eligible custodian. And a fund's obligation to return collateral at the termination of a loan implicates section 18 of the 1940 Act (15 U.S.C. 80a–18), which governs the extent to which a fund may incur indebtedness. *See also http://www.sec.gov/divisions/investment/securities-lending-open-closed-end-investment-companies.htm.*

[12] A list of OECD members is available at *http://www.oecd.org/about/membersandpartners/list-oecd-member-countries.htm.*

[13] As such, the Fund will not use derivative instruments, including options, swaps, forwards and futures contracts, both listed and over-the-counter. The Fund will not invest in leveraged, inverse, or leveraged inverse exchange-traded products and will not be operated as a ''leveraged ETF'' designed to seek a multiple of the performance of an underlying reference asset. In addition, the Fund has represented that its securities lending and reverse repurchase agreement transactions will be made in accordance with the 1940 Act and consistent with the Fund's investment objectives and policies, and will not be used to multiply the risks and returns of income producing assets. The Fund will comply with the regulatory requirements of the Commission to maintain assets as ''cover,'' and maintain segregated accounts as needed. With respect to the reverse repurchase agreements entered into by the Fund that involve obligations to make future payments to third parties, the Fund, in accordance with applicable federal securities laws, rules, and interpretations thereof, will ''set aside'' liquid assets, or engage in other measures to ''cover'' open positions with respect to such transactions. These procedures will be adopted consistent with section 18 of the 1940 Act and related Commission guidance. In addition, the Fund will include appropriate risk disclosure in its offering documents, including leveraging risk. Leveraging risk is the risk that certain transactions of the Fund, including the Fund's use of reverse repurchase agreements, may give rise to leverage, causing the Fund's Shares to be more volatile than if they had not been leveraged. The Fund will not be operated as a ''leveraged ETF'' designed to seek a multiple of the performance of an underlying reference asset.

[14] 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), FN 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 of 1933).

[15] 26 U.S.C. 851.

obtained from a quotation reporting system, established market makers, or pricing services. With respect to U.S. Treasury securities, which include bills, notes, and bonds issued by the U.S. Treasury, the Fund will value such securities at the price listed at the following sources: Bloomberg, TradeWeb, E-Speed, Tullett Prebon, the U.S. Treasury Department, and/or Interactive Brokers, with the hierarchy of such sources generally in the order listed. If a market price is not readily available from these sources, the Fund will instead employ the fair value techniques discussed below.

Securities and other assets for which market quotes are not readily available are valued at fair value as determined in good faith by the Board of Trustees or persons acting at their direction. The Board of Trustees has adopted methods for fair valuation, and has delegated to the Adviser the responsibility for applying the valuation methods.[16] In the event that market quotes are not readily available, and the security or asset cannot be valued pursuant to one of the valuation methods, the value of the security or asset will be determined in good faith by the Board of Trustees, generally based upon recommendations provided by the Adviser.

Market quotes are considered not readily available in circumstances where there is an absence of current or reliable market-based data (*e.g.,* trade information, bid/ask information, broker quotes), including where events occur after the close of the relevant market, but prior to the NYSE market close, that materially affect the values of the Fund's securities or assets. In addition, market quotes are considered not readily available when, due to extraordinary circumstances, the exchanges or markets on which the securities trade do not open for trading for the entire day and no other market prices are available. The Board of Trustees has delegated to the Adviser the responsibility for monitoring significant events that may materially affect the values of the Fund's securities or assets and for determining whether the value of the applicable securities or assets should be re-evaluated in light of such significant events.

When the Fund uses fair value pricing to determine its NAV, securities will not be priced on the basis of quotes from the primary market in which they are traded, but rather may be priced by another method that the Board of Trustees or persons acting at their direction believe reflects fair value. Fair value pricing may require subjective determinations about the value of a security. While the Trust's policy is intended to result in a calculation of the Fund's NAV that fairly reflects security values as of the time of pricing, the Trust cannot ensure that fair values determined by the Board of Trustees or persons acting at their direction would accurately reflect the price that the Fund could obtain for a security if it were to dispose of that security as of the time of pricing (for instance, in a forced or distressed sale). The prices used by the Fund may differ from the value that would be realized if the securities were sold.

Securities lending transactions, repurchase agreements and reverse repurchase agreements transactions will be valued at the combined value of (i) the value of the underlying Fund asset utilized in the transaction and (ii) the relative realized profit value, added daily.

Creation and Redemption of Shares

The Trust will issue and sell Shares of the Fund only in Creation Unit aggregations, and only in aggregations of 25,000 Shares, on a continuous basis through the Distributor, without an initial sales load, at the NAV next determined after receipt, on any business day, of an order in proper form.

The consideration for purchase of Creation Units may consist of: (i) The in-kind deposit of a designated portfolio of securities closely approximating the holdings of the Fund (the ''Deposit Securities''), and (ii) an amount of cash denominated in U.S. Dollars (the ''Cash Component'') computed as described-below. Together, the Deposit Securities and the Cash Component-constitute the ''Fund Deposit,'' which represents the minimum initial and subsequent investment amount for a Creation Unit of the Fund. The Trust expects that Creation Units will be in kind, but may be in cash at the discretion of the Fund as and to the extent permitted by the Fund's Exemptive Order.

The Fund may permit or require the consideration for Creation Units to consist solely of cash. The Fund may permit or require the substitution of an amount of cash denominated in U.S. Dollars (*i.e.,* a ''cash in lieu'' amount) to be added to the Cash Component to replace any Deposit Security. For example, the Trust reserves the right to permit or require a ''cash in lieu'' amount where the delivery of the Deposit Security by the Authorized Participant (as described below) would be restricted under the securities laws or where the delivery of the Deposit Security to the Authorized Participant would result in the disposition of the Deposit Security by the Authorized Participant becoming restricted under the securities laws, or in certain other situations.

The Cash Component is sometimes also referred to as the ''Balancing Amount.'' The Cash Component serves the function of compensating for any differences between the NAV per Creation Unit value of the Deposit Securities. If the Cash Component is a positive number (*i.e.,* the NAV per Creation Unit exceeds the value of the Deposit Securities), the Authorized Participant (defined below) will deliver the Cash Component to the Fund; and if the Cash Component is a negative number (*i.e.,* the NAV per Creation Unit is less than the value of the Deposit Securities), the Authorized Participant will receive the Cash Component from the Fund. Computation of the Cash Component excludes any stamp duty tax or other similar fees and expenses payable upon transfer of beneficial ownership of the Deposit Securities, which shall be the sole responsibility of the Authorized Participant.

BNY Mellon, through the National Securities Clearing Corporation (''NSCC''), will make available on each business day, prior to the opening of business (subject to amendments) on the Exchange (currently 9:30 a.m. E.T.), the identity and the required number of each Deposit Security and the amount of the Cash Component (or Cash Deposit) to be included in the current Fund Deposit (based on information at the end of the previous business day). Such Fund Deposit will be applicable in order to effect creations of Creation Unit aggregations of the Fund until such time as the next-announced composition of the Deposit Securities is made available. BNY Mellon, through the NSCC, will also make available on each business day, prior to the opening of business of the Exchange (currently 9:30 a.m. E.T.), the list of the names and the quantity of each security to be included (based on information at the end of the previous business day) (''Fund Securities'') in order to affect redemptions of Creation Unit aggregations of the Fund until such time as the next-announced composition of the Fund Securities is

[16] For example, domestic fixed income securities are normally valued on the basis of quotes obtained from brokers and dealers or pricing services using data reflecting the closing of the principal markets for those securities (*e.g.,* closing price). Prices obtained from independent pricing services use information provided by market makers or estimates of market values obtained from yield data relating to investments or securities with similar characteristics. Certain fixed income securities purchased on a delayed-delivery basis are marked to market daily until settlement at the forward settlement date. Short-term investments having a maturity of 60 days or less are generally valued at amortized cost.

made available. Fund Securities received on redemption may not be identical to Deposit Securities that are applicable to creations of Creation Units.

To be eligible to place orders with the Distributor and to create a Creation Unit of the Fund, an entity must be a Depository Trust Company (''DTC'') participant, such as a broker-dealer, bank, trust company, clearing corporation or certain other organization, some of whom (and/or their representatives) own DTC (each a ''DTC Participant''). DTC acts as a securities depositary for the Shares. The DTC Participant must have executed an agreement with the Distributor with respect to creations and redemptions of Creation Units (''Participant Agreement''). A DTC Participant that has executed a Participant Agreement is referred to as an ''Authorized Participant.'' Investors should contact the Distributor for the names of Authorized Participants that have signed a Participant Agreement. All Shares of the Fund, however created, will be entered on the records of DTC in the name of DTC or its nominee and deposited with, or on behalf of, DTC.

All orders to create Shares must be placed for one or more Creation Units. Orders must be transmitted by an Authorized Participant pursuant to procedures set forth in the Participant Agreement. The date on which an order to create Creation Units (or an order to redeem Creation Units, as discussed below) is placed is referred to as the ''Transmittal Date.'' Orders must be transmitted by an Authorized Participant by telephone or other transmission method acceptable to the Distributor pursuant to procedures set forth in the Participant Agreement. Economic or market disruptions or changes, or telephone or other communication failure, may impede the ability to reach the Distributor or an Authorized Participant.

The process to redeem Creation Units works much like the process to purchase Creation Units, but in reverse. Orders to redeem Creation Units of the Fund must be delivered through an Authorized Participant. Investors other than Authorized Participants are responsible for making arrangements for a redemption request to be made through an Authorized Participant. Orders must be accompanied or followed by the requisite number of Shares of the Fund specified in such order, which delivery must be made to the Distributor no later than 10:00 a.m. E.T. on the next business day following the Transmittal Date.

Availability of Information

The Fund's Web site (*www.tbil.co*), 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 Web site will include additional quantitative information updated on a daily basis, including, for the Fund, on a per Share basis: (1) The prior business day's reported NAV, mid-point of the bid/ask spread at the time of calculation of such NAV (the ''Bid/Ask Price''),[17] a calculation of the premium and discount of the Bid/Ask Price against the NAV, and daily trading volume; 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 Regular Market Session [18] on the Exchange, the Fund will disclose on its Web site (*www.tbil.co*) the identities and quantities of the portfolio of securities and other assets (the ''Disclosed Portfolio'' as defined in Nasdaq Rule 5735(c)(2)) [19] held by the Fund that will form the basis for the Fund's calculation of NAV at the end of the business day.[20] On a daily basis the Disclosed Portfolio will include, as applicable, each portfolio security and other financial instruments of the Fund with the following information on the Fund's Web site: Ticker symbol, CUSIP number or other identifier, if any; a description of the holding (including the type of holding); the identity of the security or other asset or instrument underlying the holding, if any; quantity held (as measured by, for example, par value; maturity date, if any; coupon rate, if any; effective date, if any; market value of the holding; and the percentage weighting of the holdings in the Fund's portfolio). The Web site information will be publicly available at no charge. The Fund's disclosure of securities lending transactions and repurchase and reverse repurchase agreements will include information regarding the income being accrued on such instruments/transactions expressed in a percentage relative to the NAV published by the Fund.

A basket composition file, which will include the security names and quantities of securities and other assets required to be delivered in exchange for Fund Shares, if applicable, together with estimates and actual cash components, will be publicly disseminated prior to the opening of the Exchange via the NSCC. The basket will represent one Creation Unit of the Fund. The NAV of the Fund will normally be determined as of the close of the regular trading session on the Exchange (ordinarily 4:00 p.m. E.T.) on each business day.[21] Authorized Participants may refer to the basket composition file for information regarding debt instruments and any other instrument that may comprise the Fund's basket on a given day.

In addition, an estimated value, defined in Rule 5735 as the ''Intraday Indicative Value'' (as defined in Nasdaq Rule 5753(c)(3)), that reflects an estimated intraday value of the Fund's portfolio, will be disseminated. Moreover, the Intraday Indicative Value, available on the NASDAQ OMX Information LLC proprietary index data service,[22] will be based upon the current value for the components of the Disclosed Portfolio and will be updated and widely disseminated by one or more major market data vendors at least every 15 seconds during the Regular Market Session.

The dissemination of the Intraday Indicative Value, together with the Disclosed Portfolio, will allow investors to determine the value of the underlying portfolio of the Fund on a daily basis and to provide a close estimate of that value throughout the trading day.

Investors can also obtain the Trust's Statement of Additional Information

[17] The Bid/Ask Price of the Fund will be determined using the midpoint of the highest bid and the lowest offer on the Exchange as of the time of calculation of such Fund's NAV. The records relating to Bid/Ask Prices will be retained by the Fund and its service providers.

[18] *See* Nasdaq Rule 4120(b)(4) (describing the three trading sessions on the Exchange: (1) Pre-Market Session from 4 a.m. to 9:30 a.m. E.T.; (2) Regular Market Session from 9:30 a.m. to 4 p.m. or 4:15 p.m. E.T.; and (3) Post-Market Session from 4 p.m. or 4:15 p.m. to 8 p.m. E.T.).

[19] Nasdaq Rule 5735(c)(2) states that the term ''Disclosed Portfolio'' means the identities and quantities of the securities and other assets held by the Investment Company that will form the basis for the Investment Company's calculation of net asset value at the end of the business day.

[20] 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''). Notwithstanding the foregoing, portfolio trades that are executed prior to the opening of the Exchange on any business day may be booked and reflected in NAV on such business day. 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.

[21] This is the Regular Market Session. *See* NASDAQ Rule 4120(b)(4).

[22] Currently, the NASDAQ OMX Global Index Data Service (''GIDS'') is the NASDAQ OMX global index data feed service, offering real-time updates, daily summary messages, and access to widely followed indexes and ETFs. GIDS provides investment professionals with the daily and historical information needed to track or trade NASDAQ OMX indexes, listed ETFs or third-party partner indexes and ETFs.

(''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 will be available free upon request from the Trust, and those documents and the Form N–CSR may be viewed on screen or downloaded from the Commission's Web site at *www.sec.gov.*

Information regarding market price and trading volume of the Shares will be continually available on a real-time basis throughout the day on brokers' computer screens and other electronic services. The previous day's closing price and trading volume information for the Shares will be published daily in the financial section of newspapers. Quotation and last sale information for the Shares will be available via NASDAQ proprietary quote and trade services, as well in accordance with the Unlisted Trading Privileges and the Consolidated Tape Association plans, as applicable.

Securities lending transactions, repurchase agreements and reverse repurchase agreements transactions will be priced at the combined value of (i) the value of the underlying Fund asset utilized in the transaction and (ii) the relative realized profit value, added daily.

Intra-day, executable price quotations on U.S. Treasury Securities are available through subscription services such as Bloomberg, TradeWeb, E-Speed, Tullett Prebon, the U.S. Treasury Department, and/or Interactive Brokers, which can be accessed by Authorized Participants and other investors.

Additional information regarding the Fund and the Shares, including investment strategies, risks, creation and redemption procedures, fees, Fund holdings disclosure policies, distribution and taxes will be included in the Registration Statement.

Initial and Continued Listing

The Shares will be subject to Rule 5735, which sets forth the initial and continued listing criteria applicable to Managed Fund Shares. The Exchange represents that, for initial and/or continued listing, the Fund must be in compliance with Rule 10A–3 under the Act.[23] A minimum of 50,000 Shares will be outstanding at the commencement of trading on the Exchange. The Exchange will obtain a representation from the issuer of the Shares 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.

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. NASDAQ will halt trading in the Shares under the conditions specified in NASDAQ Rules 4120 and 4121, including the trading pauses under NASDAQ Rules 4120(a)(11) and (12). Trading may be halted because of market conditions or for reasons that, in the view of the Exchange, make trading in the Shares inadvisable. These may include: (1) The extent to which trading is not occurring in the securities and other assets constituting 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 also will be subject to Rule 5735(d)(2)(D), which sets forth circumstances under which Shares of the Fund may be halted.

Trading Rules

NASDAQ deems the Shares to be equity securities, thus rendering trading in the Shares subject to NASDAQ's existing rules governing the trading of equity securities. NASDAQ will allow trading in the Shares from 4:00 a.m. until 8:00 p.m. E.T. The Exchange has appropriate rules to facilitate transactions in the Shares during all trading sessions. As provided in NASDAQ Rule 5735(b)(3), the minimum price variation for quoting and entry of orders in Managed Fund Shares traded on the Exchange is $0.01.

Surveillance

The Exchange represents that trading in the Shares will be subject to the existing trading surveillances, administered by both NASDAQ and also 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.[24] 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 applicable federal securities laws.

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 may, if applicable, obtain information via the Intermarket Surveillance Group (''ISG'')[25] from other exchanges that are members of ISG. FINRA, on behalf of the Exchange, will communicate as needed regarding trading in the Shares and FINRA may obtain trading information regarding trading in the Shares from such markets and other entities. In addition, the Exchange, if applicable, may obtain information regarding trading in the Shares from markets and other entities that are members of ISG, or with which the Exchange has in place a comprehensive surveillance sharing agreement.

In addition, the Exchange also has a general policy prohibiting the distribution of material, non-public information by its employees.

Information Circular

Prior to the commencement of trading, the Exchange will inform its members in an Information Circular of the special characteristics and risks associated with trading the Shares. Specifically, the Information Circular will discuss the following: (1) The procedures for purchases and redemptions of Shares in Creation Units (and that Shares are not individually redeemable); (2) NASDAQ Rule 2111A, which imposes suitability obligations on NASDAQ members with respect to recommending transactions in the Shares to customers; (3) how information regarding the Intraday Indicative Value and the Disclosed Portfolio is disseminated; (4) the risks involved in trading the Shares during the Pre-Market and Post-Market Sessions when an updated Intraday Indicative Value will not be calculated or publicly disseminated; (5) the requirement that members 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 Information Circular will advise members, prior to the commencement of trading, of the prospectus delivery requirements applicable to the Fund. Members purchasing Shares from the Fund for resale to investors will deliver a prospectus to such investors. The Information Circular will also discuss

[23] *See* 17 CFR 240.10A–3.

[24] 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.

[25] For a list of the current members of ISG, *see https://www.isgportal.org/home.html.*

any exemptive, no-action and interpretive relief granted by the Commission from any rules under the Act.

Additionally, the Information Circular will disclose the trading hours of the Shares of the Fund and the applicable NAV calculation time for the Shares. The Information Circular will also disclose that information about the Shares of the Fund will be publicly available on the Fund's Web site.[26]

2. Statutory Basis

NASDAQ believes that the proposal is consistent with section 6(b) of the Act in general and section 6(b)(5) of the Act in particular in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, and to remove impediments to and perfect the mechanism of a free and open market and 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 NASDAQ Rule 5735. The Exchange represents that trading in the Shares will be subject to the existing trading surveillances, administered by both NASDAQ and FINRA on behalf of the Exchange, which are designed to detect violations of Exchange rules and applicable federal securities laws. In addition, paragraph (g) of NASDAQ Rule 5735 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, non-public information regarding the open-end fund's portfolio. The Fund's investments will be consistent with the Fund's investment objective. FINRA may, if applicable, obtain information via the ISG from other exchanges that are members of ISG. In addition, the Exchange may, if applicable, obtain information regarding trading in the Shares from markets and other entities that are members of ISG- or with which the Exchange has in place a comprehensive surveillance sharing agreement. The Fund may hold up to an aggregate amount of 15% of its net assets in illiquid securities, including repurchase and reverse repurchase agreements maturing in more than seven days, and other illiquid assets (calculated at the time of investment). 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 securities or other illiquid assets.

The proposed rule change is designed to promote just and equitable principles of trade and to protect investors and the public interest in that the Exchange will obtain a representation from the issuer of the Shares 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 will be publicly available regarding the Fund and the Shares, thereby promoting market transparency. Moreover, the Intraday Indicative Value, available on the NASDAQ OMX Information LLC proprietary index data service, will be widely disseminated by one or more major market data vendors at least every 15 seconds during the Regular Market Session. On each business day, before commencement of trading in Shares in the Regular Market Session on the Exchange, the Fund will disclose on its Web site the Disclosed Portfolio of the Fund that will form the basis for the Fund's calculation of NAV at the end of the business day. Information regarding market price and trading volume of the Shares will be continually available on a real-time basis throughout the day on brokers' computer screens and other electronic services, and quotation and last sale information for the Shares will be available via NASDAQ proprietary quote and trade services. Intra-day price information will be available through subscription services, such as Bloomberg, Markit and Thomson Reuters, which can be accessed by Authorized Participants and other investors.

The Fund's Web site will include a form of the prospectus for the Fund and additional data relating to NAV and other applicable quantitative information. Trading in Shares of the Fund will be halted under the conditions specified in NASDAQ Rules 4120 and 4121 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 NASDAQ Rule 5735(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 Intraday Indicative Value, the Disclosed Portfolio, and quotation and last sale information for the Shares.

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, FINRA, on behalf of the Exchange, if applicable will communicate as needed regarding trading in the Shares with other markets and, other entities that are members of ISG-and FINRA may obtain trading information regarding trading in the Shares from such markets and other entities. In addition, the Exchange may obtain information regarding trading in the Shares from markets and other entities that are members of ISG or with which the Exchange has in place a comprehensive surveillance sharing agreement. Furthermore, as noted above, investors will have ready access to information regarding the Fund's holdings, the Intraday Indicative Value, the Disclosed Portfolio, and quotation and last sale information for the Shares.

For the above reasons, NASDAQ believes the proposed rule change is consistent with the requirements of section 6(b)(5) of the Act.

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 Exchange believes that the proposed rule change will facilitate the listing and trading of an additional type of actively-managed exchange-traded fund 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

Written comments were neither solicited nor received.

[26] Additionally, the Information Circular will also reference that the Fund is subject to various fees and expenses described in the Registration Statement.

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 such proposed rule change; or (b) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act.

Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–NASDAQ–2015–089 on the subject line.

Paper Comments

- Send paper comments in triplicate to Brent J. Fields, Secretary, Securities and Exchange Commission, Station Place, 100 F Street NE., Washington, DC 20549.

All submissions should refer to File Number SR–NASDAQ–2015–089. 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 NASDAQ. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NASDAQ–2015–089 and should be submitted on or before September 9, 2015.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[27]

Brent J. Fields,

Secretary.

[FR Doc. 2015–20417 Filed 8–18–15; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–75695; File No. SR–NYSE–2015–33]

Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Amending Rule 79A To Delete Supplementary Material .20 Requiring Prior Floor Official Approval Before a Designated Market Maker Can Initiate Certain Trades More Than One or Two Dollars Away From the Last Sale

August 13, 2015.

Pursuant to section 19(b)(1)[1] of the Securities Exchange Act of 1934 (''Act'')[2] and Rule 19b–4 thereunder,[3] notice is hereby given that on July 29, 2015, New York Stock Exchange LLC (''NYSE'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend Rule 79A to delete Supplementary Material .20 requiring prior Floor Official approval before a Designated Market Maker (''DMM'') can initiate certain trades more than one or two dollars away from the last sale. The text of the proposed rule change is available on the Exchange's Web site at *www.nyse.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend Rule 79A to delete Supplementary Material .20, which requires prior Floor Official approval for certain DMM dealer trades more than one or two dollars away from the last sale, and to make conforming amendments to Rules 48, 80C and 9217 to delete references to Rule 79A.20.

Background

Currently, except with respect to inactively traded securities the Exchange shall from time to time identify, Rule 79A.20(a) requires DMMs to obtain prior Floor Official approval for all transactions in stocks by the DMM as dealer (when the market is slow[4]) or transactions in which the DMM as dealer is reaching across the market[5] (when the market is fast) that are made at (i) $1.00 or more away from the last sale when such last sale is under $20 per share or (ii) $2.00 or more away from the last sale when such last sale is at $20 per share or over. The Rule also provides that in unusual market situations, a Floor Governor, Senior Floor Official, or Executive Floor

[27] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

[4] For purposes of the Rule, the NYSE is considered a ''slow'' market when displaying a bid or offer (or both) that is not entitled to protection of Rule 611 under Regulation NMS. *See* Rule 79A.20(a). DMM dealer transactions in slow markets include the opening, reopening, and closing transactions.

[5] A DMM reaches across the market when the DMM buys from the NYSE offer or sells to the NYSE bid.

Official[6] has the discretion to determine that a different price parameter other than that required in subdivision (a) of the Rule is appropriate when the last sale is at $100 per share or over.[7]

The principles embodied in Rule 79A.20 were originally aimed at preventing undue price dislocation by the specialist at the opening. Gradually, the rule was extended to all trades significantly away from the last sale.[8] The rule also functioned in part as a safeguard against market manipulation by specialists and Floor brokers as well as a control on price volatility by requiring a Floor Official who was not party to the transaction to review and approve all proposed transactions exceeding the rule's parameters before the trade was published to the consolidated tape, thereby ensuring that specialists were maintaining appropriate price continuity and depth, and that Floor brokers were not transacting in the trading crowd at unduly wide variations from the last sale.[9]

In 2006, the Commission approved the Exchange's adoption of a ''hybrid market'' under which Exchange systems assumed the function of matching and executing electronically-entered orders but specialists remained the responsible broker-dealer for orders on the Exchange's limit order book.[10] In 2007, as a result of the increasing automation of trading and the accompanying decentralization of pricing decisions away from specialists, the Exchange comprehensively amended Rule 79A.20. In that filing, the Exchange virtually eliminated Rule 79A.20 approvals in all situations except those prescribed in the current Rule.[11]

Since that time, additional, significant market structure changes have continued to obviate the need for Rule 79A.20. In particular, in 2008, the Exchange adopted the New Market Model, which transformed specialists into DMMs, who are no longer agents for the Exchange's limit order book and whose trading activity on the Exchange is limited to proprietary trading.[12] Also in 2008, the Exchange greatly enhanced the transparency of its marketplace and improved the quality of the opening and closing auctions by introducing a real-time order imbalance information data feed (''Order Imbalance Information'').[13] Further, DMMs now also have the ability to electronically open and close trading on the Exchange, which was not available to specialists in 2007.[14] In 2015, the Exchange eliminated Liquidity Replenishment Points (''LRP'') and the Gap Quote Policy and amended Rule 79A.20 to remove references to these Exchange-specific volatility mechanisms. Rule 79A.20 had previously required Floor Official review and approval of DMMs dealer trades one or two points away from the last sale following these intra-day ''slow'' market scenarios.[15] Finally, also in 2015, the Exchange amended Rule 1000 to reject marketable orders of over 1,000,000 shares upon arrival. Such orders were ineligible for automatic execution and caused the Exchange to suspend automatic executions and disseminate a ''slow'' quote condition.[16]

Proposed Rule Change

The Exchange proposes to delete Rule 79A.20. As discussed below, the situations where the Rule would be invoked are now limited to the open, reopenings and the close, where market transparency and existing safeguards render the Rule unnecessary and duplicative of other rules requiring Floor Official approval.

As noted above, the recent elimination of LRPs and the Gap Quote Policy removed the remaining intra-day events when the Exchange's market was ''slow'' and DMM pricing decisions that could trigger Rule 79A.20 approvals. As such, trading circumstances warranting Rule 79A.20 review are now limited to manual DMM participation when a security moves one or two dollars from the last sale (based on whether the security is under $20 or $20 and over) at either the open, close or, more rarely, intraday during reopenings.

In light of the transparency surrounding the open and close and the involvement of Floor Officials in those processes, the Exchange believes that there is no longer a need for Floor Officials to separately approve individual DMM transactions under Rule 79A.20. First, as described above, the Exchange significantly enhanced the transparency surrounding the open and close with the introduction of a real-time Order Imbalance Information data feed in 2008. This proprietary data feed, disseminated prior to the open pursuant to Rule 15(c)(1)[17] and prior to close pursuant to Rule 123C(6),[18] reflects real-time order imbalances that accumulate prior to the opening and closing

[6] Pursuant to Rules 46 and 46A, Floor Governors, Senior Floor Officials and Executive Floor Officials are one of several ranks of the broader category of Floor Officials, including, in order of increasing seniority, Floor Officials, Senior Floor Officials, Executive Floor Officials, Floor Governors and Executive Floor Governors. *See* Securities Exchange Act Release No. 57627 (April 4, 2008), 73 FR 19919 (April 11, 2008) (SR–NYSE–2008–19).

[7] *See* Rule 79A.20(b).

[8] *See* Securities Exchange Act Release No. 56209 (August 6, 2007), 72 FR 45290, 45291 (August 13, 2007) (SR–NYSE–2007–65) (''Release No. 56209'').

[9] *See id.*

[10] *See* Securities Exchange Act Release No. 53539 (March 22, 2006), 71 FR 16353 (March 31, 2006) (SR–NYSE–2004–05).

[11] *See* Release No. 56209, *supra* note 8, at 45291. At the time, the rule was set forth in Supplementary Material .30 of Rule 79A. The rule was re-numbered as Supplementary Material .20 in 2008. *See* Securities Exchange Act Release No. 58184 (July 17, 2008), 73 FR 42853 (July 23, 2008) (SR–NYSE–2008–46).

[12] *See* Securities Exchange Act Release No. 58845(October 24, 2008), 73 FR 64379, 64381 (October 29, 2008) (SR–NYSE–2008–46).

[13] *See* Securities Exchange Act Release No. 57861 (May 23, 2008), 73 FR 31905 (June 4, 2008) (SR–NYSE–2008–42). *See also* Securities Exchange Act Release No. 59815 (April 23, 2009), 74 FR 19609 (April 29, 2009) (SR–NYSE–2009–41) (modifying the reference price at which the Exchange reports Order Imbalance Information and clarifying what information is included in and excluded from the Order Imbalance Information Reports). In 2009, the Exchange further enhanced the transparency of its informational data feed for imbalances by including d-Quotes and all other e-Quotes containing pegging instructions eligible to participate in the closing transaction in the Order Imbalance Information data feed. *See* Rule 70(1) & Supplementary Material .25; Securities Exchange Act Release No. 60153 (June 19, 2009), 74 FR 30656 (June 26, 2009) (SR–NYSE–2009–49).

[14] *See* Rule 123D (openings); Rule 123C.10 (closings). *See generally* Rule 104(b).

[15] *See* Securities Exchange Act Release No. 74063 (January 15, 2015), 80 FR 3269 (January 22, 2015) (SR–NYSE–2015–01). *See also* note 4, *supra*.

[16] *See* Securities Exchange Act Release No. 74649 (April 6, 2015), 80 FR 19383 (April 10, 2015) (SR–NYSE–2015–14).

[17] Pursuant to Rule 15(c)(1), Order Imbalance Information disseminated prior to the open includes all interest eligible for execution in the opening transaction of the security in Exchange systems, *i.e.,* electronic interest, including Floor broker electronic interest, entered into Exchange systems prior to the opening. Pre-opening Order Imbalance Information is disseminated approximately every five minutes between 8:30 a.m. Eastern Time (''ET'') and 9:00 a.m. ET; approximately every minute between 9:00 a.m. ET and 9:20 a.m. ET; and approximately every 15 seconds between 9:20 a.m. ET and the opening of trading in that security. *See* Rule 15(c)(3).

[18] Pursuant to Rule 123C(6), Order Imbalance Information disseminated prior to the close includes, among other things: (1) The Mandatory Market on Close (''MOC'')/Limit on Close (''LOC'') Imbalance Publication; (2) a data field indicating the price at which closing-only interest (*i.e.,* MOC orders, marketable LOC orders, and CO orders opposite the imbalance) may be executed in full; and, (3) a data field indicating the price at which interest in the Display Book (*e.g.,* Minimum Display Reserve Orders, Floor broker reserve e-Quotes not designated to be excluded from the aggregated agency interest information available to the DMM, d-Quotes and pegged e-Quotes at the price indicated on the order as the base price to be used to calculate the range of discretion and Stop orders) as well as all closing-only orders (MOC, marketable LOC, and CO orders opposite the imbalance) may be executed in full. Pre-closing Order Imbalance Information is disseminated every fifteen seconds between 3:40 p.m. and 3:50 p.m.; thereafter, it is disseminated every five seconds between 3:50 p.m. and 4:00 p.m. Commencing at 3:55 p.m., the Order Imbalance Information disseminated by the Exchange also includes d-Quotes and all other e-Quotes containing pegging instructions eligible to participate in the closing transaction and Stop orders.

transactions on the Exchange and the price at which interest eligible to participate in the opening or closing transactions may be executed in full.

Second, in addition to disseminating Order Imbalance Information, the Exchange's Rules require the timely communication of price dislocations and unusual market situations, including delayed openings, to the marketplace. Rule 15(a) provides that if the opening transaction in a security will be at a price that represents a change of more than the ''applicable price change'' specified in the Rule (representing a numerical or percentage change from the security's closing price per share or, in the case of an IPO, the security's offering price), the DMM arranging the opening transaction or the Exchange must issue a pre-opening indication (a ''Rule 15 Indication''), which represents a range of where a security may open. The Rule 15 Indication is a price range that is published on the Exchange's proprietary data feeds prior to the scheduled opening time. A Rule 15 Indication includes the security and the price range within which the DMM anticipates the opening transaction will occur, and would include any orally-represented Floor broker interest for the open.

Similarly, Rule 123D Mandatory Indications are required for an opening that will result in a ''significant'' price change from the previous close. For securities priced under $10, indications are required under Rule 123D(1) if the price change is one dollar or more; for securities between $10 and $99.99, indications are required for price movements of the lesser of 10% or three dollars; and for securities over $100, indications are required for price movements of five dollars or more. Rule 123D(1) requires DMMs to disseminate one or more indications in connection with any delayed opening where a security has not opened or been quoted by 10 a.m. (''Rule 123D Mandatory Indication''). The DMM is responsible for publishing the Rule 123D Mandatory Indication and, when determining the price range for the indication, take into consideration Floor broker interest that has been orally entered and what, at a given time, the DMM anticipates the dealer participation in the opening transaction would be. Rule 123D Mandatory Indications are published to the Consolidated Tape.

Importantly, all Rule 123D Mandatory Indications require the supervision and approval of a Floor Official. Rule 123D approvals are therefore similar to Rule 79A.20 approvals. In fact, almost half of Floor Official approvals under Rule 79A.20 also occur in situations where a mandatory indication was published pursuant to Rule 123D. In these circumstances, requiring the Floor Official to separately approve a price movement under Rule 79A.20 would be duplicative.

The Exchange further notes that the Floor Official approval requirements of Rule 79A.20 impede the ability of a DMM to open or close a security electronically at the Exchange if the security were to open one or two points away from the last sale. As a practical matter, the only way for Floor Officials to approve trades more than one or two dollars away from the last sale in the case of an electronic open or close would be to turn a fast market into a ''slow'' one and potentially open the security after 9:30 a.m., which was one of the rationales for eliminating virtually all Rule 79A.20 approvals in 2007.[19]

With respect to the separate Rule 79A.20 requirement that the DMM obtain Floor Official approvals when the market is fast and the DMM as dealer is reaching across the market, *i.e.,* selling at the bid and buying at the offer, the Exchange similarly believes that such approvals are unnecessary and duplicative of other safeguards. As noted above, the application of Rule 79A.20 is limited to the opening, reopenings and the close, where this scenario would not arise. Moreover, the Exchange believes that obtaining Floor Official approval when a DMM is reaching across a fast market is impractical in today's market place because, especially in the most actively traded Exchange securities, the automated marketplace simply moves too fast.

Even if obtaining Floor Official approvals were practical, the Exchange believes that the combination of volatility and system controls in place that were unavailable in 2007 render such approvals unnecessary. DMM dealer trades one or two points away from the last sale that reach across the market would continue to be subject to the Limit Up/Limit Down (''LULD'') price controls, as provided for in Rule 80C(a)(4), the Trading Collars, as provided for in Rule 1000(c), and the numerical guidelines for determining whether a clearly erroneous execution has occurred under Rule 128. In addition, as the Exchange noted in a different context,[20] as the marketplace has become more electronic, DMM units have increased their utilization of technology to reduce risk exposure by using algorithms to adjust prices quickly in response to market dynamics, which in turn has contributed to reducing the potential for significant and/or rapid movements in the market and help DMMs satisfy their obligation to maintain a fair and orderly market in assigned securities pursuant to Rule 104, particularly in times of market stress. The Exchange believes that these risk controls provide a further significant limitation on the ability of DMMs to initiate a move of more than one or two dollars away from the last sale trade in fast markets, especially in light of the tight spreads on the Exchange.[21]

Finally, DMM pricing decisions at the open and close and during fast markets are subject to specific DMM obligations with respect to the quality of the markets in securities to which they are assigned. In general, transactions on the Exchange by a DMM for the DMM's account must be effected in a reasonable and orderly manner in relation to the condition of the general market and the market in the particular stock.

As noted, DMMs have affirmative obligations under Rule 104(a) to engage in a course of dealings for their own account to assist in the maintenance of a fair and orderly market insofar as reasonably practicable. Specifically, Rule 104(f)(ii) sets forth the DMM's obligation to act as reasonably necessary to ensure appropriate depth and maintain reasonable price variations between transactions (also known as price continuity) and prevent unexpected variations in trading. Further, under Rule 123D(1), openings and reopenings must be fair and orderly, reflecting the DMM's professional assessment of market conditions at the time, and appropriate consideration of the balance of supply and demand as reflected by orders represented in the market. The Exchange also supplies DMMs with suggested Depth Guidelines for each security in which a DMM is registered, and DMMs are expected to quote and trade with reference to the Depth Guidelines. Further, the DMM's affirmative obligation includes obligations to re-enter the market when reaching across to execute against available interest. For instance, under Rule 104(h), DMMs can engage in conditional transactions that establish or increase a position and that reach across the market without restriction

[19] *See* Release No. 56209, *supra* note 8 at 45291.

[20] *See* Securities Exchange Act Release No. 71360 (January 21, 2014), 79 FR 4366, 4367 (January 27, 2014) (SR–NYSE–2014–02).

[21] For instance, in May 2015, the quoted spread on the NYSE for stocks below $20 a share was $0.048; the quoted spread for stocks above $20 was $0.466. For all NYSE-listed securities, the quoted spread in May 2015 was $0.314.

provided such transactions are followed by appropriate re-entry on the opposite side of the market commensurate with the size of the DMM's transaction.[22] The Exchange issues guidelines, called price participation points (''PPP''), that identify the price at or before which a DMM is expected to re-enter the market after effecting a conditional transaction.[23] DMM trading activity on the Exchange is actively monitored for compliance with each of these obligations.

The Exchange believes that the availability and dissemination of Order Imbalance Information, Rule 15 Indications and 123D Mandatory Indications, together with the DMM's existing affirmative and other obligations pursuant to Rule 104, provide an appropriate framework in today's market structure for ensuring that opening or closing transactions that occur at a price significantly away from the last sale price are communicated to all market participants. In particular, because of this transparency, the open and close are subject to greater scrutiny by all market participants, which in of itself serves as a check on where a DMM opens or closes a security. The Exchange therefore believes that the need for a Floor Official to review a DMM's actions at the open or close, which was adopted in a time when there was no market-wide transparency regarding pricing of the open or close, is redundant of existing oversight of the open and close.

For all of these reasons, the Exchange believes that requiring separate Floor Official approvals for one and two dollar price movements is no longer necessary.

The Exchange also proposes to delete references to Rule 79A.20 from Rules 48, 80C and 9217. In the case of Rule 48, the reference to be removed would be to Rule 79A.30. Rule 48 was not updated when the text of the Rule was moved from Supplementary Material .30 to .20.[24] The Exchange believes these proposed changes will add transparency and clarity to the Exchange's rules.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with section 6(b) of the Act,[25] in general, and furthers the objectives of section 6(b)(5) of the Act,[26] in particular, because it is designed to prevent fraudulent and manipulative acts and practices, promote just and equitable principles of trade, remove impediments to and perfect the mechanism of a free and open market and a national market system, and protect investors and the public interest. In particular, the Exchange believes that eliminating Rule 79A.20 would remove impediments to and perfect the mechanism of a free and open market and a national market system by eliminating redundant approvals from the remaining manual processes at the open and close of trading. The Exchange believes that eliminating Rule 79A.20 approvals would not be inconsistent with the public interest and the protection of investors because the transparency surrounding the open and close and the information available to the marketplace enables investors and the public to assess whether a security would open or close outside the one or two point parameter, thereby obviating the need for a single Floor Official to oversight the open and close. Further, the Exchange believes that eliminating Rule 79A.20 approvals would not be inconsistent with the public interest and the protection of investors because other safeguards will remain in place to ensure that DMMs maintain appropriate price continuity and depth and do not transact at unduly wide price variations, thereby establishing substantially the same result. As noted above, pursuant to Rule 123D, Floor Officials would remain involved in supervising when the open would occur at a price significantly away from the last sale, which is when the majority of Rule 79A.20 approvals currently occur, and DMM trading will also remain subject to Exchange rules, including the obligation to maintain a fair and orderly market under Rule 104.

The Exchange further believes that deleting corresponding references to Rule 79A.20 in other rules would remove impediments to and perfects the mechanism of a free and open market by reducing potential confusion and adding transparency and clarity to the Exchange's rules, thereby ensuring that members, regulators and the public can more easily navigate and understand the Exchange's rulebook.

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 intended to address competitive issues but rather to eliminate redundant approvals of manual trades on its trading Floor.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has filed the proposed rule change pursuant to section 19(b)(3)(A)(iii) of the Act[27] and Rule 19b–4(f)(6) thereunder.[28] Because the proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative prior to 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to section 19(b)(3)(A) of the Act and Rule 19b–4(f)(6)(iii) thereunder.

A proposed rule change filed under Rule 19b–4(f)(6)[29] normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b4(f)(6)(iii),[30] the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest.

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings under section 19(b)(2)(B)[31] of the Act to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

[22] *See* Rule 104(h)(iii). Immediate re-entry is required after certain Conditional Transactions.

[23] *See* NYSE Rule 104(h)(iii)(A).

[24] *See* note 11 *supra.*

[25] 15 U.S.C. 78f(b).

[26] 15 U.S.C. 78f(b)(5).

[27] 15 U.S.C. 78s(b)(3)(A)(iii).

[28] 17 CFR 240.19b–4(f)(6).

[29] 17 CFR 240.19b–4(f)(6).

[30] 17 CFR 240.19b–4(f)(6)(iii).

[31] 15 U.S.C. 78s(b)(2)(B).

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–NYSE–2015–33 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSE–2015–33. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSE–2015–33 and should be submitted on or before September 9, 2015.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[32]

Brent J. Fields,

Secretary.

[FR Doc. 2015–20416 Filed 8–18–15; 8:45 am]

BILLING CODE 8011–01–P

[32] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 31760; 812–14500]

Nile Capital Investment Trust, et al.; Notice of Application

August 13, 2015.

AGENCY: Securities and Exchange Commission (''Commission'').

ACTION: Notice of an application for an order under section 6(c) of the Investment Company Act of 1940 (''Act'') for an exemption from sections 2(a)(32), 5(a)(1), 22(d) and 22(e) of the Act and rule 22c–1 under the Act, under sections 6(c) and 17(b) of the Act for an exemption from sections 17(a)(1) and (a)(2) of the Act, and under section 12(d)(1)(J) of the Act for an exemption from sections 12(d)(1)(A) and (B) of the Act.

APPLICANTS: Nile Capital Investment Trust (the ''Trust''), Nile Capital Management, LLC (the ''Manager'') and Northern Lights Distributors, LLC (the ''Distributor'').

SUMMARY OF APPLICATION: Applicants request an order (''Order'') that permits: (a) Actively managed series of certain open-end management investment companies to issue shares (''Shares'') redeemable in large aggregations only (''Creation Units''); (b) secondary market transactions in Shares to occur at the next-determined net asset value plus or minus a market-determined premium or discount that may vary during the trading day; (c) certain series to pay redemption proceeds, under certain circumstances, more than seven days from the tender of Shares for redemption; (d) certain affiliated persons of the series to deposit securities into, and receive securities from, the series in connection with the purchase and redemption of Creation Units; (e) certain registered management investment companies and unit investment trusts outside of the same group of investment companies as the series to acquire Shares; and (f) certain series to create and redeem Shares in kind in a master-feeder structure. The Order would incorporate by reference terms and conditions of a previous order granting the same relief sought by applicants, as that order may be amended from time to time (''Reference Order'').[1]

FILING DATE: The application was filed on June 29, 2015.

[1] Eaton Vance Management, *et al.,* Investment Company Act Rel. Nos. 31333 (Nov. 6, 2014) (notice) and 31361 (Dec. 2, 2014) (order).

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 September 8, 2015, and should be accompanied by proof of service on applicants, in the form of an affidavit or, for lawyers, a certificate of service. Pursuant to rule 0–5 under the Act, hearing requests should state the nature of the writer's interest, any facts bearing upon the desirability of a hearing on the matter, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Commission's Secretary.

ADDRESSES: The Commission: Brent J. Fields, Secretary, U.S. Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090. Applicants: Nile Capital Investment Trust and Nile Capital Management, LLC, 116 Village Blvd., Suite #306, Princeton, NJ 08540, and Northern Lights Distributors, LLC, 17605 Wright St., Omaha, NB 68130.

FOR FURTHER INFORMATION CONTACT: Diane L. Titus, Paralegal Specialist, or Dalia Osman Blass, Assistant Chief Counsel, 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

1. The Trust is registered as an open-end management investment company under the Act and is a statutory trust organized under the laws of Delaware. Applicants seek relief with respect to two Funds (as defined below, and those Funds, the ''Initial Funds''). The portfolio positions of each Fund will consist of securities and other assets selected and managed by its Adviser or Subadviser (as defined below) to pursue the Fund's investment objective.

2. The Adviser, a limited liability company organized under the laws of Delaware, will be the investment adviser to the Initial Funds. An Adviser (as defined below) will serve as investment adviser to each Fund. The Adviser is, and any other Adviser will

be, registered as an investment adviser under the Investment Advisers Act of 1940 (''Advisers Act''). The Adviser and the Trust may retain one or more subadvisers (each a ''Subadviser'') to manage the portfolios of the Funds. Any Subadviser will be registered, or not subject to registration, under the Advisers Act.

3. The Distributor is a Nebraska limited liability company and a broker-dealer registered under the Securities Exchange Act of 1934 and will act as the principal underwriter of Shares of the Funds. Applicants request that the requested relief apply to any distributor of Shares, whether affiliated or unaffiliated with the Adviser (included in the term ''Distributor''). Any Distributor will comply with the terms and conditions of the Order.

Applicants' Requested Exemptive Relief

4. Applicants seek the requested Order under section 6(c) of the Act for an exemption from sections 2(a)(32), 5(a)(1), 22(d) and 22(e) of the Act and rule 22c–1 under the Act, under sections 6(c) and 17(b) of the Act for an exemption from sections 17(a)(1) and 17(a)(2) of the Act, and under section 12(d)(1)(J) of the Act for an exemption from sections 12(d)(1)(A) and (B) of the Act. The requested Order would permit applicants to offer exchange-traded managed funds. Because the relief requested is the same as the relief granted by the Commission under the Reference Order and because the Adviser has entered into, or anticipates entering into, a licensing agreement with Eaton Vance Management, or an affiliate thereof in order to offer exchange-traded managed funds,[2] the Order would incorporate by reference the terms and conditions of the Reference Order.

5. Applicants request that the Order apply to the Initial Funds and to any other existing or future open-end management investment company or series thereof that: (a) Is advised by the Adviser or any entity controlling, controlled by, or under common control with the Adviser (any such entity included in the term ''Adviser''); and (b) operates as an exchange-traded managed fund as described in the Reference Order; and (c) complies with the terms and conditions of the Order and of the Reference Order, which is incorporated by reference herein (each such company or series and Initial Fund, a ''Fund'').[3]

6. Section 6(c) of the Act provides that the Commission may exempt any person, security or transaction, or any class of persons, securities or transactions, from any provisions of the Act, if and to the extent that 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. Section 17(b) of the Act authorizes the Commission to exempt a proposed transaction from section 17(a) of the Act if evidence establishes that the terms of the transaction, including the consideration to be paid or received, are reasonable and fair and do not involve overreaching on the part of any person concerned, and the proposed transaction is consistent with the policies of the registered investment company and the general purposes of the Act. Section 12(d)(1)(J) 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 section 12(d)(1) if the exemption is consistent with the public interest and the protection of investors.

7. Applicants submit that for the reasons stated in the Reference Order: (1) With respect to the relief requested pursuant to section 6(c) of the Act, the relief is 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; (2) with respect to the relief request pursuant to section 17(b) of the Act, the proposed transactions are reasonable and fair and do not involve overreaching on the part of any person concerned, are consistent with the policies of each registered investment company concerned and consistent with the general purposes of the Act; and (3) with respect to the relief requested pursuant to section 12(d)(1)(J) of the Act, the relief is consistent with the public interest and the protection of investors.

By the Division of Investment Management, pursuant to delegated authority.

Brent J. Fields,

Secretary.

[FR Doc. 2015–20419 Filed 8–18–15; 8:45 am]

BILLING CODE 8011–01–P

[2] Eaton Vance Management has obtained patents with respect to certain aspects of the Funds' method of operation as exchange-traded managed funds.

[3] All entities that currently intend to rely on the Order are named as applicants. Any other entity that relies on the Order in the future will comply with the terms and conditions of the Order and of the Reference Order, which is incorporated by reference herein.

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–75693; File No. SR–BATS–2015–57]

Self-Regulatory Organizations; BATS Exchange, Inc.; Notice of Filing of a Proposed Rule Change, as Modified by Amendment No. 1 Thereto, To Adopt New Rule 8.17 To Provide a Process for an Expedited Suspension Proceeding and Rule 12.15 To Prohibit Layering and Spoofing on BATS Exchange, Inc.

August 13, 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 July 30, 2015, BATS Exchange, Inc. (the ''Exchange'' or ''BATS'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. On August 11, 2015, the Exchange filed Amendment No. 1 to the proposal.[3] 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 is proposing to adopt a new rule to clearly prohibit layering and spoofing activity on the Exchange, as further described below. Further, the Exchange proposes to amend Exchange Rules to permit the Exchange to take prompt action to suspend Members or their clients that violate such rule.

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

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Amendment No. 1 amended and replaced the original proposal in its entirety.

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

Background

As a national securities exchange registered pursuant to section 6 of the Act, the Exchange is required to be organized and to have the capacity to enforce compliance by its members and persons associated with its members, with the Act, the rules and regulations thereunder, and the Exchange's Rules.[4] Further, the Exchange's Rules are required to be ''designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade . . . and, in general, to protect investors and the public interest.'' [5] In fulfilling these requirements, the Exchange has developed a comprehensive regulatory program that includes automated surveillance of trading activity that is both operated directly by Exchange staff and by staff of the Financial Industry Regulatory Authority (''FINRA'') pursuant to a Regulatory Services Agreement (''RSA''). When disruptive and potentially manipulative or improper quoting and trading activity is identified, the Exchange or FINRA (acting as an agent of the Exchange) conducts an investigation into the activity, requesting additional information from the Member or Members involved. To the extent violations of the Act, the rules and regulations thereunder, or Exchange Rules have been identified and confirmed, the Exchange or FINRA as its agent will commence the enforcement process, which might result in, among other things, a censure, a requirement to take certain remedial actions, one or more restrictions on future business activities, a monetary fine, or even a temporary or permanent ban from the securities industry.

The process described above, from the identification of disruptive and potentially manipulative or improper quoting and trading activity to a final resolution of the matter, can often take several years. The Exchange believes that this time period is generally necessary and appropriate to afford the subject Member adequate due process, particularly in complex cases. However, as described below, the Exchange believes that there are certain obvious and uncomplicated cases of disruptive and manipulative behavior or cases where the potential harm to investors is so large that the Exchange should have the authority to initiate an expedited suspension proceeding in order to stop the behavior from continuing on the Exchange.

In recent years, several cases have been brought and resolved by the Exchange and other SROs that involved allegations of wide-spread market manipulation, much of which was ultimately being conducted by foreign persons and entities using relatively rudimentary technology to access the markets and over which the Exchange and other SROs had no direct jurisdiction. In each case, the conduct involved a pattern of disruptive quoting and trading activity indicative of manipulative layering [6] or spoofing.[7] The Exchange and other SROs were able to identify the disruptive quoting and trading activity in real-time or near real-time; nonetheless, in accordance with Exchange Rules and the Act, the Members responsible for such conduct or responsible for their customers' conduct were allowed to continue the disruptive quoting and trading activity on the Exchange and other exchanges during the entirety of the subsequent lengthy investigation and enforcement process. The Exchange believes that it should have the authority to initiate an expedited suspension proceeding in order to stop the behavior from continuing on the Exchange if a Member is engaging in or facilitating layering or spoofing activity and the Member has received sufficient notice with an opportunity to respond, but such activity has not ceased.

The following two examples are instructive on the Exchange's rationale for the proposed rule change.

In July 2012, Biremis Corp. (formerly Swift Trade Securities USA, Inc.) (the ''Firm'') and its CEO were barred from the industry for, among other things, supervisory violations related to a failure by the Firm to detect and prevent disruptive and allegedly manipulative trading activities, including layering, short sale violations, and anti-money laundering violations.[8] The Firm's sole business was to provide trade execution services via a proprietary day trading platform and order management system to day traders located in foreign jurisdictions. Thus, the disruptive and allegedly manipulative trading activity introduced by the Firm to U.S. markets originated directly or indirectly from foreign clients of the Firm. The pattern of disruptive and allegedly manipulative quoting and trading activity was widespread across multiple exchanges, and the Exchange, FINRA, and other SROs identified clear patterns of the behavior in 2007 and 2008. Although the Firm and its principals were on notice of the disruptive and allegedly manipulative quoting and trading activity that was occurring, the Firm took little to no action to attempt to supervise or prevent such quoting and trading activity until at least 2009. Even when it put some controls in place, they were deficient and the pattern of disruptive and allegedly manipulative trading activity continued to occur. As noted above, the final resolution of the enforcement action to bar the Firm and its CEO from the industry was not concluded until 2012, four years after the disruptive and allegedly manipulative trading activity was first identified.

In September of 2012, Hold Brothers On-Line Investment Services, Inc. (the ''Firm'') settled a regulatory action in connection with the Firm's provision of a trading platform, trade software and trade execution, support and clearing services for day traders.[9] Many traders using the Firm's services were located in foreign jurisdictions. The Firm ultimately settled the action with FINRA and several exchanges, including the Exchange, for a total monetary fine of $3.4 million. In a separate action, the Firm settled with the Commission for a monetary fine of $2.5 million.[10] Among the alleged violations in the case were disruptive and allegedly manipulative quoting and trading activity, including spoofing, layering, wash trading, and pre-arranged trading. Through its conduct and insufficient procedures and controls, the Firm also allegedly committed anti-money laundering violations by failing to detect and report

[4] 15 U.S.C. 78f(b)(1).

[5] 15 U.S.C. 78f(b)(5).

[6] ''Layering'' is a form of market manipulation in which multiple, non-bona fide limit orders are entered on one side of the market at various price levels in order to create the appearance of a change in the levels of supply and demand, thereby artificially moving the price of the security. An order is then executed on the opposite side of the market at the artificially created price, and the non-bona fide orders are cancelled.

[7] ''Spoofing'' is a form of market manipulation that involves the market manipulator placing non-bona fide orders that are intended to trigger some type of market movement and/or response from other market participants, from which the market manipulator might benefit by trading bona fide orders.

[8] *See Biremis Corp. and Peter Beck,* FINRA Letter of Acceptance, Waiver and Consent No. 2010021162202, July 30, 2012.

[9] *See Hold Brothers On-Line Investment Services, LLC,* FINRA Letter of Acceptance, Waiver and Consent No. 20100237710001, September 25, 2012.

[10] *In the Matter of Hold Brothers On-Line Investment Services, LLC,* Exchange Act Release No. 67924, September 25, 2012.

manipulative and suspicious trading activity. The Firm was alleged to have not only provided foreign traders with access to the U.S. markets to engage in such activities, but that its principals also owned and funded foreign subsidiaries that engaged in the disruptive and allegedly manipulative quoting and trading activity. Although the pattern of disruptive and allegedly manipulative quoting and trading activity was identified in 2009, as noted above, the enforcement action was not concluded until 2012. Thus, although disruptive and allegedly manipulative quoting and trading was promptly detected, it continued for several years.

The Exchange also notes the current criminal proceedings that have commenced against Navinder Singh Sarao. Mr. Sarao's allegedly manipulative trading activity, which included forms of layering and spoofing in the futures markets, has been linked as a contributing factor to the ''Flash Crash'' of 2010, and yet continued through 2015.

The Exchange believes that the activities described in the cases above provide justification for the proposed rule change, which is described below.

Rule 8.17—Expedited Client Suspension Proceeding

The Exchange proposes to adopt new Rule 8.17 to set forth procedures for issuing suspension orders, immediately prohibiting a Member from conducting continued layering or spoofing activity on the Exchange. Importantly, these procedures would also provide the Exchange the authority to order a Member to cease and desist from providing access to the Exchange to a client of the Member that is conducting layering or spoofing activity in violation of proposed Rule 12.15.

Under proposed paragraph (a) of Rule 8.17, with the prior written authorization of the Chief Regulatory Officer (''CRO'') or such other senior officers as the CRO may designate, the Office of General Counsel or Regulatory Department of the Exchange (such departments generally referred to as the ''Exchange'' for purposes of proposed Rule 8.17) may initiate an expedited suspension proceeding with respect to alleged violations of Rule 12.15, which is proposed as part of this filing and described in detail below. Proposed paragraph (a) would also set forth the requirements for notice and service of such notice pursuant to the Rule, including the required method of service and the content of notice.

Proposed paragraph (b) of Rule 8.17 would govern the appointment of a Hearing Panel as well as potential disqualification or recusal of Hearing Officers. The proposed provision is consistent with existing Exchange Rule 8.6 and includes the requirement for a Hearing Officer to be recused in the event he or she has a conflict of interest or bias or other circumstances exist where his or her fairness might reasonably be questioned. In addition to recusal initiated by such a Hearing Officer, a party to the proceeding will be permitted to file a motion to disqualify a Hearing Officer. However, due to the compressed schedule pursuant to which the process would operate under Rule 8.17, the proposed rule would require such motion to be filed no later than 5 days after the announcement of the Hearing Panel and the Exchange's brief in opposition to such motion would be required to be filed no later than 5 days after service thereof. Pursuant to existing Rule 8.6(b), if the Hearing Panel believes the Respondent has provided satisfactory evidence in support of the motion to disqualify, the applicable Hearing Officer shall remove himself or herself and request the Chief Executive Officer to reassign the hearing to another Hearing Officer such that the Hearing Panel still meets the compositional requirements described in Rule 8.6(a). If the Hearing Panel determines that the Respondent's grounds for disqualification are insufficient, it shall deny the Respondent's motion for disqualification by setting forth the reasons for the denial in writing and the Hearing Panel will proceed with the hearing.

Under paragraph (c) of the proposed Rule, the hearing would be held not later than 15 days after service of the notice initiating the suspension proceeding, unless otherwise extended by the Chairman of the Hearing Panel with the consent of the Parties for good cause shown. In the event of a recusal or disqualification of a Hearing Officer, the hearing shall be held not later than five days after a replacement Hearing Officer is appointed. Proposed paragraph (c) would also govern how the hearing is conducted, including the authority of Hearing Officers, witnesses, additional information that may be required by the Hearing Panel, the requirement that a transcript of the proceeding be created and details related to such transcript, and details regarding the creation and maintenance of the record of the proceeding. Proposed paragraph (c) would also state that if a Respondent fails to appear at a hearing for which it has notice, the allegations in the notice and accompanying declaration may be deemed admitted, and the Hearing Panel may issue a suspension order without further proceedings. Finally, as proposed, if the Exchange fails to appear at a hearing for which it has notice, the Hearing Panel may order that the suspension proceeding be dismissed.

Under paragraph (d) of the proposed Rule, the Hearing Panel would be authorized to issue a written decision stating whether a suspension order would be imposed. The Hearing Panel would be required to issue the decision not later than 10 days after receipt of the hearing transcript, unless otherwise extended by the Chairman of the Hearing Panel with the consent of the Parties for good cause shown. The Rule would state that a suspension order shall be imposed if the Hearing Panel finds by a preponderance of the evidence that the alleged violation specified in the notice has occurred and that the violative conduct or continuation thereof is likely to result in significant market disruption or other significant harm to investors.

Proposed paragraph (d) would also describe the content, scope and form of a suspension order. As proposed, a suspension order shall be limited to ordering a Respondent to cease and desist from violating proposed Rule 12.15, and, where applicable, to ordering a Respondent to cease and desist from providing access to the Exchange to a client of Respondent that is causing violations of Rule 12.15. Under the proposed rule, a suspension order shall also set forth the alleged violation and the significant market disruption or other significant harm to investors that is likely to result without the issuance of an order, describe in reasonable detail the act or acts the Respondent is to take or refrain from taking, and include the date and hour of its issuance. As proposed, a suspension order would remain effective and enforceable unless modified, set aside, limited, or revoked pursuant to proposed paragraph (e), as described below. Finally, paragraph (d) would require service of the Hearing Panel's decision and any suspension order consistent with other portions of the proposed rule related to service.

Proposed paragraph (e) of Rule 8.17 would state that at any time after the Office of Hearing Officers served the Respondent with a suspension order, a Party could apply to the Hearing Panel to have the order modified, set aside, limited, or revoked. The Hearing Panel generally would be required to respond to the request in writing within 10 days after receipt of the request. An application to modify, set aside, limit or revoke a suspension order would not

stay the effectiveness of the suspension order.

Paragraph (f) of the proposed Rule would authorize the cancellation of a Respondent's membership with the Exchange or bar from associating with any member of the Exchange if the Respondent violated a suspension order. The Exchange believes that this authority is necessary in particular in the event a Member is ordered to but fails to prevent access to the Exchange by a client that is engaging in activity prohibited by Rule 12.15. Paragraph (f) would require notice of such action, served in accordance with the proposed Rule. The notice would be required to explicitly identify the provision of the suspension order that is alleged to have been violated and contain a statement of facts specifying the alleged violation. The notice would also state when the Exchange's action will take effect and explain what the respondent must do to avoid such action.

Finally, proposed paragraph (g) would provide that sanctions issued under the proposed Rule 8.17 would constitute final and immediately effective disciplinary sanctions imposed by the Exchange, and that the right to have any action under the Rule reviewed by the Commission would be governed by section 19 of the Act. The filing of an application for review would not stay the effectiveness of a suspension order, cancellation of membership or a bar from associating with any member, unless the Commission otherwise ordered.

Rule 12.15—Layering and Spoofing Prohibited

The Exchange currently has authority to prohibit and take action against manipulative trading activity, including layering and spoofing, pursuant to its general market manipulation rules, including Rule 3.1. The Exchange proposes to adopt new Rule 12.15, which would more specifically define and prohibit layering and spoofing activity on the Exchange. As noted above, the Exchange also proposes to apply the proposed suspension rules to proposed Rule 12.15.

Proposed Rule 12.15 would prohibit Members from engaging in or facilitating layering or spoofing activity on the Exchange, as described in proposed Interpretation and Policy .01 of the Rule, including acting in concert with other persons to effect such activity. The Exchange believes that it is necessary to extend the prohibition to situations when persons are acting in concert to avoid a potential loophole where layering and spoofing activity is simply split between several brokers or customers.

To provide proper context for the situations in which the Exchange proposes to utilize its proposed authority, the Exchange believes it is necessary to describe the types of disruptive and manipulative layering and spoofing activity that would cause the Exchange to use its authority. Accordingly, the Exchange proposes to adopt Interpretation and Policy .01 and .02, providing additional details regarding layering and spoofing activity. Proposed Interpretation and Policy .01, related to layering, would describe a layering activity as a frequent pattern in which the following facts are present: (a) A party enters multiple limit orders on one side of the market at various price levels (the ''Layering Orders''); and (b) following the entry of the Layering Orders, the level of supply and demand for the security changes; and (c) the party enters one or more orders on the opposite side of the market of the Layering Orders (the ''Contra-Side Orders'') that are subsequently executed; and (d) following the execution of the Contra-Side Orders, the party cancels the Layering Orders. Proposed Interpretation and Policy .02, related to spoofing, would describe spoofing activity as a frequent pattern in which the following facts are present: (a) A party narrows the spread for a security by placing an order inside the national best bid or offer (the ''Spoofing Order''); and (b) the party then submits an order on the opposite side of the market (''Contra-Side Order'') that executes against another market participant that joined the new inside market established by the Spoofing Order. The Exchange believes that the proposed descriptions of layering and spoofing activity articulated in the rule are consistent with the activities that have been identified and described in the client access cases described above. The Exchange further believes that the proposed descriptions will provide Members with clear descriptions of layering and spoofing activity that will help them to avoid engaging in such activities or allowing their clients to engage in such activities.

The Exchange proposes to make clear in Interpretation and Policy .03 that, unless otherwise indicated, the descriptions of layering activity and spoofing activity do not require the facts to occur in a specific order in order for the rule to apply. For instance, it is of no consequence whether a party first enters Layering Orders and then Contra-side Orders or vice-versa. However, as proposed, it is required for supply and demand to change following the entry of Layering Orders. The Exchange also proposes to make clear that layering activity and spoofing activity includes a pattern or practice in which some portion of the layering or spoofing activity is conducted on the Exchange and the other portions of the layering or spoofing activity are conducted on one or more other exchanges. The Exchange believes that this authority is necessary to address market participants who would otherwise seek to avoid the prohibitions of the proposed Rule by spreading their activity amongst various execution venues.

In sum, proposed Rule 12.15 coupled with proposed Rule 8.17 would provide the Exchange with authority to promptly act to prevent layering activity and spoofing activity from continuing on the Exchange. Below is an example of how the proposed rule would operate.

Assume that through its surveillance program, Exchange staff identifies a pattern of potential layering activity. After an initial investigation the Exchange would then contact the Member responsible for the orders that caused the activity to request an explanation of the activity as well as any additional relevant information, including the source of the activity. If the Exchange were to continue to see the same pattern from the same Member and the source of the activity is the same or has been previously identified as a frequent source of layering activity then the Exchange could initiate an expedited suspension proceeding by serving notice on the Member that would include details regarding the alleged violations as well as the proposed sanction. In such a case the proposed sanction would likely be to order the Member to cease and desist providing access to the Exchange to the client that is responsible for the layering activity. The Member would have the opportunity to be heard in front of a Hearing Panel at a hearing to be conducted within 15 days of the notice. If the Hearing Panel determined that the violation alleged in the notice did not occur or that the conduct or its continuation would not have the potential to result in significant market disruption or other significant harm to investors, then the Hearing Panel would dismiss the suspension order proceeding. If the Hearing Panel determined that the violation alleged in the notice did occur and that the conduct or its continuation is likely to result in significant market disruption or other significant harm to investors, then the Hearing Panel would issue the order including the proposed sanction, ordering the Member to cease providing

access to the client at issue. If the Member obeyed the order and ceased providing such access, then the Member would be permitted to do business on the Exchange without any limit to access for such Member or its other clients. The Exchange notes, however, that abiding by a suspension order and continuing to be permitted to access the Exchange would not alter the Exchange's ability to further investigate the matter and/or later sanction the Member pursuant to the Exchange's standard disciplinary process for supervisory violations or other violations of Exchange rules or the Act. If the Exchange instead learned that the Member failed to abide by the order and continued to provide access to the client at issue in the suspension order, the Exchange would have the authority to cancel the Member's membership with the Exchange or to bar an individual from associating with any Member of the Exchange.

The Exchange reiterates that it already has broad authority to take action against a Member in the event that such Member is engaging in or facilitating disruptive or manipulative trading activity on the Exchange. For the reasons described above, and in light of recent cases like the client access cases described above, as well as other cases currently under investigation, the Exchange believes that it is equally important for the Exchange to have the authority to promptly initiate expedited suspension proceedings against any Member who has demonstrated a clear pattern or practice of layering or spoofing activity, as described above and to take action including ordering such Member to terminate access to the Exchange to one or more of such Member's clients if such clients are responsible for the activity. The Exchange recognizes that its proposed authority to issue a suspension order is a powerful measure that should be used very cautiously. Consequently, the proposed rules have been designed to ensure that the proceedings are used to address only the most clear and serious types of layering and spoofing activity and that the interests of Respondents are protected. For example, to ensure that proceedings are used appropriately and that the decision to initiate a proceeding is made only at the highest staff levels, the proposed rules require the CRO or another senior officer of the Exchange to issue written authorization before the Exchange can institute an expedited suspension proceeding. In addition, the Exchange believes that it would use this authority in limited circumstances, when necessary to protect investors, other Members and the Exchange. Further, the Exchange believes that the proposed expedited suspension provisions described above that provide the opportunity to respond as well as a Hearing Panel determination prior to taking action will ensure that the Exchange would not utilize its authority in the absence of a clear pattern or practice of layering or spoofing activity.

2. Statutory Basis

The Exchange believes that the proposed rule changes are consistent with section 6(b) of the Act [11] and further the objectives of section 6(b)(5) of the Act [12] because they are 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 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. Pursuant to the proposal, the Exchange will have a mechanism to promptly initiate expedited suspension proceedings in the event the Exchange believes that it has sufficient proof that a violation of Rule 12.15 has occurred and is ongoing.

Further, the Exchange believes that the proposal is consistent with sections 6(b)(1) and 6(b)(6) of the Act,[13] which require that the rules of an exchange enforce compliance with, and provide appropriate discipline for, violations of the Commission and Exchange rules. The Exchange also believes that the proposal is consistent with the public interest, the protection of investors, or otherwise in furtherance of the purposes of the Act because the proposal helps to strengthen the Exchange's ability to carry out its oversight and enforcement responsibilities as a self-regulatory organization in cases where awaiting the conclusion of a full disciplinary proceeding is unsuitable in view of the potential harm to other Members and their customers as well as the Exchange if conduct is allowed to continue on the Exchange.

The Exchange further believes that the proposal is consistent with section 6(b)(7) of the Act,[14] which requires that the rules of an exchange ''provide a fair procedure for the disciplining of members and persons associated with persons . . . and the prohibition or limitation by the exchange of any person with respect to access to services offered by the exchange or a member thereof.'' Finally, the Exchange also believes the proposal is consistent with sections 6(d)(1) and 6(d)(2) of the Act,[15] which require that the rules of an exchange with respect to a disciplinary proceeding or proceeding that would limit or prohibit access to or membership in the exchange require the exchange to: provide adequate and specific notice of the charges brought against a member or person associated with a member, provide an opportunity to defend against such charges, keep a record, and provide details regarding the findings and applicable sanctions in the event a determination to impose a disciplinary sanction is made. The Exchange believes that each of these requirements is addressed by the notice and due process provisions included within proposed Rule 8.17. Importantly, as noted above, the Exchange anticipates using the authority proposed in this filing only in clear and egregious cases when necessary to protect investors, other Members and the Exchange, and even in such cases, the Respondent will be afforded due process in connection with the suspension proceedings.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule changes will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. To the contrary, the Exchange believes that each self-regulatory organization should be empowered to regulate trading occurring on their market consistent with the Act and without regard to competitive issues. The Exchange is requesting authority to take appropriate action if necessary for the protection of investors, other Members and the Exchange.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange has neither solicited nor received written comments on the proposed rule changes.

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

[11] 15 U.S.C. 78f(b).

[12] 15 U.S.C. 78f(b)(5).

[13] 15 U.S.C. 78f(b)(1) and 78f(b)(6).

[14] 15 U.S.C. 78f(b)(7).

[15] 15 U.S.C. 78f(d)(1).

to be appropriate and publishes its reasons for so finding or (ii) as to which the Exchange consents, the Commission will:

(A) By order approve or disapprove such proposed rule change, or

(b) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change, as modified by Amendment No. 1, 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–2015–57 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–2015–57. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal offices of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–BATS–2015–57, and should be submitted on or before September 9, 2015.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[16]

Brent J. Fields,

Secretary.

[FR Doc. 2015–20421 Filed 8–18–15; 8:45 am]

BILLING CODE 8011–01–P

[16] 17 CFR 200.30–3(a)(12).

DEPARTMENT OF STATE

[Public Notice 9226]

Notice of Public Meeting

The Department of State will conduct an open meeting at 9 a.m. on Wednesday, September 2, 2015, in Conference Room 8–9–10 of the Department of Transportation (DOT) Headquarters Conference Center, West Building, 1200 New Jersey Avenue SE., Washington, DC 20590. The primary purpose of the meeting is to prepare for the second Session of the International Maritime Organization's (IMO) Sub-Committee on Carriage of Cargoes and Containers to be held at the IMO Headquarters, United Kingdom, September 14–18, 2015.

The agenda items to be considered include:

—Adoption of the agenda
—Decisions of other IMO bodies
—Amendments to the IGF Code and development of guidelines for low-flashpoint fuels
—Safety requirements for carriage of liquefied hydrogen in bulk
—Amendments to the IMSBC Code and supplements
—Amendments to the IMDG Code and supplements
—Amendments to CSC 1972 and associated circulars
—Revised Guidelines for packing of cargo transport units
—Unified interpretation to provisions of IMO safety, security and environment related Conventions
—Consideration of reports of incidents involving dangerous goods or marine pollutants in packaged form on board ships or in port areas
—Mandatory requirements for classification and declaration of solid bulk cargoes as harmful to the marine environment
—Biennial agenda and provisional agenda for CCC 3
—Election of Chairman and Vice-Chairman for 2016
—Any other business
—Report to the Committees

Members of the public may attend this meeting up to the seating capacity of the room. Upon request, members of the public may also participate via teleconference, up to the capacity of the teleconference phone line. To facilitate the building security process, and to request reasonable accommodation, those who plan to attend, or participate via the teleconference line, should contact the meeting coordinator, Ms. Amy Parker, by email at *Amy.M.Parker@uscg.mil,* by phone at (202) 372–1423, or in writing at 2703 Martin Luther King Jr. Ave. SE., Stop 7509, Washington, DC 20593–7509, not later than August 24, 2015, or 7 business days prior to the meeting. Requests made after August 24, 2015 might not be able to be accommodated. Please note that due to security considerations, a valid, government issued photo identification must be presented to gain entrance to the DOT Headquarters building. DOT Headquarters is accessible by metro via the Navy Yard Metrorail Station, taxi, and privately owned conveyance. However, parking in the vicinity of the building is extremely limited. Additional information regarding this and other IMO-related public meetings may be found at: *www.uscg.mil/imo.*

Dated: August 10, 2015.

Jonathan W. Burby,

Coast Guard Liaison Officer, Office of Ocean and Polar Affairs Department of State.

[FR Doc. 2015–20490 Filed 8–18–15; 8:45 am]

BILLING CODE 4710–09–P

DEPARTMENT OF STATE

[Public Notice 9229]

Advisory Committee on International Postal and Delivery Services September 2015 Meeting

SUMMARY: As required by the Federal Advisory Committee Act, Public Law 92–463, the Department of State gives notice of a meeting of the Advisory Committee on International Postal and Delivery Services. This Committee will meet on Wednesday, September 9, 2015, from 1:00 p.m. to 5:00 p.m. Eastern Time at the American Institute of Architects, Board Room, 1735 New York Avenue NW., Washington, DC 20006.

Any member of the public interested in providing input to the meeting should contact Ms. Shereece Robinson, whose contact information is listed below (see the **FOR FURTHER INFORMATION** section of this notice). Each individual providing oral input is requested to limit his or her comments to five minutes. Requests to be added to the speakers list must be received in writing (letter or email) prior to the close of business on Wednesday, September 2, 2015; written comments from members

of the public for distribution at this meeting must reach Ms. Robinson by letter or email this same date. A member of the public requesting reasonable accommodation should also make their request to Ms. Robinson by September 2. Requests received after that date will be considered but might not be able to be fulfilled.

The agenda of the meeting will include: Consideration of postal terminal dues, customs treatment of mail, and Universal Postal Union institutional issues.

FOR FURTHER INFORMATION CONTACT: Please contact Ms. Shereece Robinson of the Office of Specialized and Technical Agencies (IO/STA), Bureau of International Organization Affairs, U.S. Department of State, at tel. (202) 663–2649, by email at *RobinsonSA2@state.gov,* or by mail at IO/STA, Suite L–409 SA–1; U.S. Department of State; Washington, DC 20522.

Dated: August 13, 2015.

Joseph P. Murphy,

Designated Federal Officer, Advisory Committee on International Postal and Delivery Services, Office of Specialized and Technical Agencies, Bureau of International Organization Affairs, Department of State.

[FR Doc. 2015–20492 Filed 8–18–15; 8:45 am]

BILLING CODE 4710–19–P

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Generalized System of Preferences (GSP): Notice of Initiation of the 2015 Annual GSP Product and Country Practices Review; Deadlines for Filing Petitions

AGENCY: Office of the United States Trade Representative.

ACTION: Notice of procedures for submission of petitions from the public.

SUMMARY: This notice announces that the Office of the United States Trade Representative (USTR) is prepared to receive petitions to modify the list of products that are eligible for duty-free treatment under the Generalized System of Preferences (GSP) program and to modify the GSP status of certain GSP beneficiary developing countries because of country practices. USTR is also prepared to receive petitions requesting waivers of competitive need limitations (CNLs). This notice provides that, pursuant to 15 CFR part 2007.3, the following deadlines apply with respect to the 2015 review: 5:00 p.m., Friday, October 16, 2015 for the submission of petitions to modify the list of articles eligible for duty-free treatment under GSP or to review the GSP status of any beneficiary developing country, and 5:00 p.m., Monday, November 23, 2015 for the submission of petitions requesting CNL waivers. The lists of petitions accepted for review will be announced in the **Federal Register** at a later date.

ADDRESSES: Public comments should be submitted electronically to *www.regulations.gov* in docket number USTR–2015–0013.

FOR FURTHER INFORMATION CONTACT: The GSP Program at the Office of the United States Trade Representative. The telephone number is (202) 395–2974, the fax number is (202) 395–9674, and the email address is *gsp@ustr.eop.gov.*

SUPPLEMENTARY INFORMATION:

I. The 2015 Annual GSP Review

The GSP regulations (15 CFR part 2007.3) provide the timetable for conducting an annual review, unless otherwise specified by notice in the **Federal Register**. Notice is hereby given that, in order to be considered in the 2015 Annual GSP Review, relevant petitions must be received by the GSP Subcommittee of the Trade Policy Staff Committee by the following deadlines:

Friday, October 16, 2015, 5:00 p.m.: Petitions to modify the list of articles eligible for duty-free treatment under GSP.

Friday, October 16, 2015, 5:00 p.m.: Petitions to review the GSP status of any beneficiary developing country.

Monday, November 23, 2015, 5:00 p.m.: Petitions requesting waivers of CNLs.

Petitions submitted after the above-listed deadlines will not be considered for review. Decisions on which petitions are accepted for review, along with a schedule for any related public hearings and the opportunity for the public to provide comments, will be announced in the **Federal Register** at a later date.

GSP Product Review Petitions

Interested parties, including foreign governments, may submit petitions to: (1) Designate additional articles as eligible for GSP benefits, including to designate articles as eligible for GSP benefits only if imported from countries designated as least-developed beneficiary developing countries, or only from countries designated as beneficiary sub-Saharan African countries under the African Growth and Opportunity Act (AGOA); (2) withdraw, suspend or limit the application of duty-free treatment accorded under the GSP with respect to any article; and (3) otherwise modify GSP coverage. Petitioners seeking to add products to eligibility for GSP benefits should note that, as provided in section 503(b) of the Trade Act (19 U.S.C. 2463(b)), certain articles may not be designated as eligible articles under GSP.

As specified in 15 CFR part 2007.1, all product petitions must include, *inter alia,* a detailed description of the product and the eight-digit subheading of the Harmonized Tariff Schedule of the United States (HTSUS) under which the product is classified.

Country Practices Review Petitions

Any interested party may submit a petition to review the GSP eligibility of any beneficiary developing country with respect to any of the designation criteria listed in sections 502(b) or 502(c) of the Trade Act (19 U.S.C. 2462(b) and (c)).

Competitive Need Limitations

Any interested party may submit a petition seeking a waiver of the 2015 CNL for individual beneficiary developing countries with respect to specific GSP-eligible articles (these limits do not apply to least-developed beneficiary developing countries or AGOA beneficiary countries). Before submitting petitions for CNL waivers, prospective petitioners may wish to review the 2015 year-to-date import trade data for products of interest. This data is available via the U.S. International Trade Commission's ''Dataweb'' database at *http://dataweb.usitc.gov/*. For more information on CNLs and how they apply to the GSP program, please visit the GSP page of the USTR Web site at *https://ustr.gov/issue-areas/trade-development/preference-programs/generalized-system-preference-gsp.*

II. Requirements for Submissions

All submissions for the GSP Annual Review must conform to the GSP regulations set forth at 15 CFR part 2007, except as modified below. These regulations are available on the USTR Web site at *https://ustr.gov/issue-areas/trade-development/preference-programs/generalized-system-preference-gsp/gsp-program-inf.*

All submissions in response to this notice must be in English and must be submitted electronically via *http://www.regulations.gov,* using docket number USTR–2015–0013. Hand-delivered submissions will not be accepted. Submissions that do not provide the information required by sections 2007.0 and 2007.1 of the GSP regulations will not be accepted for review, except upon a detailed showing in the submission that the petitioner made a good faith effort to obtain the information required.

To make a submission via *http://www.regulations.gov*, enter the docket number for this review—USTR–2015–0013—in the ''Search for'' field 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'' in the ''Filter Results by'' section on the left side of the screen and click on the link entitled ''Comment Now.'' (For further information on using the *http://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 *http://www.regulations.gov* Web site allows users to provide comments by filling in a ''Type Comment'' field or by attaching a document using the ''Upload file(s)'' field. The GSP Subcommittee prefers that submissions be provided in an attached document.

Submissions must include, at the beginning of the submission, or on the first page (if an attachment), the following text (in bold and *underlined*): (1) ''2015 GSP Annual Review''; and (2) the eight-digit HTSUS subheading number in which the product is classified (for product petitions) or the name of the country (for country practice petitions). Furthermore, interested parties submitting petitions that request action with respect to specific products should also list at the beginning of the submission, or on the first page (if an attachment) the following information: (1) The requested action; and (2) if applicable, the beneficiary developing country. Submissions should not exceed 30 single-spaced, standard letter-size pages in 12-point type, including attachments. Any data attachments to the submission should be included in the same file as the submission itself, and not as separate files.

Each submitter will receive a submission tracking number upon completion of the submissions procedure at *http://www.regulations.gov.* The tracking number will be the submitter's confirmation that the submission was received into *http://www.regulations.gov.* The confirmation should be kept for the submitter's records. USTR is not responsible for any delays in a submission due to technical difficulties, nor is it able to provide any technical assistance for the *http://www.regulations.gov* Web site. Documents not submitted in accordance with these instructions may not be considered in this review. If an interested party is unable to provide submissions as requested, please contact the GSP program at USTR to arrange for an alternative method of transmission.

Business Confidential Petitions

An interested party requesting that information contained in a submission be treated as business confidential 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. The submission must be marked ''BUSINESS CONFIDENTIAL'' at the top and bottom of the cover page and each succeeding page, and the submission should indicate, via brackets, the specific information that is confidential. Additionally, ''Business Confidential'' must be included in the ''Type Comment'' field. For any submission containing business confidential information, a non-confidential version must be submitted separately (*i.e.,* not as part of the same submission with the confidential version), indicating where confidential information has been redacted. The non-confidential version will be placed in the docket and open to public inspection.

Business confidential submissions that are submitted without the required markings, or are not accompanied by a properly marked non-confidential version, as set forth above, might not be accepted or may be considered public documents.

Public Viewing of Review Submissions

Submissions in response to this notice, except for information granted ''business confidential'' status under 15 CFR part 2003.6, will be available for public viewing pursuant to 15 CFR part 2007.6 at *http://www.regulations.gov* upon completion of processing. Such submissions may be viewed by entering the docket number USTR–2015–0013 in the search field at *http://www.regulations.gov.*

William D. Jackson,

Deputy Assistant U.S. Trade Representative for the Generalized System of Preferences, Office of the U.S. Trade Representative.

[FR Doc. 2015–20456 Filed 8–18–15; 8:45 am]

BILLING CODE 3290–F5–P

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Request for Public Comments To Compile the National Trade Estimate Report on Foreign Trade Barriers

AGENCY: Office of the United States Trade Representative.

ACTION: Notice.

SUMMARY: Pursuant to section 181 of the Trade Act of 1974, as amended (19 U.S.C. 2241), the Office of the United States Trade Representative (USTR) is required to publish annually the National Trade Estimate Report on Foreign Trade Barriers (NTE). With this notice, the Trade Policy Staff Committee (TPSC) is requesting interested persons to submit comments to assist it in identifying significant barriers to U.S. exports of goods, services, and U.S. foreign direct investment for inclusion in the NTE. The TPSC invites written comments from the public on issues that USTR should examine in preparing the NTE.

Section 1377 of the Omnibus Trade and Competitiveness Act of 1988 (19 U.S.C. 3106) (''Section 1377'') requires the USTR to review annually the operation and effectiveness of all U.S. trade agreements regarding telecommunications products and services that are in force with respect to the United States. In past years, USTR has solicited comments with regard to Section 1377 in a separate **Federal Register** Notice. In 2016, USTR is collecting information regarding the trade barriers pertinent to the conduct of the review called for in Section 1377 through this notice.

DATES: Public comments are due not later than 11:59 p.m., October 28, 2015.

ADDRESSES: Submissions should be made via the Internet at *www.regulations.gov* docket number USTR 2015–0014. For alternatives to on-line submissions please contact Yvonne Jamison (202) 395–3475. The public is strongly encouraged to file submissions electronically rather than by facsimile or mail.

FOR FURTHER INFORMATION CONTACT: Questions regarding this notice should be directed to Yvonne Jamison at (202) 395–3475.

SUPPLEMENTARY INFORMATION: The NTE sets out an inventory of the most important foreign barriers affecting U.S. exports of goods and services, U.S. foreign direct investment, and protection of intellectual property rights. The inventory facilitates U.S. negotiations aimed at reducing or eliminating these barriers. The report also provides a valuable tool in enforcing U.S. trade laws and strengthening the rules-based trading system. The 2015 NTE Report may be found on USTR's Internet Home Page (*http://www.ustr.gov*) under the tab ''Reports''. To ensure compliance with the NTE's statutory mandate and the Obama Administration's commitment to

focus on the most significant foreign trade barriers, USTR will be guided by the existence of active private sector interest in deciding which restrictions to include in the NTE.

Topics on which the TPSC Seeks Information: To assist USTR in preparing the NTE, commenters should submit information related to one or more of the following categories of foreign trade barriers:

(1) Import policies (*e.g.*, tariffs and other import charges, quantitative restrictions, import licensing, and customs barriers);

(2) Government procurement restrictions (*e.g.*, ''buy national policies'' and closed bidding);

(3) Export subsidies (*e.g.*, export financing on preferential terms, subsidies provided to equipment manufacturers contingent on export and agricultural export subsidies that displace U.S. exports in third country markets);

(4) Lack of intellectual property protection (*e.g.*, inadequate patent, copyright, and trademark regimes);

(5) Services barriers (*e.g.*, limits on the range of financial services offered by foreign financial institutions, regulation of international data flows, restrictions on the use of data processing, quotas on imports of foreign films, unnecessary or discriminatory technical regulations or standards for telecommunications services and barriers to the provision of services by professionals);

(6) Investment barriers (*e.g.*, limitations on foreign equity participation and on access to foreign government-funded R&D consortia, local content, technology transfer and export performance requirements, and restrictions on repatriation of earnings, capital, fees, and royalties);

(7) Government-tolerated anticompetitive conduct of state-owned or private firms that restrict the sale or purchase of U.S. goods or services in the foreign country's markets;

(8) Trade restrictions affecting electronic commerce (*e.g.*, tariff and non-tariff measures, burdensome and discriminatory regulations and standards, and discriminatory taxation);

(9) Trade restrictions implemented through unwarranted Sanitary and Phytosanitary Measures, including unwarranted measures justified for purposes of protecting food safety, and animal and plant life or health;

(10) Trade restrictions implemented through unwarranted standards, conformity assessment procedures, or technical regulations (Technical Barriers to Trade) that may have as their objective protecting national security requirements, preventing deceptive practices, or protecting human health or safety, animal or plant life or health, or the environment, but that can be formulated or implemented in ways that create significant barriers to trade (including unnecessary or discriminatory technical regulations or standards for telecommunications products); and

(11) Other barriers (*e.g.*, barriers that encompass more than one category, such as bribery and corruption, or that affect a single sector).

In addition, Section 1377 of the Omnibus Trade and Competitiveness Act of 1988 (19 U.S.C. 3106) (''Section 1377'') requires the USTR to review annually the operation and effectiveness of all U.S. trade agreements regarding telecommunications products and services that are in force with respect to the United States. The purpose of the review is to determine whether any act, policy, or practice of a country that has entered into a trade agreement or other telecommunications trade agreement with the United States is inconsistent with the terms of such agreement or otherwise denies U.S. firms, within the context of the terms of such agreements, mutually advantageous market opportunities for telecommunications products and services. In past years, USTR has solicited comments with regard to Section 1377 in a separate **Federal Register** Notice. For 2016, USTR is collecting the information with regard to the trade barriers pertinent to the Section 1377 review through this notice.

Furthermore, commenters are invited to identify those barriers covered in submissions that may operate as ''localization barriers to trade''. Localization barriers are measures designed to protect, favor, or stimulate domestic industries, services providers, and or intellectual property at the expense of goods services or intellectual property from other countries, including the provision of subsidies linked to local production. For more information on localization barriers, please go to *http://www.ustr.gov/trade-topics/localization-barriers.*

In responding to this notice, commenters should place particular emphasis on any practices that may violate U.S. trade agreements. The TPSC is also interested in receiving new or updated information pertinent to the barriers covered in the 2015 NTE as well as information on new barriers. If USTR does not include in the NTE information that it receives pursuant to this notice, it will maintain the information for potential use in future discussions or negotiations with trading partners.

Estimate of Increase in Exports: Each comment should include an estimate of the potential increase in U.S. exports that would result from removing any foreign trade barrier the comment identifies, as well as a description of the methodology the commenter used to derive the estimate. Estimates should be expressed within the following value ranges: Less than $5 million; $5 to $25 million; $25 million to $50 million; $50 million to $100 million; $100 million to $500 million; or over $500 million. These estimates will help USTR conduct comparative analyses of a barrier's effect over a range of industries.

Requirements for Submissions: Commenters providing information on foreign trade barriers in more than one country should, whenever possible, provide a separate submission for each country. In order to ensure the timely receipt and consideration of comments, USTR strongly encourages commenters to make on-line submissions, using the *http://www.regulations.gov* Web site.

Comments should be submitted under docket number USTR 2015–0014. Persons submitting comments must do so in English and must identify (on the first page of the submission) ''Comments Regarding Foreign Trade Barriers To U.S. Exports for 2016 Reporting.''

In order to be assured of consideration, comments should be submitted by 11:59 p.m., October 28, 2015. In order to ensure the timely receipt and consideration of comments, USTR strongly encourages commenters to make on-line submissions, using the *www.regulations.gov* Web site. To submit comments via *www.regulations.gov* enter docket number USTR 2015–0014 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 and click on the link entitled ''Comment Now!'' (For further information on using the *www.regulations.gov* Web site, please consult the resources provided on the 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 Comment'' field, or by attaching a document using an ''Upload File'' field. USTR prefers that comments be provided in an attached document. If a document is attached, please identify the name of the country to which the submission pertains in the ''Type Comment'' field. For example: ''See attached comments with respect to (name of country)''. USTR prefers submissions in Microsoft Word (.doc) or

Adobe Acrobat (.pdf). If the submission is in an application other than those two, please indicate the name of the application in the ''Type Comment'' field. For any comments submitted electronically containing business confidential information, the file name of the business confidential version should begin with the characters ''BC''. Any page containing business confidential must be clearly marked ''BUSINESS CONFIDENTIAL'' on the top of that page. Filers of submissions containing business confidential information must also submit a public version of their comments. The file name of the public version should begin with the character ''P''. The ''BC'' and ''P'' should be followed by the name of the person or entity submitting the comments or reply comments. Filers submitting comments containing no business confidential information should name their file using the name of the person or entity submitting the comments. Please do not attach separate cover letters to electronic submissions; rather include any information that might appear in a cover letter in the comments themselves. Similarly to the extent possible, please include any exhibits, annexes, or other attachments in the same file as the submission itself, not as separate files.

As noted, USTR strongly urges submitters to file comments through *www.regulations.gov*, if at all possible. Any alternative arrangements must be made with Ms. Jamison in advance of transmitting a comment. Ms. Jamison should be contacted at (202) 395–3475. General information concerning USTR is available at *www.ustr.gov*. Comments will be placed in the docket and open to public inspection, except confidential business information. Comments may be viewed on the *http://www.regulations.gov* Web site by entering the relevant docket number in the search field on the home page.

Edward Gresser,

Acting Chair, Trade Policy Staff Committee.

[FR Doc. 2015–20524 Filed 8–18–15; 8:45 am]

BILLING CODE 3290–F5–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Docket No. FAA–2015–3323]

Notice of Public Meetings for Unmanned Aircraft Systems Test Sites and Center of Excellence; Correction

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

ACTION: Notice of public meetings; correction.

SUMMARY: On August 6, 2015, the FAA published a notice of meeting to announce that the FAA will support seven public meetings during August and September, 2015. These meetings will be hosted by the six unmanned aircraft system (UAS) Test Sites and UAS Center of Excellence (COE). This notice corrects the point of contact for the Griffiss UAS Test Site.

DATES: Please see below for the date, time, and location of the meetings.

FOR FURTHER INFORMATION CONTACT: The Unmanned Aircraft Systems Integration Office, AFS–80, Federal Aviation Administration at: *9-AFS-UAS-Inquiries@faa.gov.*

SUPPLEMENTARY INFORMATION: On August 6, 2015, the FAA published a notice of meeting (80 FR 47021) to announce the dates, times, and locations of seven meetings to be held at UAS test sites and the UAS Center of Excellence in August and September, 2015. The FAA incorrectly listed the point of contact for the Griffiss UAS Test Site public meeting. This notice corrects that error.

Correction

In the notice published on August 6, 2015, at 80 FR 47021, the contact information for the Griffiss UAS Test Site contained in the table on page 47022 is corrected to read as follows:

Site	Date, time, and location of meeting	Point of contact	Web site
UAS Test Sites			
Griffiss International Airport Test Site.	Tuesday, September 29, 2015, 2pm–4pm (local), Mohawk Valley Community College, 1101 Sherman Drive, Payne Hall 331, Utica, NY.	Russell Stark, Commissioner, Oneida County Department of Aviation, (315) 736–4171, *rstark@ocgov.net.*	*www.nuairalliance.org.*

Issued in Washington, DC, on August 7, 2015.

William E. Crozier,

Acting Manager, Unmanned Aircraft Systems Integration Office.

[FR Doc. 2015–20525 Filed 8–18–15; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

Denial of Motor Vehicle Defect Petition, DP15–003

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

ACTION: Denial of petition for a defect investigation.

SUMMARY: This notice states the reasons for denying a petition (DP 15–003) submitted to NHTSA under 49 U.S.C. 30162, 49 CFR part 522, requesting that the agency open an investigation into delamination or separation of the back glass from the convertible top material on model year 2005 Chrysler Crossfire vehicles.

FOR FURTHER INFORMATION CONTACT: Mr. John Abbott, Office of Defects Investigation (ODI), NHTSA; 1200 New Jersey Avenue SE., Washington, DC 20590. Telephone: (202) 366–5221. Email: *John.Abbott@dot.gov.*

SUPPLEMENTARY INFORMATION:

I. Introduction

Interested persons may petition NHTSA requesting that the Agency initiate an investigation to determine whether a motor vehicle or item of replacement equipment does not comply with an applicable motor vehicle safety standard or contains a defect that relates to motor vehicle safety. 49 U.S.C. 30162(a) (2): 49 CFR 522.1. Upon receipt of a properly filed petition, the agency conducts a technical review of the petition, material submitted with the petition, and any additional information. 49 U.S.C. 30162(c); 49 CFR 552.6. After considering the technical review and taking into account appropriate factors, which may include, among others, allocation of agency resources, agency

priorities, and the likelihood of success in litigation that might arise from a determination of noncompliance or a defect related to motor vehicle safety, the agency will grant or deny the petition. 49 U.S.C. 30162(d): 49 CFR 552.8.

II. Petition Background Information

In a letter dated June 14, 2014, Mr. Wayne DeVries petitioned NHTSA to, ''. . . hold a hearing on whether this manufacturer [Chrysler] has reasonably met its obligation to notify and/or remedy a safety defect or noncompliance with a Federal Motor Vehicle Safety Standard.'' The petition request was in reference to model year (MY) 2005 Chrysler Crossfire Roadster vehicles in which the convertible top back glass can delaminate or separate from its adhesive bond to the convertible top material.

Part 557 of Title 49 of the Code of Federal Regulations (CFR), establishes the procedures for conducting a hearing to determine whether a manufacturer has reasonably met its obligation to notify owners of a safety related defect and provide a remedy for that defect. Before the agency can hold such a hearing, a determination that a defect exists must be made either by the manufacturer or the agency. Because a safety related defect has not been determined by either Chrysler, or the agency, regarding the convertible top back glass in MY 2005 Crossfire Roadster vehicles, ODI interpreted Mr. DeVries letter as a request for a Defect Petition. In accordance with Title 49 CFR part 522, Petitions for Rulemaking, Defects, and Noncompliance Orders, NHTSA conducted a review of the petition and other information to decide whether to open a formal investigation to determine if a safety related defect exists in MY 2005 Crossfire Roadsters.

III. ODI Analysis of the Defect Petition Request

To assess the petitioner's request and his complaint as to whether separation of the convertible top back glass in MY 2005 Crossfire Roadster vehicles demonstrates or presents an unreasonable risk to motor vehicle safety, ODI reviewed and analyzed the following information and conducted telephone interviews with complainants:

- A review of all of the petitioner's letters and VOQ's;
- A review of the petitioner's vehicle experience;
- A review of a Chrysler warranty policy extension;
- A review of all potentially related VOQs for *all model year* Crossfire Roadsters;
- Telephone interviews with complainants;
- A review of Federal Motor Vehicle Safety Standards (FMVSS); and,
- A review and analysis of complaint, claim, field report, and warranty information from Chrysler LLC. (Chrysler), and Fiat Chrysler Automobiles US, LLC. (FCA) provided in response to an ODI information request.

Petitioner's Complaint

Between May 2013 and August 2014, the petitioner sent five letters to NHTSA, and filed an additional five Vehicle Owner Questionnaires (VOQ), concerning the convertible top back glass in MY 2005 Crossfire Roadster vehicles. The petitioner's concern is that the adhesive that bonds the back glass to the inside of the convertible top fails. When the adhesive fails, the glass falls inside the vehicle and, if it separates completely from the top, will no longer be attached to any structure that controls movement. His correspondence offers many varied and different scenarios of possible consequences from delamination or separation of the glass from the convertible top. The petitioner believes that the design, construction, and attachment of any window is critical to the safe operation of the vehicle as intended, under any conditions such as inclement weather, highway speeds, etc., and that the separation of the rear glass in the subject vehicles poses an unreasonable risk to motor vehicle safety. Finally, the petitioner suggests that Chrysler's limited extended warranty policy covering the glass is ''unreasonable'' because it is limited to vehicles that were originally sold in certain states.

Petitioner's Vehicle Experience

The petitioner owns a MY 2005 Crossfire Roadster and resides in California. His vehicle was not included in Chrysler's extended warranty as his vehicle was originally sold in California. According to the petitioner, he noted the convertible top back glass was starting to delaminate/separate from the convertible top at the driver's side lower corner. As a precaution, and to prevent it from separating completely, the glass was propped-up from the inside of the vehicle and taped to the convertible top material on the outside of the vehicle. The petitioner's attempts to have the vehicle's convertible top replaced at Chrysler's expense were unsuccessful. According to the petitioner, replacement of the entire convertible top is the only viable remedy offered by Chrysler once the rear glass separates from the top. Ultimately, the petitioner paid to have the top replaced.

Summary of Chryslers Extended Warranty

In September 2011 Chrysler notified its dealer network via ''Warranty Bulletin'' that it would extend the warranty for convertible top back glass adhesion in MY 2005 Crossfire Roadsters. The warranty extension covers these vehicles for 10 years or 100,000 miles, whichever occurs first, for vehicles shipped to dealers in the states of Alabama, Florida, Georgia, Louisiana, Missouri, North Carolina, South Carolina, Tennessee, and Texas. No other Crossfire Roadsters were included in the extended warranty. For vehicles subject to this extended warranty, Chrysler will replace the entire convertible top if the rear glass separates from the top within 10 years or 100,000 miles.

Summary of Related VOQ Reports

ODI reviewed all VOQ reports in its database relating to convertible top back glass separation in all MY Crossfire Roadsters. The review encompassed VOQ reports received from June 23, 2008 through July 8, 2015. As noted in Table 1, ODI analyzed 273 VOQ reports alleging some degree of rear glass separation. None of the VOQs alleged that rear glass separation was related to crashes, injuries, or fatalities. Out of the 273 VOQ's ODI reviewed, four alleged that the back glass separated from the vehicle onto the roadway.[1] Table 1 provides a summary count of the VOQ reports by model year.

[1] ODI spoke with 47 of the complainants including three that alleged a roadway incident. Two of the roadway complainants had experienced previous glass bonding issues prior to separation. There is no factual evidence (police accident reports, photos, repair invoices, etc.) for the roadway reports that confirms these allegations.

TABLE 1—CROSSFIRE VOQ REPORTS BY MODEL YEAR

Model year	Reports	Crashes	Injuries	Fatalities	Roadway
2005	211	0	0	0	3
2006	44	0	0	0	1
2007	9	0	0	0	0
2008	9	0	0	0	0
Total	273	0	0	0	4

FMVSS No. 212; Windshield Mounting

This standard establishes the retention requirements for windshields in motor vehicle crashes. The purpose of the standard is to reduce injuries and fatalities in crashes by providing retention of a vehicles windshield during a crash by utilizing the penetration-resistance and injury-avoidance properties of the windshield glazing material and preventing occupant ejection from the vehicle. This standard does not apply to the back glass at issue in this petition. No other FMVSS establishes a minimum level of performance for back glass retention in either convertible or hard top vehicles.

IV. ODI's Assessment

The adhesive bond of the convertible top back glass to the top material can lose its bonding properties over time. From complainant descriptions, it appears that separation of the glass generally starts in a small area, possibly at a lower corner. Over time, the separation can progress around the glass to a point at which the glass is visibly and physically loose from the top material and in some cases can separate completely from the top. Because of the angle at which the glass is installed in the top it will tend to fall inside of the vehicle onto the tonneau cover, behind the only two available seats for the vehicle occupants. In addition, the glass panel in question is larger than the rear window opening in the convertible top. Therefore, the glass would have to rotate and move in several planes of motion to pass through the rear window opening after detaching from the top.

ODI has also previously examined rear window separation in the subject vehicles. Based on 11 VOQs reporting some degree of rear glass separation, ODI first examined rear glass separation in MY 2005 Chrysler Crossfire Roadsters in late 2009. Soon thereafter, ODI contacted Chrysler seeking complaint information concerning the issue. Chrysler provided a confidential response to ODI on January 29, 2010. Chrysler's response did not contain any information indicating that the separation of the rear glass in the subject vehicles posed an unreasonable risk to safety. However, Chrysler subsequently provided a limited extended warranty to some owners.

As part of this petition analysis, ODI sent an information request [2] to FCA requesting information for any reports that resulted in any injury or fatality to any person either in the vehicle or outside of the vehicle; a vehicle crash or loss of control incident; or a back glass leaving the confines of the vehicle top. FCA's response to this request provided one report in which it was alleged that the back glass went off the back of the vehicle while being driven. FCA's response letter [3] explains that the Company believes that the back glass did not separate and fall off the back of the vehicle as alleged by the individual submitting the complaint to FCA. ODI also notes that FCA's May 19, 2015 response letter answering our information request for this petition erroneously concludes that ODI previously found that no safety defect existed when we reviewed information submitted by Chrysler on January 29, 2010. ODI's decision not to take further action at that time is not, as Chrysler suggests, a finding that no safety defect existed.

ODI's analysis, our second examination of Crossfire Roadster rear window separations, indicates that there are not any crashes, deaths or injuries related to this issue. The configuration of the window opening and the size of the window glass itself indicate that it is unlikely that the glass would pass through the window opening once the rear glass has completely separated from the convertible top. Further, although the petitioner states that Chrysler's extended warranty policy for these vehicles is unreasonable, the question that ODI must answer is whether the separation of the rear glass from the convertible top results in an unreasonable risk to safety. The evidence revealed by our analysis does not presently support such a finding.

[2] Please see ODI's April 27, 2015 letter to FCA in file DP15–003.

[3] See FCA DP15–003 response letter of May 19, 2015 in file DP15–003.

V. Conclusion

For the reasons presented in the petition analysis, and after thorough assessment of the potential risks to safety, it is unlikely that an order concerning the notification and remedy of a safety-related defect would be issued as a result of granting Mr. Devries petition. After full consideration of the potential for finding a safety related defect in these vehicles and in view of the need to allocate and prioritize NHTSA's limited resources to best accomplish the agency's mission, the petition is respectfully denied.

This action does not constitute a finding by NHTSA that a safety-related defect does not exist. The Agency will take further action if warranted by future circumstances.

Authority: 49 U.S.C. 30162(d); delegations of authority at CFR 1.95 and 501.8.

Frank S. Borris, II,

Acting Associate Administrator for Enforcement.

[FR Doc. 2015–20380 Filed 8–18–15; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[Docket No. AB 6 (Sub-No. 490X)]

BNSF Railway Company—Abandonment Exemption—in King County, Wash.

BNSF Railway Company (BNSF) has filed a verified notice of exemption under 49 CFR pt. 1152 subpart F—*Exempt Abandonments* to abandon 1,100 linear feet of rail line between milepost 4.53 and the end of the line at Engineering Station 258+07 in Seattle, King County, Wash. (the Line). The Line traverses United States Postal Service Zip Code 98119.

BNSF has certified that: (1) No local traffic has been handled over the Line since prior to 1995; (2) no overhead traffic has been handled on the Line since prior to 1995; (3) no formal complaint filed by a user of rail service on the Line (or by a state or local government entity acting on behalf of such user) regarding cessation of service

over the Line either is pending with the Surface Transportation Board (Board) or with any U.S. District Court or has been decided in favor of a complainant within the two-year period; and (4) the requirements at 49 CFR 1105.7(c) (environmental report), 49 CFR 1105.11 (transmittal letter), 49 CFR 1105.12 (newspaper publication), and 49 CFR 1152.50(d)(1) (notice to governmental agencies) have been met.

As a condition to this exemption, any employee adversely affected by the abandonment shall be protected under *Oregon Short Line Railroad—Abandonment Portion Goshen Branch Between Firth & Ammon, in Bingham & Bonneville Counties, Idaho,* 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10502(d) must be filed.

Provided no formal expression of intent to file an offer of financial assistance (OFA) has been received, this exemption will be effective on September 18, 2015, unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues,[1] formal expressions of intent to file an OFA under 49 CFR 1152.27(c)(2),[2] and interim trail use/rail banking requests under 49 CFR 1152.29 must be filed by August 31, 2015. Petitions to reopen or requests for public use conditions under 49 CFR 1152.28 must be filed by September 8, 2015, with the Surface Transportation Board, 395 E Street SW., Washington, DC 20423–0001.

A copy of any petition filed with the Board should be sent to applicant's representative: Karl Morell, Karl Morell & Associates, 655 Fifteenth Street NW., Suite 225, Washington, DC 20005.

If the verified notice contains false or misleading information, the exemption is void *ab initio.*

BNSF has filed environmental and historic reports that address the effects, if any, of the abandonment on the environment and historic resources. OEA will issue an environmental assessment (EA) by August 24, 2015. Interested persons may obtain a copy of the EA by writing to OEA (Room 1100, Surface Transportation Board, Washington, DC 20423–0001) or by calling OEA at (202) 245–0305. Assistance for the hearing impaired is available through the Federal Information Relay Service at (800) 877–8339. Comments on environmental and historic preservation matters must be filed within 15 days after the EA becomes available to the public.

Environmental, historic preservation, public use, or trail use/rail banking conditions will be imposed, where appropriate, in a subsequent decision.

Pursuant to the provisions of 49 CFR 1152.29(e)(2), BNSF shall file a notice of consummation with the Board to signify that it has exercised the authority granted and fully abandoned the line. If consummation has not been effected by filing of a notice of consummation by August 19, 2016, and there are no legal or regulatory barriers to consummation, the authority to abandon will automatically expire.

Board decisions and notices are available on our Web site at ''*WWW.STB.DOT.GOV.*''

Decided: August 14, 2015.

By the Board, Rachel D. Campbell, Director, Office of Proceedings.

Jeffrey Herzig,

Clearance Clerk.

[FR Doc. 2015–20519 Filed 8–18–15; 8:45 am]

BILLING CODE 4915–01–P

[1] The Board will grant a stay if an informed decision on environmental issues (whether raised by a party or by the Board's Office of Environmental Analysis (OEA) in its independent investigation) cannot be made before the exemption's effective date. *See Exemption of Out-of-Serv. Rail Lines,* 5 I.C.C. 2d 377 (1989). Any request for a stay should be filed as soon as possible so that the Board may take appropriate action before the exemption's effective date.

[2] Each OFA must be accompanied by the filing fee, which is currently set at $1,600. *See* 49 CFR 1002.2(f)(25).

DEPARTMENT OF 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 September 18, 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(s) may be obtained by emailing *PRA@treasury.gov* or viewing the entire information collection request at *www.reginfo.gov.*

SUPPLEMENTARY INFORMATION:

Departmental Offices, Office of the Procurement Executive

OMB Number: 1505–0081.

Type of Review: Revision of a currently approved collection.

Title: Solicitation of Proposal Information for Award of Public Contracts.

Abstract: Information requested of offerors is specific to each procurement solicitation, and is required for Treasury to properly evaluate the capabilities and experience of potential contractors who desire to provide the supplies or services to be acquired. Evaluation will be used to determine which proposal most benefits the Government.

Affected Public: Private Sector: Businesses or other for-profits.

Estimated Burden Hours: 203,193.

Dated: August 13, 2015.

Dawn D. Wolfgang,

Treasury PRA Clearance Officer.

[FR Doc. 2015–20375 Filed 8–18–15; 8:45 am]

BILLING CODE 4810–25–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0160]

Agency Information Collection: (Per Diem for Nursing Home Care of Veterans in State Homes; Per Diem for Domiciliary Adult Day Health Care of Veterans in State Homes)

AGENCY: Veterans Health Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: The Veterans Health Administration (VHA), Department of Veterans Affairs (VA), is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information and allow 60 days for public comment in response to the notice. This notice solicits comments on the information needed to provide payment of per diem to State homes that provide nursing home care to eligible

veterans and payment of per diem to State homes that provide adult day health care to eligible veterans. The intended effect of these provisions was to ensure that veterans receive high quality care in State Homes.

DATES: Written comments and recommendations on the proposed collection of information should be received on or before October 19, 2015.

ADDRESSES: Submit written comments on the collection of information through Federal Docket Management System (FDMS) *at www.Regulations.gov;* or Colette Alvarez, Chief Business Office, Purchased Care, Veterans Health Administration (10N21R), Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420 or email: *Colette.Alvarez@va.gov.* Please refer to ''Per Diem for Nursing Home Care of Veterans in State Homes; Per Diem for Domiciliary and Adult Day Health Care of Veterans in State Homes, OMB Control No. 2900–0160'' in any correspondence. During the comment period, comments may be viewed online through the FDMS.

FOR FURTHER INFORMATION CONTACT: Colette Alvarez at (775) 842–5755.

SUPPLEMENTARY INFORMATION: Under the PRA of 1995 (Pub. L. 104–13; 44 U.S.C. 3501–3521), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, VHA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of VHA's functions, including whether the information will have practical utility; (2) the accuracy of VHA's estimate of the burden of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or the use of other forms of information technology.

Titles: (Per Diem for Nursing Home Care of Veterans in State Homes; Per Diem for Domiciliary Adult Day Health Care of Veterans in State Homes).

a. Title 38, CFR parts 51 and 52, State Home Programs.

b. State Home Inspection—Staffing Profile, VA Form 10–3567.

c. State Home Report and Statement of Federal Aid Claimed, VA Form 10–5588.

d. Claim for Payment for Nursing Home Care Provided to Veterans Awarded Retroactive Service Connection, VA Form 10–5588A.

e. State Home Program Application for Veteran Care—Medical Certification, VA Form 10–10SH.

f. Department of Veterans Affairs Certification Regarding Drug-Free Workplace Requirements for Grantees Other Than Individuals, VA Form 10–0143.

g. Statement of Assurance of Compliance with Section 504 of the Rehabilitation Act of 1973, VA Form 10–0143a.

h. Certification Regarding Lobbying, VA Form 10–0144.

i. Statement of Assurance of Compliance with Equal Opportunity Laws, VA Form 10–0144a.

j. Request for Prescription Drugs from an Eligible Veteran in a State Home, VA Form 10–0460.

OMB Control Number: 2900–0160.

Type of Review: Revision of a currently approved collection.

Abstract: VA pays per diem to State Veterans Homes (SVHs) providing nursing home, domiciliary and adult day health services care to eligible Veterans. VA pays per diem to SVHs for the care of Veterans irrespective of whether the Veteran has wartime or peacetime service.

VA processes two different types of state nursing home per diem payments. Each is determined by a Veteran's eligibility. One is a higher per diem or prevailing rate for certain Veterans who have service-connected disabilities. The other is a basic rate that is paid to Veterans who are not eligible for the higher rate. VA also ensures that SVHs meet VA standards through surveys, audits, and reconciliation of records. VA requires facilities providing nursing home, domiciliary and adult day health care to furnish an application for recognition based on certification; appeal information, application and justification for payment; records and reports which facility management must maintain regarding activities of residents or participants; information relating to whether the facility meets standards concerning residents' rights and responsibilities prior to admission or enrollment, during admission or enrollment, and upon discharge; the records and reports which facilities management and health care professionals must maintain regarding residents or participants and employees; documents pertain to the management of the facilities; food menu planning; pharmaceutical records; and life safety documentation. Without access to such information, VA would not be able to determine whether high quality care is being provided to Veterans.

For an eligible Veteran to be considered for per diem payments for nursing home, domiciliary or ADHC, two forms are required to be submitted to the VA medical center of jurisdiction for each Veteran, at the time of the Veteran's admission to a SVH (VA Form 10–10EZ, Application for Health Benefits or 10–10EZR, Health Benefits Renewal Form) and VA Form 10–10SH, State Home Program Application for Veteran Care Medical Certification).

Affected Public: State, Local or Private Government.

Estimated Annual Burden: 6,818 hours.

Home Programs:

a. State Home Inspection Staffing Profile, VA Form 10–3567—69.5 hrs.

b. State Home Report and State of Federal Aid Claimed, VA Form 10–5588—834 hrs.

c. Claim for Payment for Nursing Home Care Provided to Veterans Awarded Retroactive Service Connection, VA Form 10–5588A—180 hrs.

d. State Home Program Application for Veteran Care—Medical Certification, VA Form 10–10SH—3,802 hrs.

e. Department of Veterans Affairs Certification Regarding Drug-Free Workplace Requirements for Grantees Other Than Individuals, VA Form 10–0143—12 hrs.

f. Statement of Assurance of Compliance with Section 504 of the Rehabilitation Act of 1973, VA Form 10–1043a—12 hrs.

g. Certification Regarding Lobbying, VA Form 10–0144—12 hrs.

h. Statement of Assurance of Compliance with Equal Opportunity Laws, VA Form 10–0460—12 hrs.

i. Request for Prescription Drugs from an Eligible Veteran in a State Home, VA Form 10–0144a—12 hrs.

j. Application for Recognition (Letter to Under Secretary for Health)—2 hrs.

k. Recognition & Certification (Sections 51.30 and 52.30)—120 hrs.

l. Quality of Life (Sections 51.100 and 52.100)—350 hrs.

m. Section, Administration and (Section 51.210 and 52.210)—1,400.

Estimated Average Burden per Respondent:

Frequency of Response: On Occasion.

Estimated Number of Respondents: 12,884.

By direction of the Secretary.

Kathleen M. Manwell,

Program Analyst, VA Privacy Service, Office of Privacy and Records Management, Department of Veterans Affairs.

[FR Doc. 2015–20458 Filed 8–18–15; 8:45 am]

BILLING CODE 8320–01–P

FEDERAL REGISTER

Vol. 80 Wednesday,

No. 160 August 19, 2015

Part II

Environmental Protection Agency

40 CFR Parts 60 and 63

Phosphoric Acid Manufacturing and Phosphate Fertilizer Production RTR and Standards of Performance for Phosphate Processing; Final Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 60 and 63

[EPA–HQ–OAR–2012–0522; FRL–9931–01–OAR]

RIN 2060–AQ20

Phosphoric Acid Manufacturing and Phosphate Fertilizer Production RTR and Standards of Performance for Phosphate Processing

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This action finalizes the residual risk and technology review conducted for the Phosphoric Acid Manufacturing and Phosphate Fertilizer Production source categories regulated under national emission standards for hazardous air pollutants (NESHAP). In addition, this action finalizes an 8-year review of the current new source performance standards (NSPS) for five source categories. We are also taking final action addressing Clean Air Act (CAA) provisions related to emission standards for hazardous air pollutants, review and revision of emission standards, and work practice standards. The final amendments to the Phosphoric Acid Manufacturing NESHAP include: Numeric emission limits for previously unregulated mercury (Hg) and total fluoride emissions from calciners; work practice standards for hydrogen fluoride (HF) emissions from previously unregulated gypsum dewatering stacks and cooling ponds; clarifications to the applicability and monitoring requirements to accommodate process equipment and technology changes; removal of the exemptions for startup, shutdown, and malfunction (SSM); adoption of work practice standards for periods of startup and shutdown; and revised recordkeeping and reporting requirements for periods of SSM. The final amendments to the Phosphate Fertilizer Production NESHAP include: Clarifications to the applicability and monitoring requirements to accommodate process equipment and technology changes; removal of the exemptions for SSM; adoption of work practice standards for periods of startup and shutdown; and revised recordkeeping and reporting requirements for periods of SSM. The revised NESHAP for Phosphoric Acid Manufacturing facilities will mitigate future increases of Hg emissions from phosphate rock calciners by requiring pollution prevention measures. Further, based on the 8-year review of the current NSPS for these source categories, the EPA determined that no revisions to the numeric emission limits in those rules are warranted.

DATES: This final action is effective on August 19, 2015. The incorporation by reference of certain publications listed in the rule is approved by the Director of the Federal Register as of August 19, 2015.

ADDRESSES: The Environmental Protection Agency (EPA) has established a docket for this action under Docket ID No. EPA–HQ–OAR–2012–0522. 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 (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 *http://www.regulations.gov,* or in hard copy at the EPA Docket Center, EPA WJC West Building, Room Number 3334, 1301 Constitution Ave. NW., Washington, DC. The Public Reading Room hours of operation are 8:30 a.m. to 4:30 p.m. Eastern Standard Time (EST), Monday through Friday. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the Air Docket is (202) 566–1742.

FOR FURTHER INFORMATION CONTACT: For questions about this final action, contact Dr. Tina Ndoh, Sector Policies and Programs Division (D243–02), Office of Air Quality Planning and Standards, U.S. Environmental Protection Agency, Research Triangle Park, North Carolina, 27711; telephone number: (919) 541–2750; fax number: (919) 541–5450; and email address: *Ndoh.Tina@epa.gov.* For specific information regarding the risk modeling methodology, contact James Hirtz, Health and Environmental Impacts Division (C539–02), Office of Air Quality Planning and Standards, U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711; telephone number: (919) 541–0881; fax number: (919) 541–0359; and email address: *Hirtz.James@epa.gov.* For information about the applicability of the NESHAP or NSPS to a particular entity, contact Scott Throwe, Office of Enforcement and Compliance Assurance, U.S. Environmental Protection Agency, EPA WJC, 1200 Pennsylvania Ave. NW., Washington, DC 20460; telephone number: (202) 562–7013; and email address: *Throwe.Scott@epa.gov.*

SUPPLEMENTARY INFORMATION: *Preamble Acronyms and Abbreviations.* We use multiple acronyms and terms in this preamble. While this list may not be exhaustive, to ease the reading of this preamble and for reference purposes, the EPA defines the following terms and acronyms here:

ACI Activated carbon injection
AEGL Acute exposure guideline levels
AFPC Association of Fertilizer and Phosphate Chemists
AOAC Association of Official Analytical Chemists
BACT Best available control technology
BSER Best System of Emissions Reduction
BTF Beyond the floor
CAA Clean Air Act
CBI Confidential Business Information
CDX Central Data Exchange
CEDRI Compliance and Emissions Data Reporting Interface
CEMS Continuous emissions monitoring system
CFR Code of Federal Regulations
CMS Continuous monitoring system
CPMS Continuous parameter monitoring system
DAP Diammonium phosphate
DOE Department of Energy
EPA Environmental Protection Agency
ERT Electronic Reporting Tool
FR Federal Register
FTIR Fourier transform infrared spectroscopy
GMCS Gore Mercury Control System
GTSP Granular triple superphosphate
HAP Hazardous air pollutants
HF Hydrogen fluoride
Hg Mercury
HI Hazard index
HQ Hazard quotient
ICR Information Collection Request
LAER Lowest achievable emissions rate
lb/MMBtu Pounds per million Btu
LOAEL Lowest-observed-adverse-effect level
MACT Maximum achievable control technology
MAP Monoammonium phosphate
mg/dscm Milligrams per dry standard cubic meter
MIBK Methyl isobutyl ketone
MIR Maximum individual risk
NAAQS National Ambient Air Quality Standards
NAICS North American Industry Classification System
NAS National Academy of Sciences
NESHAP National Emissions Standards for Hazardous Air Pollutants
NETL National Energy Technology Laboratory
NOAEL No-observed-adverse-effect level
NSPS New source performance standard
NTTAA National Technology Transfer and Advancement Act
OAQPS Office of Air Quality Planning and Standards
OMB Office of Management and Budget
P_2O_5 Phosphorus pentoxide
PAC Powdered activated carbon

PB–HAP Hazardous air pollutants known to be persistent and bio-accumulative in the environment
PM Particulate matter
POM Polycyclic organic matter
PPA Purified phosphoric acid
ppm Parts per million
RACT Reasonably available control technology
RBLC RACT/BACT/LAER Clearinghouse
REL Reference exposure level
RFA Regulatory Flexibility Act
RTR Residual risk and technology review
SBA Small Business Administration
SiF4 Silicon tetrafluoride
SPA Superphosphoric acid
SSM Startup, shutdown, and malfunction
TOSHI Target organ-specific hazard index
tpy Tons per year
TRIM Total Risk Integrated Modeling System
TRIM.FaTE Total Risk Integrated Methodology.Fate, Transport, and Ecological Exposure model
TSP Triple superphosphates
TTN Technology Transfer Network
UMRA Unfunded Mandates Reform Act
UPL Upper prediction limit
VCS Voluntary consensus standards
WESP Wet electrostatic precipitator
WPPA Wet-process phosphoric acid
WWW World Wide Web

Background Information. On November 7, 2014 (79 FR 66511), the EPA proposed revisions to the Phosphoric Acid Manufacturing and Phosphate Fertilizer Production national emission standards for hazardous air pollutants (NESHAP) in conjunction with the residual risk and technology review (RTR) for those NESHAP, 40 CFR part 63, subparts AA and BB, and required 8-year review of the Standards of Performance for the Phosphate Fertilizer Industry new source performance standards (NSPS) for 40 CFR part 60, subparts T, U, V, W and X. In this action, we are finalizing decisions and revisions for the rules. We summarize some of the more significant comments we received regarding the proposed rule and provide our responses in this preamble. A summary of all other public comments on the proposal and the EPA's responses to those comments is available in ''Phosphoric Acid Manufacturing and Phosphate Fertilizer Production RTR and Standards of Performance for Phosphate Processing—Summary of Public Comments and Responses'' which is available in Docket ID No. EPA–HQ–OAR–2012–0522. A ''track changes'' version of the regulatory language that incorporates the changes in this action for each NSPS is available in the docket. The NESHAP were replaced in their entirety to assist in readability of the language and to ensure that citations were accurate.

Organization of this Document. The information in this preamble is organized as follows:

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I. General Information

A. Does this action apply to me?

Regulated Entities. Categories and entities potentially regulated by this action are shown in Table 1 of this preamble.

TABLE 1—NESHAP AND INDUSTRIAL SOURCE CATEGORIES AFFECTED BY THIS FINAL ACTION

NESHAP and source category	NAICS [a] code
Phosphoric Acid Manufacturing Phosphate Fertilizer Production	325312

[a] North American Industry Classification System.

Table 1 of this preamble is not intended to be exhaustive, but rather to provide a guide for readers regarding entities likely to be affected by the final action for the source category listed. To determine whether your facility is affected, you should examine the applicability criteria in the appropriate NESHAP. If you have any questions regarding the applicability of any aspect of this NESHAP, please contact the appropriate person listed in the preceding **FOR FURTHER INFORMATION CONTACT** section of this preamble.

B. Where can I get a copy of this document and other related information?

In addition to being available in the docket, an electronic copy of this final action will also be available on the Internet through the Technology Transfer Network (TTN) Web site, a forum for information and technology exchange in various areas of air pollution control. Following signature by the EPA Administrator, the EPA will post a copy of this final action at *http://www.epa.gov/ttn/atw/phosph/phosphpg.html.* Following publication in the **Federal Register**, the EPA will post the **Federal Register** version and key technical documents at this same Web site.

Additional information is available on the RTR Web site at *http://www.epa.gov/ttn/atw/rrisk/rtrpg.html.* This information includes an overview of the RTR program, links to project Web sites for the RTR source categories and detailed emissions and other data we used as inputs to the risk assessments.

C. Judicial Review and Administrative Reconsideration

Under CAA section 307(b)(1), judicial review of this final action is available only by filing a petition for review in the United States (U.S.) Court of Appeals for the District of Columbia Circuit by October 19, 2015. Under CAA section 307(b)(2), the requirements established by this final rule may not be challenged separately in any civil or criminal proceedings brought by the EPA to enforce the requirements.

Section 307(d)(7)(B) of the CAA further provides that ''[o]nly an objection to a rule or procedure which was raised with reasonable specificity during the period for public comment (including any public hearing) may be raised during judicial review.'' This section also provides a mechanism for the EPA to reconsider the rule ''[i]f the person raising an objection can demonstrate to the Administrator that it was impracticable to raise such objection within [the period for public comment] or if the grounds for such objection arose after the period for public comment (but within the time specified for judicial review) and if such objection is of central relevance to the outcome of the rule.'' Any person seeking to make such a demonstration should submit a Petition for Reconsideration to the Office of the Administrator, U.S. EPA, Room 3000, EPA WJC Building, 1200 Pennsylvania Ave. NW., Washington, DC 20460, with a copy to both the person(s) listed in the preceding **FOR FURTHER INFORMATION CONTACT** section, and the Associate General Counsel for the Air and Radiation Law Office, Office of General Counsel (Mail Code 2344A), U.S. EPA, 1200 Pennsylvania Ave. NW., Washington, DC 20460.

II. Background

A. What is the statutory authority for this action?

1. NESHAP Authority

Section 112 of the CAA establishes a two-stage regulatory process to address emissions of hazardous air pollutants (HAP) from stationary sources. In the first stage, we must identify categories of sources emitting one or more of the HAP listed in CAA section 112(b) and then promulgate technology-based NESHAP for those sources. ''Major sources'' are those that emit, or have the potential to emit, any single HAP at a rate of 10 tons per year (tpy) or more, or 25 tpy or more of any combination of HAP. For major sources, these standards are commonly referred to as maximum achievable control technology (MACT) standards and must reflect the maximum degree of emission reductions of HAP achievable (after considering cost, energy requirements, and non-air quality health and environmental impacts). In developing MACT standards, CAA section 112(d)(2) directs the EPA to consider the application of measures, processes, methods, systems or techniques, including, but not limited to those that reduce the volume of or eliminate HAP emissions through process changes, substitution of materials, or other modifications; enclose systems or processes to eliminate emissions; collect, capture, or treat HAP when released from a process, stack, storage, or fugitive emissions point; are design, equipment, work practice, or operational standards; or any combination of the above.

For these MACT standards, the statute specifies certain minimum stringency requirements, which are referred to as MACT floor requirements, and which may not be based on cost considerations. See CAA section 112(d)(3). For new sources, the MACT floor cannot be less stringent than the emission control achieved in practice by the best-controlled similar source. The MACT standards for existing sources can be less stringent than floors for new sources, but they cannot be less stringent than the average emission limitation achieved by the best-performing 12 percent of existing sources in the category or subcategory (or the best-performing five sources for categories or subcategories with fewer than 30 sources). In developing MACT standards, we must also consider control options that are more stringent than the floor, under CAA section 112(d)(2). We may establish standards more stringent than the floor, based on the consideration of the cost of achieving the emissions reductions, any non-air quality health and environmental impacts, and energy requirements.

In the second stage of the regulatory process, the CAA requires the EPA to undertake two different analyses, which we refer to as the technology review and the residual risk review. Under the technology review, we must review the technology-based standards and revise them ''as necessary (taking into account developments in practices, processes, and control technologies)'' no less frequently than every 8 years, pursuant to CAA section 112(d)(6). Under the residual risk review, we must evaluate the risk to public health remaining after application of the technology-based

standards and revise the standards, if necessary, to provide an ample margin of safety to protect public health or to prevent, taking into consideration costs, energy, safety, and other relevant factors, an adverse environmental effect. The residual risk review is required within 8 years after promulgation of the technology-based standards, pursuant to CAA section 112(f). In conducting the residual risk review, if the EPA determines that the current standards provide an ample margin of safety to protect public health, it is not necessary to revise the MACT standards pursuant to CAA section 112(f).[1] For more information on the statutory authority for this rule, see 79 FR 66512 (November 7, 2014).

2. NSPS Authority

NSPS implement CAA section 111, which requires that each NSPS reflect the degree of emission limitation achievable through the application of the best system of emission reduction (BSER) which (taking into consideration the cost of achieving such emission reductions, any non-air quality health and environmental impact and energy requirements) the Administrator determines has been adequately demonstrated.

Existing affected facilities that are modified or reconstructed are also subject to NSPS. Under CAA section 111(a)(4), ''modification'' means any physical change in, or change in the method of operation of, a stationary source which increases the amount of any air pollutant emitted by such source or which results in the emission of any air pollutant not previously emitted. Changes to an existing facility that do not result in an increase in emissions are not considered modifications.

Rebuilt emission units would become subject to the NSPS under the reconstruction provisions in 40 CFR 60.15, regardless of changes in emission rate. Reconstruction means the replacement of components of an existing facility such that: (1) The fixed capital cost of the new components exceeds 50 percent of the fixed capital cost that would be required to construct a comparable entirely new facility; and (2) it is technologically and economically feasible to meet the applicable standards (40 CFR 60.15).

Section 111(b)(1)(B) of the CAA requires the EPA to periodically review and, if appropriate, revise the standards of performance as necessary to reflect improvements in methods for reducing emissions. The EPA need not review an NSPS if the Agency determines that such review is not appropriate in light of readily available information on the efficacy of the standard. When conducting the review under CAA section 111(b)(1)(B), the EPA considers both: (1) Whether developments in technology or other factors support the conclusion that a different system of emissions reduction has become the BSER and (2) whether emissions limitations and percent reductions beyond those required by the current standards are achieved in practice.

B. What are the Phosphoric Acid Manufacturing and Phosphate Fertilizer Production source categories and how do the NESHAP and NSPS regulate emissions from these source categories?

1. Description of Phosphoric Acid Manufacturing Source Category

In 2014, 12 facilities in the U.S. manufactured phosphoric acid. The basic step for producing phosphoric acid is acidulation of phosphate rock. Typically, sulfuric acid, phosphate rock, and water are combined together and allowed to react to produce phosphoric acid and gypsum. When phosphate rock is acidulated to manufacture wet-process phosphoric acid (WPPA), fluorine contained in the rock is released. Fluoride compounds, predominately HF, are produced as particulates and gases that are emitted to the atmosphere unless removed from the exhaust stream. Some of these same fluoride compounds also remain in the product acid and are released as air pollutants during subsequent processing of the acid. Gypsum is pumped as a slurry to ponds atop stacks of waste gypsum where the liquids separate from the slurry and are decanted for return to the process. The gypsum, which is discarded on the stack, is a solid waste stream produced in this process. Five facilities concentrate WPPA to make superphosphoric acid (SPA), typically using the vacuum evaporation process. While one manufacturer is permitted to use a submerged combustion process for the production of SPA, that process was indefinitely shutdown on June 1, 2006. The majority of WPPA is used to produce phosphate fertilizers.

Additional processes may also be used to further refine phosphoric acid. At least two facilities have a defluorination process to remove fluorides from the phosphoric acid product, and one company uses a solvent extraction process to remove metals and organics and to further refine WPPA into purified phosphoric acid (PPA) for use in food manufacturing or specialized chemical processes. In addition, four facilities have oxidation processes to remove organics from the acid (*i.e.,* the green acid process). One of these facilities also calcines the ore prior to the acidulation process to help achieve the desired organic content reduction for the final acid product.

Sources of HF emissions from phosphoric acid plants include gypsum dewatering stacks, cooling ponds, cooling towers, calciners, reactors, filters, evaporators and other process equipment.

2. Federal Air Emission Standards Applicable to the Phosphoric Acid Manufacturing Source Category

The following federal air emission standards are associated with the Phosphoric Acid Manufacturing source category and are the subject of this final action:

- National Emission Standards for Hazardous Air Pollutants from Phosphoric Acid Manufacturing Plants (40 CFR part 63, subpart AA);
- Standards of Performance for the Phosphate Fertilizer Industry: Wet-Process Phosphoric Acid Plants (40 CFR part 60, subpart T); and
- Standards of Performance for the Phosphate Fertilizer Industry: Superphosphoric Acid Plants (40 CFR part 60, subpart U).

a. Phosphoric Acid Manufacturing NESHAP Emission Regulations. The EPA promulgated 40 CFR part 63, subpart AA for the Phosphoric Acid Manufacturing source category on June 10, 1999 (64 FR 31358). The NESHAP established standards for major sources to control HAP emissions from phosphoric acid facilities. Total fluoride emission limits, as a surrogate for the HAP HF, were set for WPPA process lines and SPA process lines. The NESHAP established emission limits for particulate matter (PM) from phosphate rock dryers and phosphate rock calciners as a surrogate for metal HAP. Also, the NESHAP established an emission limit for methyl isobutyl ketone (MIBK) for PPA process lines and work practices for cooling towers. For more information on this NESHAP, see 79 FR 66512.

b. Phosphoric Acid Manufacturing NSPS Emission Regulations. The EPA promulgated 40 CFR part 60, subpart T for WPPA Plants on August 6, 1975 (40 FR 33154). The NSPS established standards to control total fluoride emissions from WPPA plants, including

[1] The U.S. Court of Appeals has affirmed this approach of implementing CAA section 112(f)(2)(A): *NRDC* v. *EPA,* 529 F.3d 1077, 1083 (D.C. Cir. 2008) (''If EPA determines that the existing technology-based standards provide an 'ample margin of safety,' then the Agency is free to readopt those standards during the residual risk rulemaking.'').

reactors, filters, evaporators, and hot wells.

The EPA promulgated 40 CFR part 60, subpart U for SPA Plants on August 6, 1975 (40 FR 33155). The NSPS established standards to control total fluoride emissions from SPA plants, including evaporators, hot wells, acid sumps, and cooling tanks.

For more information on these NSPS, see 79 FR 66512.

3. Description of Phosphate Fertilizer Production Source Category

There are 11 operating facilities that produce phosphate fertilizers, and most facilities have the ability to produce either monoammonium phosphates (MAP) or diammonium phosphates (DAP) in the same process train. However, approximately 80 percent of all ammonium phosphates are produced as MAP. MAP and DAP plants are generally collocated with WPPA plants since both are manufactured from phosphoric acid and ammonia. The MAP and DAP manufacturing process consists of three basic steps: Reaction, granulation, and finishing operations such as drying, cooling, and screening. Sources of fluoride emissions from MAP and DAP plants include the reactor, granulator, dryer, cooler, screens, and mills. Some of the fluoride is liberated as HF and silicon tetrafluoride (SiF_4), but the majority is emitted as HF.

Triple superphosphates (TSP) are made as run-of-pile TSP (ROP–TSP) and granular TSP (GTSP) by reacting WPPA with ground phosphate rock. The phosphoric acid used in the GTSP process is appreciably lower in concentration (40-percent phosphorus pentoxide (P_2O_5)) than that used to manufacture ROP–TSP product (50 to 55-percent P_2O_5). The GTSP process yields larger, more uniform particles with improved storage and handling properties than the ROP–TSP process. Currently, no facilities produce ROP–TSP or GTSP,[2] although one facility retains an operating permit to store GTSP.

4. Federal Air Emission Standards Applicable to the Phosphate Fertilizer Production Source Category

The following federal air emission standards are associated with the Phosphate Fertilizer Production source category and are subject of this final action:

- National Emission Standards for Hazardous Air Pollutants from Phosphate Fertilizers Production Plants (40 CFR part 63, subpart BB);
- Standards of Performance for the Phosphate Fertilizer Industry: Diammonium Phosphate Plants (40 CFR part 60, subpart V);
- Standards of Performance for the Phosphate Fertilizer Industry: Triple Superphosphate Plants (40 CFR part 60, subpart W); and
- Standards of Performance for the Phosphate Fertilizer Industry: Granular Triple Superphosphate Storage Facilities (40 CFR part 60, subpart X).

a. Phosphate Fertilizer Production NESHAP Emission Regulations. The EPA promulgated 40 CFR part 63, subpart BB for the Phosphate Fertilizer Production source category on June 10, 1999 (64 FR 31358). The NESHAP established standards for major sources to control HAP emissions from phosphate fertilizer facilities. As a surrogate for HF, the NESHAP set total fluoride emission limits for DAP and/or MAP process lines and GTSP process lines and storage buildings. The NESHAP also established work practices for GTSP production. For more information on this NESHAP, see 79 FR 66512.

b. Phosphate Fertilizer Production NSPS Emission Regulations. The EPA promulgated 40 CFR part 60, subpart V for Diammonium Phosphate Plants on July 25, 1977 (42 FR 37938). The NSPS established standards to control total fluoride emissions from granular DAP plants, including reactors, granulators, dryers, coolers, screens, and mills.

The EPA promulgated 40 CFR part 60, subpart W for TSP plants on July 25, 1977 (42 FR 37938). The NSPS established standards to control total fluoride emissions from the production of ROP–TSP and GTSP, and the storage of ROP–TSP.

The EPA promulgated 40 CFR part 60, subpart X for GTSP storage facilities on July 25, 1977 (42 FR 37938). The NSPS established standards to control total fluoride emissions from the storage of GTSP, including storage or curing buildings (noted as ''piles'' in subpart X), conveyors, elevators, screens, and mills.

For more information on these NSPS, see 79 FR 66512.

C. What changes did we propose for the Phosphoric Acid Manufacturing and Phosphate Fertilizer Production source categories in our November 7, 2014 proposal?

On November 7, 2014 (79 FR 66512), the EPA published a proposed rule in the **Federal Register** for both the Phosphoric Acid Manufacturing NESHAP, 40 CFR part 63, subpart AA, and Phosphate Fertilizer Production NESHAP, 40 CFR part 63, subpart BB that took into consideration the RTR analyses. We also proposed other revisions to these NESHAP. In the proposed rule, we proposed:

For Phosphoric Acid Manufacturers:

- Numeric emission limits for Hg and work practice standards for HF from calciners; and
- Work practice standards for HF emissions from gypsum dewatering stacks and cooling ponds.

For both Phosphoric Acid Manufacturers and Phosphate Fertilizer Producers:

- Emission limits regulating HF emissions as the target HAP (HF), instead of the long-standing surrogate for HF, total F;
- Clarifications to applicability and certain definitions;
- Revisions to requirements related to emissions during periods of SSM;
- Revisions to monitoring requirements for absorbers;
- Requirements for reporting of performance testing through the electronic reporting tool (ERT);
- Modification to the format to reference tables for emissions limits and monitoring requirements; and
- Several minor clarifications and corrections.

In addition, we proposed revisions to the NSPS subparts T, U, V, W, and X, including clarifications to applicability and certain definitions, and revisions to monitoring and recordkeeping requirements for absorbers.

III. What is included in this final rule for the Phosphoric Acid Manufacturing source category?

This action finalizes the EPA's determinations pursuant to the RTR provisions of CAA section 112 and the 8-year review provisions of CAA section 111 for the Phosphoric Acid Manufacturing source category. Today's action also finalizes several of the proposed changes to the NESHAP subpart AA and the NSPS subparts T and U that are described in section II.C. of this preamble. This action also finalizes other changes to the NESHAP subpart AA in consideration of comments on issues raised in the proposed rulemaking, as described in section V of this preamble.

A. What are the final rule amendments based on the NESHAP residual risk review for the Phosphoric Acid Manufacturing source category?

The residual risk review for the Phosphoric Acid Manufacturing source category did not change since proposal; we found that the current standards provide an ample margin of safety to protect public health (79 FR 66512) and prevent an adverse environmental effect. We are, therefore, not tightening the standards under section 112(f)(2)

[2] According to 2014 production and trade statistics issued by International Fertilizer Industry Association (IFA).

(for NESHAP subpart AA) based on the residual risk review, and are thus readopting the existing standards under section 112(f)(2). See sections V.A.3 and V.A.4 of this preamble for discussion on key comments and responses regarding the residual risk review.

B. What are the final rule amendments based on the NESHAP technology review for the Phosphoric Acid Manufacturing source category?

The technology review for the Phosphoric Acid Manufacturing source category did not change since proposal (79 FR 66512). We determined that there are no cost-effective developments in practices, processes, and control technologies that warrant revisions to the MACT standards for this source category (79 FR 66512). Therefore, we are not amending the MACT standards under CAA section 112(d)(6). See sections V.B.3 and V.B.4 of this preamble for discussion on key comments and responses regarding the technology review.

C. What are the final rule amendments pursuant to CAA sections 112(d)(2), 112(d)(3), and 112(h) for the Phosphoric Acid Manufacturing source category?

We are finalizing MACT standards for HF and Hg pursuant to CAA sections 112(d)(2) and 112(d)(3) for phosphate rock calciners, an emissions source that was initially regulated for HAP metals using PM as a surrogate. Specifically, we are finalizing, as proposed, the elimination of the use of PM as a surrogate for Hg; however, we are making changes to the proposed Hg emission limit for phosphate rock calciners in NESHAP subpart AA to reflect MACT floor level emission standards for existing sources. We are finalizing the proposed beyond-the-floor (BTF) emission standard for Hg emissions from new phosphate rock calciners. We discuss the changes to the Hg emission limit in section V.C.3.a.i of this preamble. In addition, we are finalizing, as proposed, to retain the PM standard as a surrogate for other HAP metal emissions from phosphate rock calciners. However, in consideration of comments received during the public comment period for the proposed rulemaking, we are not finalizing work practice standards for HF from phosphate rock calciners, as proposed. Instead, as discussed in section V.C.3.a.ii of this preamble, we are including a total fluoride emission limit for phosphate rock calciners in NESHAP subpart AA.

Also, in consideration of comments received (see section V.C.3.b.i of this preamble for details), we are not adopting the proposed work practice in NESHAP subpart AA that would limit the size of active gypsum dewatering stacks (which would have been applicable to facilities when new gypsum dewatering stacks are constructed). Lastly, we are finalizing work practice standards pursuant to CAA section 112(h) for gypsum dewatering stacks and cooling ponds—emissions sources that were not regulated under the initial MACT standard. Specifically, we are finalizing in NESHAP subpart AA, as proposed, the work practice standard that requires owners or operators to prepare and operate in accordance with a gypsum dewatering stack and cooling pond management plan. However, based on analysis of public comments, we are making several changes to the specific control techniques that we proposed as options in the plan for controlling fugitive HF emissions (see section V.C.3.b.ii of this preamble for details on these changes). In the final rule, the Agency is using the terminology ''control measures'' in lieu of the proposed terminology ''control techniques'' because we feel this more accurately describes the list of options in the rule and avoids confusion with other CAA programs.

D. What are the final rule amendments based on the NSPS review for the Phosphoric Acid Manufacturing source category?

We are finalizing our determination that revisions to NSPS subpart T and subpart U standards are not appropriate pursuant to CAA section 111(b)(1)(B). All Phosphoric Acid Manufacturing NSPS (under subpart T and subpart U) emission sources, and the control technologies that would be employed, are the same as those for the NESHAP regulating phosphoric acid plants, such that we reached the same determination that there are no identified cost-effective practices or technologies that would provide additional emission reductions. Additionally, there were no identified technologies that have been adequately demonstrated to achieve in practice emission controls that would result in more stringent total fluoride limits for these NSPS. See section V.D of this preamble for discussion on key comments and responses regarding the NSPS review.

E. What are the final rule amendments addressing emissions during periods of startup, shutdown, and malfunction for the Phosphoric Acid Manufacturing source category?

We are finalizing, as proposed, changes to the Phosphoric Acid Manufacturing NESHAP, subpart AA to eliminate the SSM exemption. Consistent with *Sierra Club* v. *EPA* 551 F. 3d 1019 (D.C. Cir. 2008), the EPA has established standards in this rule that apply at all times. Appendix A of subpart AA (the General Provisions Applicability Table) is being revised to change several references related to requirements that apply during periods of SSM. We also eliminated or revised certain recordkeeping and reporting requirements related to the eliminated SSM exemption. The EPA also made changes to the rule to remove or modify inappropriate, unnecessary, or redundant language in the absence of the SSM exemption. For this source category, we determined that work practice standards for periods of startup and shutdown are appropriate in lieu of numeric emission limits due to the short duration of startup and shutdown, and control devices used on the various process lines in this source category are effective at achieving desired emission reductions immediately upon startup (79 FR 66541). Therefore, we are finalizing in NESHAP subpart AA the proposed work practice standards for periods of startup and shutdown. However, in consideration of comments received during the public comment period, we are making changes to the work practice standards in order to clarify that the standard applies in lieu of numeric emission limits and how compliance with the standard is demonstrated. In order to comply with the work practice standard, facilities must monitor the same control device operating parameters and comply with the same operating limits that are established to otherwise comply with the emission limits. Additionally, we added a definition of ''startup'' and ''shutdown'' in the definitions section of the final rule to specify when startup begins and ends, and when shutdown begins and ends. See section V.E.3 of this preamble for details on these changes.

F. What other changes are we making to the NESHAP and NSPS for the Phosphoric Acid Manufacturing source category?

Today's rule also finalizes, as proposed, revisions to several other Phosphoric Acid Manufacturing NESHAP and NSPS requirements. We are finalizing, as proposed, several miscellaneous changes to clarify applicability and certain definitions, as follows:

- Adopting the proposed SPA process line definition in NESHAP subpart AA to include oxidation reactors;

- Adopting the proposed SPA plant definition in NSPS subpart U to include oxidation reactors;
- Finalizing the proposed revisions to rename ''gypsum stack'' to ''gypsum dewatering stack'' in NESHAP subpart AA; and
- Finalizing the proposed definitions for ''cooling pond'' and ''raffinate stream'' in NESHAP subpart AA.

We are finalizing, as proposed, several changes to testing, monitoring, recordkeeping and reporting requirements to provide consistency, clarification and flexibility, as follows:

- Finalizing the proposed revisions to NESHAP subpart AA that require a minimum pressure drop of 5 inches of water column for facilities that use pressure differential in parametric monitoring;
- Finalizing the proposal to remove the requirement in NESHAP subpart AA that facilities must request and obtain approval of the Administrator for changing operating limits;
- Adopting the proposed addition of a site-specific monitoring plan and calibration requirements for a continuous monitoring system (CMS) in NESHAP subpart AA;
- Adopting the proposed term ''absorber'' in lieu of ''scrubber'' in NESHAP subpart AA;
- Adopting the proposed format of NESHAP subpart AA to reference tables for emissions limits and monitoring requirements;
- Adopting the proposed provisions in NSPS subpart T and NSPS subpart U that require the owner or operator to establish an allowable range for the pressure drop through the process scrubbing system, keep records of the daily average pressure drop through the process scrubbing system, and keep records of deviations; and
- Adopting the proposed term ''absorber'' in lieu of ''process scrubbing system'' in NSPS subpart T and NSPS subpart U.

We are also finalizing changes to the NESHAP and NSPS for the Phosphoric Acid Manufacturing source category on issues raised in response to the proposed rulemaking, as follows (refer to section V.F.2 of this preamble for further details):

- Revising the definition of oxidation reactor in the final rule for NESHAP subpart AA and NSPS subpart U;
- Finalizing liquid-to-gas ratio monitoring in NESHAP subpart AA for low-energy absorbers (*i.e.,* absorbers that are designed to operate with pressure drops of 5 inches of water column or less) in lieu of monitoring influent liquid flow and pressure drop through the absorber;
- Clarifying in NESHAP subpart AA that during the most recent performance test, if owners or operators demonstrate compliance with the emission limit while operating their control device outside the previously established operating limit, owners or operators must establish a new operating limit based on that most recent performance test and notify the Administrator that the operating limit changed based on data collected during the most recent performance test; and
- Clarifying in NESHAP subpart AA that facilities not be required to obtain approval, and, instead, immediately comply with a new operating limit when it is developed and submitted to the Administrator.

G. What are the effective and compliance dates of the standards for the Phosphoric Acid Manufacturing source category?

The revisions to the NSPS and NESHAP standards we promulgate in this action for the Phosphoric Acid Manufacturing source category are effective on August 19, 2015.

The compliance date for the Hg limit in NESHAP subpart AA for existing phosphate rock calciners is August 19, 2015. Based on the data that the EPA has received, all existing phosphate rock calciners are meeting the Hg limit; therefore, no additional time would be required to achieve compliance with this standard.

The compliance date for the Hg limit in NESHAP subpart AA for new phosphate rock calciners is August 19, 2015, or upon startup, whichever is later. We are not aware of any new phosphate rock calciners operating today. New phosphate rock calciners that commence construction or reconstruction after the effective date of this rule would be required to comply with the Hg limits immediately upon startup.

The compliance date for the total fluoride limits in NESHAP subpart AA for all (existing and new) phosphate rock calciners is August 19, 2015, or upon startup, whichever is later. Based on the data that the EPA has received, all phosphate rock calciners are meeting the total fluoride limit; therefore, no additional time would be required to achieve compliance with this standard.

The compliance date in NESHAP subpart AA for preparing and operating in accordance with a gypsum dewatering stack and cooling pond management plan is August 19, 2016. A 1-year compliance lead-time will provide facilities adequate time to prepare and submit their plan for approval to the Administrator.

The compliance date for when facilities must include oxidation reactors in determining compliance with the total fluoride limit in NESHAP subpart AA for SPA process lines is August 19, 2016. We believe that 1 year is necessary because a facility may need to install additional control technology. A 1-year compliance period will provide the facility adequate time to design and install controls.

The compliance date in NESHAP subpart AA for when to install, calibrate, and maintain a bag leak detection system on a fabric filter is August 19, 2016. We believe that 1 year is necessary because some facilities that currently operate a fabric filter do not have a bag leak detection system and will need time to purchase and install this compliance monitoring equipment and implement quality assurance measures.

The compliance date in NESHAP subpart AA for the revised startup and shutdown requirements is August 19, 2015. We determined that the feasibility of operating the control devices used to control HAP emissions from phosphoric acid manufacturing is not limited by specific process operating conditions.

Finally, to ensure continuous compliance with the standard, the compliance date for the monitoring and recordkeeping requirements in NSPS subparts T and U for all new WPPA plants and SPA plants is August 19, 2015, or upon startup, whichever is later.

H. What are the requirements for submission of performance test data to the EPA for the Phosphoric Acid Manufacturing source category?

As stated in the preamble to the proposed rule, the EPA is taking a step to increase the ease and efficiency of data submittal and data accessibility. Specifically, the EPA is requiring owners and operators of phosphoric acid facilities to submit electronic copies of certain required performance test reports.

As mentioned in the preamble of the proposal, data will be collected by direct computer-to-computer electronic transfer using EPA-provided software. As discussed in the proposal, the EPA-provided software is an electronic performance test report tool called the ERT. The ERT will generate an electronic report package which will be submitted to the Compliance and Emissions Data Reporting Interface (CEDRI) and then archived to the EPA's Central Data Exchange (CDX). A description and instructions for use of the ERT can be found at *http://www.epa.gov/ttn/chief/ert/index.html,* and CEDRI can be accessed through the CDX Web site at *www.epa.gov/cdx.*

The requirement to submit performance test data electronically to the EPA does not create any additional performance testing and will apply only to those performance tests conducted using test methods that are supported by the ERT. A listing of the pollutants and test methods supported by the ERT is available at the ERT Web site. The EPA believes, through this approach, industry will save time in the

performance test submittal process. Additionally, this rulemaking benefits industry by cutting back on recordkeeping costs as the performance test reports that are submitted to the EPA using CEDRI are no longer required to be kept in hard copy.

As mentioned in the proposed preamble, state, local, and tribal agencies will benefit from more streamlined and accurate review of performance test data that will be available on the EPA WebFIRE database. The public will also benefit. Having these data publicly available enhances transparency and accountability. For a more thorough discussion of electronic reporting of performance tests using direct computer-to-computer electronic transfer and using EPA-provided software, see the discussion in the preamble of the proposal.

In summary, in addition to supporting regulation development, control strategy development, and other air pollution control activities, having an electronic database populated with performance test data will save industry, state, local, and tribal agencies, and the EPA significant time, money, and effort, while improving the quality of emission inventories, air quality regulations, and enhancing the public's access to this important information.

IV. What is included in this final rule for the Phosphate Fertilizer Production source category?

This action finalizes the EPA's determinations pursuant to the RTR provisions of CAA section 112 and the 8-year review provisions of CAA section 111 for the Phosphate Fertilizer Production source category. Today's action also finalizes several of the proposed changes to the NESHAP subpart BB and the NSPS subparts V, W, and X that are described in section II.C of this preamble. This action also finalizes other changes to the NESHAP subpart BB in consideration of comments on issues raised in the proposed rulemaking, as described in section VI of this preamble.

A. What are the final rule amendments based on the NESHAP risk review for the Phosphate Fertilizer Production source category?

The residual risk review for the Phosphate Fertilizer Production source category did not change since proposal; we found that the current standards provide an ample margin of safety to protect public health (79 FR 66512) and prevent an adverse environmental effect. We are, therefore, not tightening the standards under section 112(f)(2) (for NESHAP subpart BB) based on the residual risk review, and are thus readopting the existing standards under section 112(f)(2).

B. What are the final rule amendments based on the NESHAP technology review for the Phosphate Fertilizer Production source category?

The technology review for the Phosphate Fertilizer Production source category did not change since proposal (79 FR 66512). We determined that there are no cost-effective developments in practices, processes, and control technologies that warrant revisions to the MACT standards for this source category (79 FR 66512). Therefore, we are not amending the MACT standards under CAA section 112(d)(6).

C. What are the final rule amendments based on the NSPS review for the Phosphate Fertilizer Production source category?

We are finalizing our determination that revisions to NSPS subpart V, subpart W, and subpart X standards are not appropriate pursuant to CAA section 111(b)(1)(B). All Phosphate Fertilizer Production NSPS (under subpart V, subpart W, and subpart X) emission sources, and the control technologies that would be employed, are the same as those for the NESHAP regulating phosphate fertilizer plants, such that we reached the same determination that there are no identified cost-effective practices or technologies that would provide additional emission reductions. Additionally, there were no identified technologies that have been adequately demonstrated to achieve in practice emission controls that would result in more stringent total fluoride limits for these NSPS.

D. What are the final rule amendments addressing emissions during periods of startup, shutdown, and malfunction for the Phosphate Fertilizer Production source category?

We are finalizing, as proposed, changes to the Phosphate Fertilizer Production NESHAP, subpart BB to eliminate the SSM exemption. Consistent with *Sierra Club* v. *EPA* 551 F. 3d 1019 (D.C. Cir. 2008), the EPA has established standards in this rule that apply at all times. Appendix A of subpart BB (the General Provisions Applicability Table) is being revised to change several references related to requirements that apply during periods of SSM. We also eliminated or revised certain recordkeeping and reporting requirements related to the eliminated SSM exemption. The EPA also made changes to the rule to remove or modify inappropriate, unnecessary, or redundant language in the absence of the SSM exemption. For this source category, we determined that work practice standards for periods of startup and shutdown are appropriate in lieu of numeric emission limits due to the short duration of startup and shutdown, and control devices used on the various process lines in this source category are effective at achieving desired emission reductions immediately upon startup (79 FR 66551). Therefore, we are finalizing in NESHAP subpart BB the proposed work practice standards for periods of startup and shutdown. However, in consideration of comments received during the public comment period, we are making changes to the work practice standards in order to clarify that the standard applies in lieu of numeric emission limits and how compliance with the standard is demonstrated. In order to comply with the work practice standard, facilities must monitor the same control device operating parameters and comply with the same operating limits that are established to otherwise comply with the emission limits. Additionally, we added a definition of ''startup'' and ''shutdown'' in the definitions section of the final rule to specify when startup begins and ends, and when shutdown begins and ends. See section VI.D.3 of this preamble for details on these changes.

E. What other changes are we making to the NESHAP and NSPS for the Phosphate Fertilizer Production source category?

Today's rule also finalizes, as proposed, revisions to several other Phosphate Fertilizer Production NESHAP and NSPS requirements. We are finalizing, as proposed, changes to clarify applicability and certain definitions, as follows:

- Adopting the proposed conditions in NESHAP subpart BB that exclude the use of evaporative cooling towers for any liquid effluent from any wet scrubbing device installed to control HF emissions from process equipment; and
- Finalizing the proposed revisions changing the word ''cookers'' in NSPS subpart W to ''coolers.''

We are finalizing, as proposed, several changes to testing, monitoring, recordkeeping, and reporting to provide consistency, clarification, and flexibility, as follows:

- Finalizing the proposed revisions to NESHAP subpart BB that require a minimum pressure drop of 5 inches of water column for facilities that use pressure differential in parametric monitoring;

- Finalizing the proposal to remove the requirement in NESHAP subpart BB that facilities must request and obtain approval of the Administrator for changing operating limits;
- Adopting the proposed monitoring requirements for fabric filters in NESHAP subpart BB;
- Adopting the proposed addition of a site-specific monitoring plan and calibration requirements for CMS in NESHAP subpart BB;
- Adopting the proposed term ''absorber'' in lieu of ''scrubber'' in NESHAP subpart BB;
- Adopting the proposed format of NESHAP subpart BB to reference tables for emissions limits and monitoring requirements;
- Adopting the proposed provisions in NSPS subpart V, NSPS subpart W, and NSPS subpart X that require the owner or operator to establish an allowable range for the pressure drop through the process scrubbing system, keep records of the daily average pressure drop through the process scrubbing system, and keep records of deviations;
- Adopting the proposed term ''absorber'' in lieu of ''scrubbing system'' in NSPS subpart V; and
- Adopting the proposed term ''absorber'' in lieu of ''process scrubbing system'' in NSPS subpart W and NSPS subpart X.

We are also finalizing changes to the NESHAP and NSPS for the Phosphate Fertilizer Production source category on issues raised in response to the proposed rulemaking, as follows (refer to section VI.E.2 of this preamble for further details):

- Revising the definitions of ''phosphate fertilizer process line'' and ''phosphate fertilizer production plant'' in NESHAP subpart BB to reference granular phosphate fertilizer;
- Finalizing liquid-to-gas ratio monitoring in NESHAP subpart BB for low-energy absorbers (*i.e.,* absorbers that are designed to operate with pressure drops of 5 inches of water column or less) in lieu of monitoring influent liquid flow and pressure drop through the absorber;
- Clarifying in NESHAP subpart BB that during the most recent performance test, if owners or operators demonstrate compliance with the emission limit while operating their control device outside the previously established operating limit, owners or operators must establish a new operating limit based on that most recent performance test and notify the Administrator that the operating limit changed based on data collected during the most recent performance test; and
- Clarifying in NESHAP subpart BB that facilities not be required to obtain approval, and, instead, immediately comply with a new operating limit when it is developed and submitted to the Administrator.

F. What are the effective and compliance dates of the standards for the Phosphate Fertilizer Production source category?

The revisions to the NSPS and NESHAP standards being promulgated in this action for the Phosphate Fertilizer Production source category are effective on August 19, 2015.

The compliance date in NESHAP subpart BB for when to install, calibrate, and maintain a bag leak detection system on a fabric filter is August 19, 2016. We believe that 1 year is necessary because some facilities that currently operate a fabric filter do not have a bag leak detection system and will need time to purchase and install this compliance monitoring equipment and implement quality assurance measures.

The compliance date in NESHAP subpart BB for the revised startup and shutdown requirements is August 19, 2015. We determined that the feasibility of operating the control devices used to control HAP emissions from phosphate fertilizer production is not limited by specific process operating conditions.

Finally, to ensure continuous compliance with the standard, the compliance date for the monitoring and recordkeeping requirements in NSPS subparts V, W, and X for all new granular DAP plants, TSP plants, and GTSP storage facilities is August 19, 2015, or upon startup, whichever is later.

G. What are the requirements for submission of performance test data to the EPA for the Phosphate Fertilizer Production source category?

As stated in the preamble to the proposed rule, the EPA is taking a step to increase the ease and efficiency of data submittal and data accessibility. Specifically, the EPA is requiring owners and operators of phosphate fertilizer facilities to submit electronic copies of certain required performance test reports.

As mentioned in the preamble of the proposal, data will be collected by direct computer-to-computer electronic transfer using EPA-provided software. As discussed in the proposal, the EPA-provided software is an electronic performance test report tool called the Electronic Reporting Tool (ERT). The ERT will generate an electronic report package which will be submitted to the Compliance and Emissions Data Reporting Interface (CEDRI) and then archived to the EPA's Central Data Exchange (CDX). A description and instructions for use of the ERT can be found at *http://www.epa.gov/ttn/chief/ert/index.html,* and CEDRI can be accessed through the CDX Web site at *www.epa.gov/cdx*.

The requirement to submit performance test data electronically to the EPA does not create any additional performance testing and will apply only to those performance tests conducted using test methods that are supported by the ERT. A listing of the pollutants and test methods supported by the ERT is available at the ERT Web site. The EPA believes, through this approach, industry will save time in the performance test submittal process. Additionally, this rulemaking benefits industry by cutting back on recordkeeping costs as the performance test reports that are submitted to the EPA using CEDRI are no longer required to be kept in hard copy.

As mentioned in the proposed preamble, state, local, and tribal agencies will benefit from more streamlined and accurate review of performance test data that will be available on the EPA WebFIRE database. The public will also benefit. Having these data publicly available enhances transparency and accountability. For a more thorough discussion of electronic reporting of performance tests using direct computer-to-computer electronic transfer and using EPA-provided software, see the discussion in the preamble of the proposal.

In summary, in addition to supporting regulation development, control strategy development, and other air pollution control activities, having an electronic database populated with performance test data will save industry, state, local, and tribal agencies, and the EPA significant time, money, and effort while improving the quality of emission inventories, air quality regulations, and enhancing the public's access to this important information.

V. What is the rationale for our final decisions and amendments for the Phosphoric Acid Manufacturing source category?

For each issue related to the Phosphoric Acid Manufacturing source category, this section provides a description of what we proposed and what we are finalizing for the issue, the EPA's rationale for the final decisions and amendments, and a summary of key comments and responses. For all comments not discussed in this preamble, comment summaries and the EPA's responses can be found in the Comment Summary and Response document available in the docket.

A. Residual Risk Review for the Phosphoric Acid Manufacturing Source Category

1. What did we propose pursuant to CAA section 112(f) for the Phosphoric Acid Manufacturing source category?

Pursuant to CAA section 112(f), we conducted a residual risk review and presented the results of this review, along with our proposed decisions regarding risk acceptability and ample margin of safety, in the November 7, 2014, proposed rule for the Phosphoric Acid Manufacturing NESHAP (79 FR 66512). The results of the risk assessment are presented briefly below in Table 2 of this preamble, and in more detail in the residual risk document, ''Residual Risk Assessment for Phosphate Fertilizer Production and Phosphoric Acid Manufacturing Source Categories in support of the July 2015 Risk and Technology Review Final Rule,'' which is available in the docket for this rulemaking.

TABLE 2—HUMAN HEALTH RISK ASSESSMENT FOR PHOSPHORIC ACID MANUFACTURING

Category & number of facilities modeled	Cancer MIR (in 1 million)		Cancer incidence (cases per year)	Population with risks of 1-in-1 million or more	Population with risks of 10-in-1 million or more	Max chronic non-cancer HI		Worst-case max acute non-cancer HQ
	Based on actual emissions	Based on allowable emissions				Based on actual emissions	Based on allowable emissions	
Phosphoric Acid (12 facilities).	0.09	0.09	0.0002	0	0	0.2	0.3	HQ_{REL} = 2 (hydrofluoric acid) HQ_{AEGL} − 1 = 0.6 (hydrofluoric acid).
Facility-wide (12 facilities).	0.5	.....	0.001	0	0	0.2		

Based on actual emissions for the Phosphoric Acid Manufacturing source category, the maximum individual risk (MIR) was estimated to be less than 1-in-1 million, the maximum chronic non-cancer target organ-specific hazard index (TOSHI) value was estimated to be up to 0.2, and the maximum off-site acute hazard quotient (HQ) value was estimated to be up to 2. The total estimated national cancer incidence from this source category, based on actual emission levels, was 0.0002 excess cancer cases per year, or one case in every 5,000 years. Based on MACT-allowable emissions for the Phosphoric Acid Manufacturing source category, the MIR was estimated to be less than 1-in-1 million, and the maximum chronic non-cancer TOSHI value was estimated to be up to 0.3. We also found there were emissions of several persistent and bio-accumulative HAP (PB–HAP) with an available RTR multipathway screening value, and with the exception of Hg and cadmium compounds, the reported emissions of these HAP (*i.e.,* lead compounds, dioxin/furan compounds, and polycyclic organic matter (POM) compounds), were below the multipathway screening value for each compound. One facility emitted divalent Hg (Hg^{2+}) above the Tier I screening threshold level, exceeding the screening threshold by a factor of 7 and the cadmium emissions exceeded the cadmium screening threshold by a factor of 2. Consequently, we conducted a Tier II screening assessment, in which both pollutants of concern were below the Tier II screening threshold, indicating no potential for multipathway impacts of concern from this facility. The maximum facility-wide MIR was less than or equal to 1-in-1 million and the maximum facility-wide TOSHI was 0.2. We weighed all health risk factors in our risk acceptability determination, and we proposed that the residual risks from the Phosphoric Acid Manufacturing source category are acceptable.

We then considered whether the Phosphoric Acid Manufacturing NESHAP provides an ample margin of safety to protect public health and prevents, taking into consideration costs, energy, safety, and other relevant factors, an adverse environmental effect. In considering whether the standards should be tightened to provide an ample margin of safety to protect public health, we considered the same risk factors that we considered for our acceptability determination and also considered the costs, technological feasibility, and other relevant factors related to emissions control options that might reduce risk associated with emissions from the source category. We proposed that the current standards provided an ample margin of safety to protect public health. With respect to adverse environmental effects, none of the individual modeled concentrations for any facility in the source category exceeded any of the ecological benchmarks (either the lowest-observed-adverse-effect level (LOAEL) or no-observed-adverse-effect level (NOAEL)). Based on the results of our screening analysis for risks to the environment, we also proposed that the current standards prevent an adverse environmental effect.

2. How did the risk review change for the Phosphoric Acid Manufacturing source category?

The residual risk review for the Phosphoric Acid Manufacturing source category did not change since proposal (79 FR 66512). Accordingly, we are not tightening the standards under section 112(f)(2) based on the residual risk review, and are thus readopting the existing standards under section 112(f)(2).

3. What key comments did we receive on the risk review, and what are our responses?

The comments received on the proposed residual risk review were generally supportive of our determination of risk acceptability and ample margin of safety analysis. However, we received several comments requesting we make changes to the residual risk review, including:

- Update the residual risk review with the recommendations and information from the National Academy of Sciences (NAS);
- Incorporate the best currently available information on children's exposure to lead, and go beyond using the 2008 Lead National Ambient Air Quality Standards (NAAQS);
- Reevaluate whether the residual risk review is consistent with the key recommendations made by the Science Advisory Board (SAB);
- Clarify in the rulemaking docket that data received by industry were commensurate with the relevant statutory obligations;
- Revise HF emission data because they are not representative of actual HF emissions, but rather overestimate emissions causing the residual risk review to have an overtly conservative bias;

- Reconsider the assumption used in the NESHAP residual risk assessment that all chromium is hexavalent chromium;
- Revise certain stack parameters used in the analysis;
- Clarify meteorological data used in the analysis;
- Adequately explain rationale for the maximum 1-hour emission rate used for determining potential acute exposures;
- Clarify the selection of ecological assessment endpoints; and
- Provide some quantitative or qualitative rationale for the characterization of the exposure modeling uncertainty.

We evaluated the comments and determined that no changes were needed. Since none of these comments had an effect on the final rule, their summaries and corresponding EPA responses are not included in this preamble. A summary of these comments and our responses can be found in the Comment Summary and Response document available in the docket for this action (EPA–HQ–OAR–2012–0522).

4. What is the rationale for our final approach and final decisions for the risk review?

For the reasons explained in the proposed rule, we determined that the risks from the Phosphoric Acid Manufacturing source category are acceptable, the current standards provide an ample margin of safety to protect public health, and prevent an adverse environmental effect. Since proposal, neither the risk assessment nor our determinations regarding risk acceptability, ample margin of safety or adverse environmental effects have changed. Therefore, pursuant to CAA section 112(f)(2), we are finalizing our residual risk review as proposed.

B. Technology Review for the Phosphoric Acid Manufacturing Source Category

1. What did we propose pursuant to CAA section 112(d)(6) for the Phosphoric Acid Manufacturing source category?

Pursuant to CAA section 112(d)(6), we conducted a technology review, which focused on identifying and evaluating developments in practices, processes, and control technologies for the emission sources in the Phosphoric Acid Manufacturing source category. At proposal, we did not identify cost-effective developments in practices, processes, or control technologies that warrant revisions to the NESHAP for this source category. More information concerning our technology review can be found in the memorandum, ''CAA Section 111(b)(1)(B) and 112(d)(6) Reviews for the Phosphoric Acid Manufacturing and Phosphate Fertilizer Production Source Categories,'' which is available in the docket, and in the preamble to the proposed rule, 79 FR 66538–66539.

2. How did the technology review change for the Phosphoric Acid Manufacturing source category?

The technology review for the Phosphoric Acid Manufacturing source category did not change since proposal (79 FR 66512). Therefore, we are not revising NESHAP subpart AA based on the technology review.

3. What key comments did we receive on the technology review, and what are our responses?

Commenters agreed with our conclusion that there are no new cost-effective developments in practices, processes, or control technologies that can be applied to the Phosphoric Acid Manufacturing source category that would reduce HAP emissions below current levels.

4. What is the rationale for our final approach for the technology review?

For the reasons explained in the proposed rule, we concluded that additional standards are not necessary pursuant to CAA section 112(d)(6); therefore, we are not finalizing changes to NESHAP subpart AA as part of our technology review.

C. CAA Sections 112(d)(2), 112(d)(3), and 112(h) for the Phosphoric Acid Manufacturing Source Category

1. What did we propose pursuant to CAA sections 112(d)(2), 112(d)(3), and 112(h) for the Phosphoric Acid Manufacturing source category?

We proposed MACT standards for HF and Hg pursuant to CAA sections 112(d)(2) and 112(d)(3), and work practice standards pursuant to CAA section 112(h), for phosphate rock calciners, an emissions source that was initially regulated for HAP metals using PM as a surrogate. We proposed regulating two pollutants, Hg and HF, which were not directly regulated under the initial NESHAP subpart AA. We proposed eliminating the use of PM as a surrogate for Hg and proposed a Hg emission limit for phosphate rock calciners. Because control devices may be necessary to meet the proposed Hg limits for phosphate rock calciners, we proposed monitoring and testing requirements in NESHAP subpart AA for the two types of control systems evaluated as alternatives for control of Hg: Adsorbers (typically fixed bed carbon), and sorbent injection (*i.e.,* activated carbon injection (ACI)) followed by a wet electrostatic precipitator (WESP) or followed by fabric filtration. We also proposed the addition of methods to monitor emissions of Hg using continuous emissions monitoring systems (CEMS). We also proposed a maximum calcination temperature of less than 1,600 degrees Fahrenheit for phosphate rock calciners as a work practice standard to control HF emissions. In addition to proposing a maximum calcination temperature, we proposed to require that emissions from phosphate rock calciners be routed to an absorber to limit emissions of HF from phosphate rock calciners.

Also, we did not propose revised emissions limits for rock dryers because this process is no longer used in the NESHAP regulated source categories for phosphoric acid or phosphate fertilizer (*i.e.,* the rock dryers that were previously used in this industry are no longer in operation).

Finally, we proposed a work practice applicable to facilities when new gypsum dewatering stacks are constructed that would limit the size of active gypsum dewatering stacks and control fugitive HF emissions. When new gypsum dewatering stacks are constructed, we proposed that the ratio of total active gypsum dewatering stacks area (*i.e.,* sum of the footprint acreage of all existing and new active gypsum dewatering stacks combined) to annual phosphoric acid manufacturing capacity must not be greater than 80 acres per 100,000 tons of annual phosphoric acid manufacturing capacity (equivalent P_2O_5 feed). As we stated in the preamble to the proposed rule, limiting the size of gypsum dewatering stacks would minimize emissions by creating an upper bound on emissions. We also proposed work practice standards to control HF emissions from gypsum dewatering stacks and cooling ponds. We proposed a list of control techniques for facilities to use in development of a site-specific gypsum dewatering stack and cooling pond management plan to control fugitive HF emissions. Unless the active gypsum dewatering stack or cooling pond commenced construction or reconstruction after the date of publication of the final rule, we proposed that each facility use at least one of these control techniques. For each active gypsum dewatering stack or cooling pond that commenced construction or reconstruction after the date of publication of the final rule, we proposed that each facility use two of the listed control techniques.

2. How did our final rule change from what we proposed pursuant to CAA sections 112(d)(2), 112(d)(3), and 112(h) for the Phosphoric Acid Manufacturing source category?

In consideration of comments received during the public comment period for the proposed rulemaking, we are finalizing the proposed BTF Hg limit in NESHAP subpart AA for new phosphate rock calciners. We are not finalizing the proposed BTF Hg limit in NESHAP subpart AA for existing phosphate rock calciners. Instead, we are finalizing a MACT floor Hg limit for existing phosphate rock calciners based on the results of the MACT floor calculations for Hg that are discussed in the preamble of the proposed rule (79 FR 66533). We are also revising our estimated costs in the final rule as discussed in section V.C.3.a.i of this preamble. In addition, we are not finalizing work practice standards for HF from phosphate rock calciners, as proposed. Instead, as discussed in section V.C.3.a.ii of this preamble, we are including a total fluoride emission limit for phosphate rock calciners in NESHAP subpart AA.

Also, in consideration of comments received (see section V.C.3.b.i of this preamble for details), we are not adopting the proposed work practice in NESHAP subpart AA that limits the size of active gypsum dewatering stacks (which would have been applicable to facilities when new gypsum dewatering stacks are constructed). Lastly, we are finalizing in NESHAP subpart AA the work practice standard as proposed that requires owners or operators to prepare and operate in accordance with a gypsum dewatering stack and cooling pond management plan. However, based on analysis of public comments, we are making several changes to the specific control techniques that we proposed as options in the plan for controlling fugitive HF emissions (see section V.C.3.b.ii of this preamble for details on these changes).

3. What key comments did we receive on what we proposed pursuant to CAA sections 112(d)(2), 112(d)(3), and 112(h), and what are our responses?

We received several comments regarding the proposed addition of numeric emission limits for Hg and work practice standards for HF emissions from phosphate rock calciners, and the addition of gypsum dewatering stack and cooling pond work practices for the Phosphoric Acid Manufacturing source category. The following is a summary of the significant comments we received regarding these topics and our responses to them. Other comments received and our responses to those comments can be found in the Comment Summary and Response document available in the docket for this action (EPA–HQ–OAR–2012–0522).

a. MACT and Work Practice Standards for Phosphate Rock Calciners—i. Hg Emission Limits for Phosphate Rock Calciners—Comment. Some commenters did not support the EPA's decision to set a BTF limit for Hg from phosphate rock calciners because the emissions do not present unacceptable risks nor do the emission limits yield any benefits. The commenters stated that the EPA fails to show that the proposed BTF Hg limit would produce health or environmental benefits that justify the costs of achieving the standard as they assert is required by CAA section 112(d)(2). Commenters further claimed that the EPA's own risk assessment shows that the BTF limit is not necessary from a risk standpoint because the NESHAP regulation, prior to implementation of the proposed Hg BTF limits, provides an ample margin of safety to protect public health and prevents, taking into consideration costs, energy, safety, and other relevant factors, an adverse environmental effect. The commenters maintained that under CAA section 112(d)(2), the EPA may set an emission limit that is more stringent than the MACT floor only if the Agency determines that the BTF limit is ''achievable'' based on a consideration of the relative costs and benefits. One commenter cited regulations where the EPA did not set BTF limits for a particular pollutant because the benefits were minimal and the risk would not be appreciably reduced. Commenters supported setting the MACT floor as the Hg limit.

Commenters stated the Hg control devices that the EPA evaluated for the phosphate rock calciner BTF limit were not technically feasible, but did note two potential solutions. Specifically, the commenters stated that use of ACI just prior to the existing WESP or after the WESP with a fabric filter is not technically feasible. The commenters explained the exhaust gas downstream of the WESP is completely saturated and contains entrained water droplets; this would plug the fabric filter, result in performance degradation of the activated carbon, and could lead to plugging of the injection lances and formation of deposits on the ducts. The commenters further explained that it would not be feasible to install heating systems or design engineering control to avoid these problems, due to high costs and the technical complexity. The commenters noted that installing the ACI just prior to the WESP was also not feasible, again due to performance degradation of the activated carbon, but also due to the fact that the existing WESPs could not capture the additional particulate load. The commenters reported that installing the ACI upstream of the existing venturi scrubber is technically feasible, because the gas upstream of the scrubber is not completely saturated. However, the commenters noted several design and operational modifications that would be necessary; these modifications focused on reducing the temperature of the exhaust gas streams to less than 375 degrees Fahrenheit. When installing ACI upstream of the existing venturi scrubber, the ACI vendor used by the commenter recommended the use of treated (*e.g.,* halogenated) carbon at an injection rate of 30 lb/MMacf, in order to meet the BTF Hg limit. The commenter said that the carbon injection rate may need to be as much as 30 lb/MMacf based on site-specific conditions, such as temperature, Hg concentration, moisture, and sulfur content of the phosphate rock calciner exhaust stream. In support of a high injection rate, the commenter also cited a reference from 1994 that observed an increased injection rate was necessary due to temperature of the exhaust gas stream.

Regarding fixed-bed carbon adsorption, commenters stated a traditional fixed-bed carbon adsorption system would not be feasible due to the presence of entrained water droplets that would severely degrade sorbent performance and cause plugging within the bed. The commenters indicated that new Gore Mercury Control System (GMCS) technology might be technically feasible because it uses a fixed sorbent structure with a sorbent polymer composite material to adsorb Hg; the GMCS polymer composite material might protect the sorbent from entrained water droplets and other contaminants in the flue gas. The commenters stated that to use a GMCS fixed-bed carbon adsorption system, several adjustments to the calciners would be necessary, as well as a pilot study to confirm the feasibility. Another commenter also reported they were evaluating the use of the GMCS system, but were only in preliminary stages as their phosphate rock calciner is not yet operating. A commenter also explained that each phosphate rock calciner would need its own controls and a single control system for all phosphate rock calciners

would not be feasible due to safety and operational concerns.

Several commenters argued that ACI and fixed-bed carbon adsorption were not cost effective for controlling Hg emissions from phosphate rock calciners. Two commenters reported a site-specific cost estimate for installing GMCS fixed-bed carbon adsorption downstream of the existing WESP, with capital costs of $32 million and annual costs of $5.8 million; the resulting cost-effectiveness was approximately $40,000 per pound of Hg. The commenters noted the GMCS cost-effectiveness ($40,000/lb Hg) was much higher than the cost-effectiveness the EPA presented in the proposed rule ($8,000/lb Hg) for a traditional fixed-bed carbon adsorption system. Commenters also reported a site-specific cost estimate for installing ACI upstream of the existing venturi scrubbers, with capital costs of $21.1 million and annual costs of $9.1 million; this resulted in a cost-effectiveness of approximately $63,000 per pound of Hg. The commenters noted this ACI cost-effectiveness ($63,000/lb Hg) was much higher than the cost-effectiveness the EPA presented in the proposed rule ($12,100/lb Hg) for ACI. The commenters stated that because their costs for ACI and GMCS fixed-bed carbon adsorption were site-specific, they are much more representative than the costs developed by the EPA for the proposed rule. Finally, one commenter stressed that the site-specific Hg control cost-effectiveness numbers were well above the cost-effectiveness for other rules where the EPA implemented BTF Hg controls. Another commenter noted that preliminary information for installing Hg controls resulted in estimates of $17.5 million in capital costs and $10 million for annual costs.

Response. Based on these comments, the Agency revised the BTF costs analysis and determined that setting a BTF Hg emission limit for existing phosphate rock calciners would impose a significant economic impact to PotashCorp (PCS) Aurora, the only facility that we are aware of with phosphate rock calciners; therefore, we are not finalizing the BTF Hg limit for existing phosphate rock calciners. The annualized control costs for this company would be approximately 0.9 percent to 5.3 percent of revenues (see ''PCS Phosphate Response to USEPA Request for Aurora Plant Financial Information, May 8, 2015,'' which is available in the docket for this rulemaking). While these costs are small for the industry, they may be significant for the company and particularly significant for the facility. For the company, there may be a negative impact on profitability. If the company is unable to pass on the increase in the cost of manufacturing the product by raising prices, the facility will either face a potentially significant reduction in profitability or have to close a process or facility. Therefore, the Agency is finalizing a MACT floor Hg limit of 0.14 milligrams (mg) Hg per dry standard cubic meter (dscm) at 3-percent O_2 for existing phosphate rock calciners and does not anticipate that any facilities will need to install a new control device to meet the existing phosphate rock calciner Hg limit. Also, we are finalizing the proposed BTF Hg limit (*i.e.,* 0.014 mg Hg/dscm at 3-percent O_2) for new phosphate rock calciners, as facilities should be better able to plan for the costs of controls for new sources. The following discussion provides the details of these decisions.

The results of the residual risk analyses are not part of the BTF MACT determination, and, accordingly, the commenters' concern about not considering risk results is not appropriate. See *Sierra Club* v. *EPA,* 353 F.3d 976, 981 (D.C. Cir. 2004). Analyzing the risk would not be a practical requirement, as, typically, MACT standards are set in advance of a residual risk or technology review of the standard. Additionally, the statutory language excerpt cited by the commenter does not accurately reflect the CAA language, which requires the Agency to consider costs associated with the emission reductions, but does not require a demonstration of benefits. The Agency appropriately met its requirements under CAA section 112(c) and (d) by first evaluating a MACT floor level of control for Hg emissions from phosphate rock calciner units and then evaluating cost-effective controls for further reducing emissions BTF level.

The Agency appreciates the commenters' site-specific review of Hg control device technologies and agrees with the commenters' revisions to certain aspects of the technical feasibility of ACI and fixed-bed carbon adsorption. At proposal, we noted that high moisture streams may result in plugging of the fabric filter, as it relates to ACI use. However, we did not consider that entrained water droplets in the high moisture streams would degrade carbon sorbent performance for both ACI and fixed-bed carbon adsorption, or lead to plugging within a fixed-bed. As a result of the additional information provided by the commenters, we agree that it is not technically feasible to use ACI just prior to the existing WESP or after the WESP with a fabric filter to control Hg emissions from phosphate rock calciners, based on current operations. Based on information available at this time, we also agree that a traditional fixed-bed carbon adsorption system is not technically feasible to control Hg emissions from phosphate rock calciners.

The commenters also stated, and the EPA agrees, that use of ACI (specifically halogenated carbon) is technically feasible to control Hg emissions from phosphate rock calciners if ACI is installed upstream of the existing venturi scrubber, where the moisture content is lower. However, we disagree with the commenters' assessment that a carbon injection rate of 30 lb/MMacf would be necessary to achieve a 90 percent reduction in Hg emissions from phosphate rock calciners. The commenters' carbon injection rate estimate is much higher than ACI installations at coal power plants and cement kilns, and while phosphate rock calciners may have unique exhaust gas properties, these properties do not warrant such an extreme carbon feed rate.

To provide additional context on carbon injection rates, we reviewed numerous ACI Hg reduction studies conducted through a National Energy Technology Laboratory (NETL) research program under the Department of Energy (DOE), as well as other studies, which are available in Docket ID No. EPA–HQ–OAR–2012–0522. In our review, we considered the impact on carbon injection rates due to temperature, moisture content, Hg concentration, sulfur content (*i.e.,* sulfur trioxide (SO_3) concentration), and carbon sorbent type. Considering the information in these studies, we found it common for carbon injection rates of 5 lb/MMacf or less to result in 90 percent Hg removal, although higher injection rates are warranted in some instances. We also found that at certain facilities, high injection rates do not result in 90 percent Hg removal; however, in several of these cases those data are for standard powdered activated carbon (PAC), *i.e.,* activated carbon that has not been treated with halogens, or exhaust gases containing high SO_3 concentrations. Specifically, we identified a 2008 document [3] that combines results from several studies demonstrating the relationship between PAC injection rate (lb/MMacf) and percent Hg removal. While Figure 2 in this 2008 document shows injection rates up to 20 lb/MMacf using standard

[3] Refer to Figures 2 and 3 of ''DOE NETL Hg Field Testing Update_2008'' which is available in Docket ID No. EPA–HQ–OAR–2012–0522.

PAC (*e.g.,* not halogenated carbon), data for halogenated PAC, in Figure 3 of the 2008 document, shows a maximum of approximately 9 lb/MMacf in order to achieve 90 percent Hg removal from the gas stream. It accords with our general knowledge that standard PAC can have a high control efficiency if halogens are present in the flue gas to oxidize elemental Hg so that it can be adsorbed on the particles injected and subsequently captured in the particle control device. Thus, if halogens are not present in sufficient quantities to oxidize the elemental Hg present, the unoxidized Hg present will continue to be emitted, since it would not be adsorbed on the particles and captured in the particle control device. This situation can be remedied through the use of halogenated PAC, which will oxidize the elemental Hg present so that it can be adsorbed on the particles and later captured. Thus, while we agree with the vendor's recommendation that halogenated PAC is most likely to result in better Hg removal efficiencies for the phosphate rock calciners, we disagree with the relevance of the commenter's cited 1994 document. The ACI vendor used by the commenter recommended treated (*e.g.,* halogenated) PAC as the most likely sorbent type for phosphate rock calciner Hg treatment and the cited 1994 document evaluated standard PAC. In addition, as noted above, there have been more recent studies and significant progress in PAC design since 1994, and as such we do not believe the PAC evaluated in the 1994 document would result in the Hg reductions that today's PAC can achieve. Therefore, we determined that PAC type is a critical factor for Hg removal efficiencies for this source category.

The commenter also noted that modifications focused on reducing the temperature of the exhaust gas streams would be necessary in order for ACI to be effective when installed prior to the existing venturi scrubber. This reduced operating temperature for the phosphate rock calciner exhaust would be in a similar range as coal utility boilers; it is common for coal utility boilers to have exhaust gases at temperatures exceeding 300 degrees Fahrenheit (see the documents ''Coal Plant Hg Controls Update_EPA_2005'' and ''DOE NETL Hg Field Testing Update_2008,'' which are available in Docket ID No. EPA–HQ–OAR–2012–0522). Therefore, the cited coal utility boiler studies are appropriate and show that ACI is effective in the new temperature range. This further refutes the commenter's citation of the 1994 document regarding temperature concerns and the necessity of an injection rate as high as 30 lb/MMacf.

Data are available demonstrating that increased SO_3 levels are detrimental to sorbent performance. We found that higher carbon injection rates are typical for plants with higher SO_3 concentration in the exhaust stream; for coal utility boilers, this can occur when the fuel is high-sulfur bituminous coal. The concentration of SO_3 in emissions from coal utility boilers is also increased by certain control devices (*e.g.,* selective catalytic reduction) that do not exist at the phosphate rock calciners. For information on SO_3 impacts, see the documents ''DOE NETL Hg Field Testing Update_2008'' and ''ADA ACI Overview_2010,'' which are available in Docket ID No. EPA–HQ–OAR–2012–0522. Of note, certain PAC sorbents are designed to work in high-sulfur environments (see the document ''Calgon Fluepac ST brochure,'' available in Docket ID No. EPA–HQ–OAR–2012–0522). Based on this available information, we do not believe SO_3 concentration in the phosphate rock calciner exhaust gas stream will severely impact ACI performance to a level requiring a carbon injection rate of 30 lb/MMacf.

Additionally, we identified a pilot study that was conducted in 2007 on a cement kiln at the Ash Grove Durkee facility that resulted in more than 90 percent Hg removal efficiencies using carbon injection rates of only 3 lb/MMacf. Of note, the Hg concentration in the cement kiln exhaust gas was more than 10 times higher than the Hg concentration in the phosphate rock calciner exhaust gas. This study is presented in the document ''Carbon Injection Pilot Test Durkee OR_2007,'' available in Docket ID No. EPA–HQ–OAR–2012–0522.

While we acknowledge that phosphate rock calciner exhaust streams may have certain unique characteristics, we do not agree with a PAC injection rate of 30 lb/MMacf based on the data available, as discussed above. We believe a halogenated PAC injection rate of 10 lb/MMacf or lower (for ACI installed upstream of the existing venturi scrubbers) is sufficient for meeting the BTF Hg limit for phosphate rock calciners.

Commenters also noted, and the EPA agrees, that GMCS technology would be technically feasible to control Hg emissions from phosphate rock calciners. We also agree that individual GMCS fixed-bed carbon adsorption systems would be necessary for each of the six phosphate rock calciners. The commenters noted that two full-scale operations are actively using GMCS fixed-bed carbon adsorption systems to control Hg. Furthermore, based on additional discussion with industry (see ''EPA Meeting Minutes for PCS Aurora Hg Discussion, March 12, 2015,'' which is available in Docket ID No. EPA–HQ–OAR–2012–0522), we now know that three full-scale operations use GMCS to control Hg, with two additional operations to come online soon. These full-scale operations are located at coal power plants, not phosphoric acid manufacturing processes. Based on the vendor-provided information and the fact that GMCS technology is currently used at coal power plants to comply with Hg emission limits, we believe GMCS technology is technically feasible. In regards to the need for a pilot study, facilities would have time to design, construct, and test the system.

Although we have determined that two control technologies are technically feasible to control Hg emissions from phosphate rock calciners, we evaluated costs for the BTF Hg limit based on the estimated lower cost technology, installation of halogenated ACI upstream of the existing venturi scrubber. We used the ACI cost data provided by the commenter to estimate the costs for complying with the BTF Hg limit. However, instead of basing the annual carbon cost on an injection rate of 30 lb/MMacf, we applied injection rates of 5 and 10 lb/MMacf of halogenated carbon for reasons stated above. As provided by the commenter, the capital cost for installing six ACI units on each existing phosphate rock calciner is approximately $21,150,000. The annual cost ranges from approximately $4,320,000 (when a carbon injection rate of 5 lb/MMacf is used) to approximately $5,280,000 (when a carbon injection rate of 10 lb/MMacf is used); this results in Hg reductions of 145 pounds of Hg per year. As previously stated, these annual costs imposed a significant economic burden and we are not finalizing the BTF Hg limit for existing phosphate rock calciners.

Existing phosphate rock calciners must comply with a Hg emission limit that equals the MACT floor at 0.14 mg Hg/dscm at 3-percent O_2. The MACT floor was calculated using the upper prediction limit (UPL) methodology, which was discussed in the preamble of the proposed rule (see 79 FR 66533) and is also discussed in the memorandums ''Maximum Achievable Control Technology (MACT) Floor Analysis for Phosphate Rock Calciners at Phosphoric Acid Manufacturing Plants—Final Rule'' and ''Use of the Upper Prediction Limit for Calculating MACT Floors,'' which are available in the docket for

this action. Based on the available data, the existing phosphate rock calciners would be able to comply with this limit without installing additional Hg controls.

We evaluated application of the BTF Hg limit for new phosphate rock calciners. Facilities would have time to plan for and consider the costs when determining whether to construct a new phosphate rock calciner. Additionally, sources may choose to only add one new calciner unit at a time, which would have considerably less impact than the costs associated with retrofitting all units at an existing site. Therefore, we evaluated the cost-effectiveness for installing Hg controls on a new phosphate rock calciner. Using the same cost data provided by the commenter, installing a single ACI would have capital costs of approximately $3,500,000. The annual cost ranges from approximately $720,000 (when a carbon injection rate of 5 lb/MMacf is used) to approximately $880,000 (when a carbon injection rate of 10 lb/MMacf is used). This results in Hg reductions of 24 pounds of Hg per year for a single calciner unit, assuming the new phosphate rock calciner has similar emissions as the existing phosphate rock calciners at PCS Aurora. The resulting cost-effectiveness is estimated to be $29,800 to $36,400 per pound of Hg reduced, which we consider cost effective for new sources. This facility-level cost-effectiveness for Hg for new sources is comparable to values the EPA found to be cost effective for removal of Hg at the facility-level in other air toxics rules.[4] Consequently, new phosphate-rock calciners must comply with the BTF Hg emission limit of 0.014 mg Hg/dscm at 3-percent O_2.

ii. HF Work Practices for Phosphate Rock Calciners—Comment. We received comment regarding HF work practices for phosphate rock calciners. One commenter supported the HF work practices and stated they are consistent with their current phosphate rock calciner operations. Another commenter does not support the implementation of HF work practices for phosphate rock calciners. This commenter, which is considering installation of a calciner in the future, noted that preliminary results indicate a calcination temperature of at least 2,000 degrees Fahrenheit is necessary for their phosphate rock calciner. This commenter also explained they are evaluating a flash calciner, which operates with a much shorter retention time than the fluidized bed calciners currently in operation. The commenter argued that wet scrubbers should not be a requirement of the HF work practice because their phosphate rock calciner will be located in a remote area where treatment and disposal options for scrubber liquors may not be feasible. The commenter recommended the EPA allow for other control technologies with equivalent efficiencies.

Another commenter does not support the use of work practices for HF, and declared the EPA should set numeric emission limits for HF from phosphate rock calciners. The commenter maintained that the EPA failed to satisfy the CAA section 112(h) test it must meet to promulgate work practice standards ''in lieu of'' numerical emission standards. The commenter stated that not using the available emissions data to set a floor limit is unlawful and arbitrary, even if the data are below the detection limit.

Response. We are not adopting the proposed HF work practice standard for phosphate rock calciners in NESHAP subpart AA. Instead, we are adopting an emission limit for total fluoride from phosphate rock calciners. In proposing the HF work practices, we concluded that it was not feasible to prescribe or enforce an emission limit for HF due to limitations in the available EPA Method 320 HF test results (*i.e.,* most of the emissions data were below the method detection limit). We now have concluded, based on analysis of public comments, that it is not feasible to accurately measure HF emissions from phosphoric acid manufacturing processes using EPA Method 320 (see section V.F.3.c of this preamble for further details). However, data are available to establish an emission limit for total fluoride from phosphate rock calciners. In 2015 only one facility operates phosphate rock calciners, which are controlled by a venturi-type scrubber. In response to the April 2010 CAA section 114 request, the facility provided EPA Method 13B total fluoride emission testing results for one of their six identical phosphate rock calciners. We conclude that the total fluoride emission rate achieved by this phosphate rock calciner characterizes the emissions from all six calciners and thus this emission rate was used to determine the MACT floor for total F emissions. Therefore, for phosphate rock calciners, we are setting total F emission limits. We are also setting a work practice standard for periods of startup and shutdown in lieu of this numeric emission limit (see section V.E.3 of this preamble for further details). The use of total fluoride as a surrogate for the HAP HF is consistent with WPPA, SPA, and DAP/MAP process lines, which also have total fluoride emission limits in lieu of HF emission limits.

For the Phosphoric Acid Manufacturing source category, we have a limited dataset for the pollutant total fluoride from phosphate rock calciners. Therefore, we evaluated this specific dataset to determine whether it is appropriate to make any modifications to the UPL approach used to calculate the MACT floor. For the phosphate rock calciner dataset, we performed the following steps: We selected the data distribution that best represents the dataset; ensured that the correct equation for the distribution was then applied to the data; and compared individual components of the limited dataset to determine if the total fluoride standard based on the limited dataset reasonably represents the performance of the units included in the dataset. The results of this analysis are presented below.

The MACT floor dataset for total fluoride from new and existing phosphate rock calciners includes 3 test runs from 1 phosphate rock calciner. After determining that the dataset is best represented by a normal distribution and ensuring that we used the correct equation for the distribution, we considered the selection of a lower confidence level for determining the emission limit by evaluating whether the calculated limit reasonably represents the performance of the unit upon which it is based. In this case, the calculated emission limit is about twice the short-term average emissions from the best performing source, indicating that the emission limit is not unreasonable compared to the actual performance of the unit upon which the limit is based and is within the range that we see when we evaluate larger datasets using our MACT floor calculation procedures. Therefore, we determined that no changes to our standard UPL floor calculation procedure are warranted for this pollutant and subcategory. We are applying the same method of calculating a total fluoride limit as we did for the Hg MACT floor calculation, for which we gave notice in the preamble to the proposed rule. Additional details and background on the MACT floor calculation are provided in the memorandums, ''Maximum Achievable

[4] National Emission Standards for Hazardous Air Pollutants: Mercury Emissions from Mercury Cell Chlor-Alkali Plants (76 FR 13852); National Emission Standards for Hazardous Air Pollutants: Coal- and Oil-Fired Electric Utility Steam Generating Units (76 FR 24976 and 77 FR 9304); and National Emission Standards for Hazardous Air Pollutants: Gold Mine Ore Processing and Production Area Source Category (75 FR 22470).

Control Technology (MACT) Floor Analysis for Phosphate Rock Calciners at Phosphoric Acid Manufacturing Plants—Final Rule,'' ''Approach for Applying the Upper Prediction Limit to Limited Datasets,'' and ''Use of the Upper Prediction Limit for Calculating MACT Floors,'' which are available in the docket for this action. We also evaluated BTF options for total F, but were unable to identify any cost-effective BTF technologies. Table 3 of this preamble provides the results of the new and existing phosphate rock calciner MACT floor calculations (considering variability) for total F.

TABLE 3—RESULTS OF THE NEW AND EXISTING MACT FLOOR CALCULATIONS FOR TOTAL FLUORIDE FROM PHOSPHATE ROCK CALCINERS AT PHOSPHORIC ACID MANUFACTURING FACILITIES

Pollutant	Results	Units
Total fluoride (for new and existing sources)	9.0E–04	lb/ton of rock feed.

b. Gypsum Dewatering Stack and Cooling Pond Work Practices—i. Ratio of Gypsum Dewatering Stack Area to Phosphoric Acid Manufacturing Capacity—Comment. Several commenters requested that the EPA either reconsider, withdraw, or eliminate the proposed gypsum dewatering stack area limitation of 80 acres per 100,000 tpy capacity (in equivalent P_2O_5 feed). Commenters claimed the use of flawed data and assumptions in the EPA's analysis in the following areas: (1) Ambiguous definitions of a ''gypsum dewatering stack,'' and ''new'' and ''existing'' stacks; (2) inaccurate or outdated data on acreage of existing stacks and production capacity, stack closures, and plans for new stacks; (3) flawed or missing rationale and correlation between the gypsum dewatering stack area and phosphoric acid manufacturing capacity; (4) no technical or legal basis for the selection of the 80-acre cutoff; (5) no consideration given to site-specific variables that influence the acreage of gypsum dewatering stacks; and (6) failure to consider impacts from closing an existing stack prior to commissioning a new stack.

These commenters claimed the term ''gypsum dewatering stack'' is so broadly and ambiguously defined they are unable to determine the scope and impact of the proposed area limitation of 80 acres per 100,000 tpy capacity, or how the proposed limitation would be applied to facilities. They claimed the EPA's definition includes a wide array of features that have never before been considered part of the gypsum dewatering stack (*e.g.,* pumps, piping, all collection and conveyance systems associated with gypsum to the stack and process wastewater return to the plant). Commenters argued that the EPA underestimated stack acreage used in the analysis and that the estimates should be much larger when the ''total system'' acreage is used. These commenters stated that using the ''total system'' acreage in the analysis demonstrates that the EPA significantly underestimated the number of acres at each facility that would need to be closed. One of these commenters asked whether a vertical expansion of an existing stack would be considered a ''new'' facility, and how the proposed work practice might be evaluated for compliance when surfaces of a ''closed'' facility might be overlapped by an immediately-adjacent ''new'' facility.

Additionally, commenters argued that the EPA's technical rationale for limiting stack area was based on an arbitrary correlation with production capacity. One of these commenters said there is no relationship between gypsum dewatering stack area and phosphoric acid manufacturing capacity, and that outliers were removed from the analysis further confirming no quantitative relationship between stack area and facility capacity. This commenter also asserted that limiting the size of the gypsum dewatering stacks is not proven to limit HF emissions.

Furthermore, two commenters claimed the 80-acre limit does not consider an evaluation of water balance and process water cooling needs for individual facilities. These commenters pointed out that a flat area does not require as large of a footprint for its gypsum dewatering stacks as compared to an area with large topographic relief. One of these commenters provided examples of two gypsum dewatering stacks located in mountainous areas that require larger footprints to construct ponds due to longer runs of pipe, roads, and dike.

Finally, one commenter claimed that an updated acreage-based analysis would need to account for the transition period between a stack becoming ''inactive'' and the point in time of ''closure'' so as not to exceed the acreage limit while constructing a new stack. Another commenter stated that the startup of a gypsum dewatering stack is a lengthy process that may take more than a year, and that the ''ratio'' requirement inaccurately assumes simultaneous closure of an old stack with the opening (*i.e.,* new construction) of a new stack. Another commenter also contended that construction and closure take years to complete and occur simultaneously, and that closing a gypsum dewatering stack before beginning construction on a new stack would require an entire companion production facility to be idled for an extended period and impose ''enormous direct and lost opportunity costs . . . such costs and plant idling are not justified.''

Response. We agree with commenters that the proposed definition of ''gypsum dewatering stack'' is too broad. As we stated in the preamble to the proposed rule, we intended the proposed ratio limit to apply to only the ''footprint acreage'' of the gypsum dewatering stacks, which was deliberately meant to exclude the areas where many supplementary processes (such as pumps, piping, ditches, drainage conveyances, water control structures, collection pools, cooling ponds, surge ponds, auxiliary holding ponds, and any other collection or conveyance system) are located. Therefore, we did not underestimate stack acreage used in the gypsum dewatering stack area limitation analysis, nor did we underestimate the number of acres at each facility that would need to be closed. However, in an effort to clarify the specific emission source that we are regulating in the final rule (NESHAP subpart AA), we have included a new term, ''gypsum dewatering stack system,'' and revised the definition of ''gypsum dewatering stack'' in the final rule. We are finalizing ''gypsum dewatering stack system'' to mean ''the gypsum dewatering stack, together with all pumps, piping, ditches, drainage conveyances, water control structures, collection pools, cooling ponds, surge ponds, auxiliary holding ponds, regional holding ponds and any other collection or conveyance system associated with the transport of gypsum from the plant to the gypsum dewatering stack, its management at the

gypsum dewatering stack, and the process wastewater return to the phosphoric acid production or other process.'' We are finalizing ''gypsum dewatering stack'' to mean ''any defined geographic area associated with a phosphoric acid manufacturing plant in which gypsum is disposed of or stored, other than within a fully enclosed building, container, or tank.'' This revised definition of ''gypsum dewatering stack'' is based on Florida Administrative Rule 62–273.200 which regulates phosphogypsum management, and clearly includes any gypsum disposal pile, as well as the associated gypsum pond (which is also known as a settling pond, used to deposit the gypsum slurry, and is often located in the middle of the gypsum disposal pile), but does not include separate cooling ponds (for which we have retained the proposed definition of ''cooling pond'' in the NESHAP subpart AA final rule).

Nevertheless, in light of other concerns raised by commenters, we are not adopting the proposed work practice that limits the size of active gypsum dewatering stacks, which would have been applicable to facilities when new gypsum dewatering stacks are constructed.

As we stated in the preamble to the proposed rule, we did not detect a correlation between gypsum stack dewatering area and phosphoric acid manufacturing capacity; however, we proposed the size limit because we believe that reducing the gypsum dewatering stack area is directly related to reducing HF emissions. We also believed that phosphoric acid manufacturing capacity was related to the size of gypsum dewatering stacks and that it was operationally appropriate to allow large facilities to build larger gypsum dewatering stacks, while limiting smaller facilities to building a proportionally smaller gypsum dewatering stack. However, we have now concluded, based on analysis of public comments and other supplemental information provided, that it is not feasible to require facilities to close gypsum dewatering stacks based on a ratio of total active gypsum dewatering stack area (*i.e.,* sum of the footprint acreage of all active gypsum dewatering stacks combined) to annual phosphoric acid manufacturing capacity. As commenters stated, the gypsum dewatering stack acreage does not relate to production capacity and, importantly, gypsum dewatering stack development must be considered in light of the operations of the entire facility. Factors that affect the size and development of gypsum dewatering stacks include: (1) The availability and topography of land near the facility; (2) facilities generate a substantial amount of gypsum waste in the phosphoric acid manufacturing process; (3) managing the gypsum waste that is generated is an important operating principle for all facilities (regardless of phosphoric acid production capacity); and (4) limiting the gypsum dewatering stack acreage or changing the way facilities build gypsum dewatering stacks could have a detrimental impact on a facility's operations. Additionally, we agree with commenters that closure of a gypsum dewatering stack does not happen immediately, but rather requires a transitional period that can take years to complete. During this transitional period, a new stack is begun, but it may be years before it is fully operational and can receive all gypsum and slurry from the facility. This transitional period would make it difficult, if not impossible, for a facility to comply with the proposed work practice that limits the size of active gypsum dewatering stacks because the proposed size limit assumed immediate closure. Since closure does not happen immediately, and there is no correlation between dewatering stack acreage and phosphoric acid production, we are not adopting the proposed work practice that limits the size of active gypsum dewatering stacks.

We are removing the definition of ''closed gypsum dewatering stack,'' and revising the definition of ''active gypsum dewatering stack,'' as well as the definitions for when a gypsum dewatering stack is considered ''new'' or ''existing'' (see sections V.C.3.b.ii and V.C.3.b.iii of this preamble for further details).

ii. Necessity or Justification of Work Practice Standards for Fugitive HF Emissions—Comment. Numerous commenters claimed that there is insufficient technical analysis as to the feasibility and effectiveness of the control techniques that were proposed as options (as part of a work practice standard in the form of a management plan) for controlling fugitive HF emissions from gypsum dewatering stacks and cooling ponds. One of these commenters supported the EPA's claim that emissions from gypsum dewatering stacks and cooling ponds would inherently constitute fugitive emissions, and that conceptually, a work practice standard is a reasonable approach to emissions control; however, they challenged the technical basis for the specific control techniques listed in the proposed management plan. Commenters contended that the proposed control techniques have not been demonstrated to have an effect on fugitive HF emissions, and stated the EPA did not quantify the expected reductions in HF emissions resulting from the proposed work practice standard for gypsum dewatering stacks and cooling ponds. A commenter noted that some of the control techniques were derived from their facility's title V permit and that the EPA needed to recognize that (a) it is not clear (with a couple of exceptions) that these control techniques provide any significant emission reductions; (b) recent information may not support these control techniques providing emission reductions; and (c) there is considerable uncertainty in the emissions associated with cooling ponds and gypsum dewatering stacks. Another commenter argued that the EPA must justify the control techniques and show that they are not only technically effective, but also cost-effective and achievable within the industry. Commenters asserted that only two sources of information were used by the EPA in its determination of the control techniques that were proposed as options for controlling fugitive HF emissions in the proposed gypsum dewatering stack and cooling pond management plan. Commenters also noted that there is a large amount of uncertainty related to which specific control techniques are feasible and effective in reducing fugitive HF emissions. The following paragraphs provide a summary of the comments that the Agency received on each specific control technique.

Three commenters opposed the use of submerged discharge pipes and siphon breaks below the surface of the cooling pond as a fugitive HF emissions control technique. They claimed that submerging cooling pond discharge lines for above-grade ponds would create a significant risk for a siphon effect to occur when a pumping system is shutdown, causing backpressure on the pump seals back down the line, and, thus, defeating the purpose of the siphon break. One of these commenters added that submerging siphon breaks will impede the ability of these devices to prevent backflow because submersion may interfere with the atmospheric connection needed to make siphon breaks operate properly.

One commenter stated that although they use a rim ditch (cell) building technique, it is not an appropriate work practice for reducing HF emissions, and mentioned that the EPA does not provide data or an explanation of the linkage between minimizing the gypsum dewatering stack surface area and reducing emissions. This commenter suggested that the EPA define the technique as ''a gypsum stack building

technique where gypsum slurry is deposited along the stack perimeter with flow directed along a ditch before the liquid flow is conveyed to the settling compartments.'' Another commenter stated that minimizing the gypsum pond surface areas is not feasible in Florida, North Carolina, and Louisiana because gypsum pond surface areas are optimized to provide annual evaporative water losses necessary to maintain zero water discharge.

Several commenters also objected to the wetting of the active gypsum dewatering stack as a fugitive HF emissions control technique because the technique may be infeasible and counter-productive due to water balance issues at nearly every affected facility. One commenter argued that applying fresh water is not feasible (*i.e.,* water trucks are not feasible or safe; irrigation in the West is not feasible; pipes are at risk of freezing) and another commenter stated that using recycled water may actually increase fugitive emissions because HF resides primarily in residual and make-up waters used to transport the gypsum slurry to the gypsum dewatering stack. One commenter contended that determining hot or dry periods is too subjective; therefore, it would be difficult to know when the control technique would apply. Another commenter illustrated the uncertainty of wetting of the active gypsum dewatering stack as a fugitive HF emissions control technique by identifying two studies with contradicting conclusions (one concluded that most HF is emitted from aqueous surfaces and trends with solar radiation, and the other study concluded that drying gypsum is a major source of ambient fluoride emissions from gypsum storage areas).

One commenter challenged the EPA's lack of evidence on the effectiveness of applying slaked lime to gypsum dewatering stacks as a fugitive HF emissions control technique, and claimed that it would not be feasible, referring to rain as threat to eliminate the potential for effectiveness. On the contrary, another commenter described how they apply a lime solution on top of reachable drying gypsum stack areas, and that the reaction of fluoride with slaked lime does result in the ''tie-up'' of volatile F, although they are not aware of any studies that have measured or quantified reductions.

In addition, commenters also claimed that enormous costs would be associated with the fugitive HF emissions control technique requiring facilities to apply soil caps and vegetation to all side slopes of the active gypsum dewatering stack up to 50 feet below the stack top. Some of these commenters mentioned that there are state rules that require soil caps and side vegetation on side slopes for erosion/water impact control, but not for the purpose of fugitive HF emissions control.

Furthermore, commenters requested that the closure of a gypsum dewatering stack not be considered a fugitive HF emissions control technique. One commenter contended that the EPA should allow the final cover on a closed stack to consist of a synthetic liner, as this would achieve the same purpose as a vegetative liner and may be more appropriate in some instances. Another commenter explained that some states and the EPA have closure requirements under Resource Conservation and Recovery Act (RCRA), including, for example, requirements for long term care practices (beyond 20–50 years); shaping and configuration of gypsum dewatering stacks; site security. They suggested that due to these detailed requirements, it would be best to defer to stack closure requirements within other regulations and not have NESHAP requirements that involve or require stack closure.

Finally, commenters requested that if the EPA proceeds with a final rule that includes work practices for reducing fugitive HF emissions from gypsum dewatering stacks or cooling ponds, the work practices should include a flexibility mechanism for facilities to use additional practices not codified during this rulemaking. One commenter asserted that work practice standards that might commonly be practicable for other industries are not universally practicable (or legally permissible) throughout the phosphoric acid and phosphate fertilizer industries, and some practices might be appropriate for some facilities, but not others (depending on location, climate, etc.).

Response. We are adopting the proposed work practice standard that requires owners or operators to prepare, and operate in accordance with a gypsum dewatering stack and cooling pond management plan; however, based on analysis of public comments, we are making some changes to the specific control measures that we proposed as options in the plan for controlling fugitive HF emissions. In the final rule, the Agency is using the terminology ''control measures'' in lieu of the proposed terminology ''control techniques'' because it more accurately describes the list of options in the rule and avoids confusion with other CAA programs. We are finalizing standards that will reduce HAP emissions from gypsum dewatering stacks and cooling ponds because, as explained in the preamble to the proposed rule, the 1999 Phosphoric Acid Manufacturing NESHAP (*i.e.,* NESHAP subpart AA) did not regulate fugitive HF emissions from gypsum dewatering stacks or cooling ponds. As explained in the preamble to the proposed rule, we are adopting a work practice standard instead of numeric emission limits because it is ''not feasible to prescribe or enforce an emission standard'' for these emissions because they ''cannot be emitted through a conveyance designed and constructed to emit or capture such pollutant'' (see CAA section 112(h)(2)(A)) as the several hundred acres average size of these emission sources makes conveyance impractical. The size of these emission sources also makes it difficult to quantify the emission reductions that any control measure employed will achieve. However, in the paragraphs below, we explain how each control measure is feasible and effective in reducing fugitive HF emissions. We also provide details on the changes we have made to the gypsum dewatering stack and cooling pond management plan since proposal. Even after these changes, the measures are consistent with CAA section 112(d) controls and reflect a level of performance analogous to a MACT floor.

We noted in the preamble to the proposed rule that we believe that it is most effective for sources to determine the best practices that are to be incorporated into their site-specific gypsum dewatering stack and cooling pond management plan. We also stated in the preamble to the proposed rule that sources would be required to incorporate control measures from the list of options being proposed, and we solicited comment on the proposed site-specific gypsum dewatering stack and cooling pond management plan. In addition, we made considerable effort [5] before and after proposal in identifying a list of control measure options that encompass enough variety that at least one control measure option is feasible for at least one of each facility's existing gypsum dewatering stacks and/or cooling ponds. In fact, we are not aware

[5] See the following documents which are all available in Docket ID No. EPA–HQ–OAR–2012–0522): ''USEPA Meeting with The Fertilizer Institute, July 24, 2013''; ''TFI meeting with USEPA to discuss RTR for Phosphoric Acid and Phosphate Fertilizer NESHAPs, September 11, 2014''; ''EPA Meeting Minutes for TFI Discussion March 12, 2015''; ''Summary of Potential Costs for Implementing Phosphate NESHAPs/Recommendations for Phosphogypsum Stack Work Practices, May 5, 2015''; ''Notes from Meeting with Florida DEP Regarding Gypsum Dewatering Stack and Cooling Pond Management Plan, March 4, 2015''; and ''Site Visits to Mosaic Plant City and Mosaic New Wales, March 4, 2015.''

of any facility that does not use a rim ditch (cell) building technique. Therefore, we disagree with commenters that the options we have listed for the gypsum dewatering stack and cooling pond management plan are not technically feasible.

Additionally, personnel from the Florida Department of Environmental Protection (DEP) had concerns regarding how the plan would be implemented, as well as how a facility would show compliance with the control measure it chooses (see ''Notes from Meeting with Florida DEP Regarding Gypsum Dewatering Stack and Cooling Pond Management Plan, March 4, 2015,'' which is available in Docket ID No. EPA–HQ–OAR–2012–0522). Therefore, in an effort to improve compliance demonstration with a facility's site-specific gypsum dewatering stack and cooling pond management plan, we are including a condition in the final NESHAP subpart AA rule that requires facilities to submit their plan for approval to the Administrator. Facilities will be required to provide details on how they plan to implement and show compliance with the control measure(s) that they choose. The Administrator will approve or disapprove the facility's site-specific gypsum dewatering stack and cooling pond management plan within 90 days after it is received. There may be a benefit to facilities and permitting authorities for the gypsum dewatering stack and cooling pond management plan and the title V major modification application to be submitted and reviewed at the same time. To change any of the information submitted in the plan, the facility must submit a revised plan 60 days before the change is to be implemented in order to allow time for review and approval by the Administrator before the change is implemented.

We are not including an option in the NESHAP subpart AA final rule, as commenters requested, that would provide a flexibility mechanism for facilities to use additional practices not codified during this rulemaking. This type of flexibility does not provide regulatory certainty that is needed for both industry and the EPA.

Although some commenters opposed using a submerged discharge pipe (with necessary siphon breaks to a level below the surface of the pond) as a fugitive HF emissions control measure, we believe submerging a discharge pipe can be appropriate and effective for reducing emissions from process water discharges into a cooling pond, although some facilities may not choose this option. Moreover, we agree with commenters that submerging siphon breaks could impede the ability of these devices to prevent backflow; therefore, we are removing this requirement from the final rule. On a recent site visit (see ''Site Visits to Mosaic Plant City and Mosaic New Wales, March 4, 2015,'' which is available in Docket ID No. EPA–HQ–OAR–2012–0522), we noted strong vapor odors coming from splash operations occurring at a non-submerged pipe that was discharging process water into a cooling pond. According to AP–42, Chapter 5.2—Transportation and Marketing of Petroleum Liquids (01/95), significant turbulence and vapor/liquid contact that occur during splash discharge operations will result in higher levels of vapor generation and emissions loss compared to using a submerged discharge operation. Liquid turbulence is controlled significantly during submerged discharge operations, resulting in much lower vapor generation than encountered during splash discharge operations. We believe this demonstrates that submerging the pipe is an effective technique for mitigating HF emissions, and we are therefore retaining this option for cooling ponds.

However, we are removing the option of submerging a discharge pipe that is associated with the gypsum pond because it is not a feasible option due to high solids volume in the slurry. (A gypsum pond, also called a settling pond, often is located in the middle of a gypsum disposal pile and receives waste gypsum slurry.) Based on information received from industry after the public comment period ended for the proposal (see Docket ID No. EPA–HQ–OAR–2012–0522–0048), it is much more likely for this particular pipe to become clogged, creating backpressure on pump seals. Submerging the discharge pipe under water in the gypsum pond creates a potential restriction against the discharging slurry that could get worse as solids build up around and against the end of the pipe. The discharge pipe for the gypsum pond is also routinely moved, which complicates submersing it.

As we stated earlier in our response, we are not aware of any facility that uses a gypsum dewatering stack building technique that is different from rim ditch (cell) building. With regard to commenters' assertions that the EPA did not provide data or explain the link between minimizing the gypsum dewatering stack surface area and reducing fugitive HF emissions, we believe that using the rim ditch technique over the lifespan of a gypsum dewatering stack will reduce the surface area of the gypsum pond and thereby reduce fugitive HF emissions. Fugitive HF emissions are calculated using an emission factor that is directly related to the total acreage from the gypsum dewatering stack, which includes the pond surface area (tons HF per acre per year); therefore, minimizing the pond surface area would minimize HF emissions. The rim ditch (cell) building technique is mainly used for gypsum dewatering stack stability since inner and outer dikes are used to create a rim ditch that provides better protection against overflow of the gypsum pond. However, as rim ditches are filled with slurry, the gypsum pond area will gradually decrease within each cell, thereby shrinking the amount of surface area of the pond that is exposed to the atmosphere (reducing the amount of fugitive HF emissions). An alternative to the rim ditch technique is to simply discharge gypsum slurry into the gypsum pond. With this technique, there is no inner dike to control slurry flow and the pond surface area would not be reduced as quickly or consistently. This increased surface area would allow greater potential for fugitive HF emissions due to the larger amount of surface water exposed to the atmosphere. We are revising this control measure option in the NESHAP subpart AA final rule to clarify that owners or operators must minimize the surface area of the gypsum pond associated with the active gypsum dewatering stack (and not the surface area of the active gypsum dewatering stack as we had proposed) by using a rim ditch (cell) building technique or other building technique. This clarification also addresses industry's suggestion to reword the control measure in response to a meeting that occurred after the public comment period closed (see ''EPA Meeting Minutes for TFI Discussion March 12, 2015,'' and ''Summary of Potential Costs for Implementing Phosphate NESHAPs/Recommendations for Phosphogypsum Stack Work Practices, May 5, 2015,'' which are both available in Docket ID No. EPA–HQ–OAR–2012–0522). Moreover, in this same correspondence that occurred after the public comment period closed, industry provided a suggestion for the definition of ''rim ditch.'' We agree with industry's suggested definition; however, we believe the definition more appropriately covers the meaning of ''rim ditch (cell) building technique'' and not just ''rim ditch.'' We are including this definition in the final rule for ''rim ditch (cell) building technique'' in an effort to clarify what we mean by this control measure. The

final rule defines ''rim ditch (cell) building technique'' as a gypsum dewatering stack construction technique that utilizes inner and outer dikes to direct gypsum slurry flow around the perimeter of the stack before directing the flow and allowing settling of finer materials into the settling compartment. For the purpose of this definition, the rim ditch (cell) building technique includes the compartment startup phase when gypsum is deposited directly into the settling compartment in preparation for ditch construction, as well as the step-in or terminal phases when most solids must be directed to the settling compartment prior to stack closure. Decant return ditches are not rim ditches.

Based on commenters' objection to wetting active gypsum dewatering stacks as a fugitive HF emissions control measure, and additional discussion with industry (see ''EPA Meeting Minutes for Simplot Discussion April 1, 2015,'' which is available in Docket ID No. EPA–HQ–OAR–2012–0522), we determined that the proposed rule was not clear on how this control measure would be used. This control measure is not applied to the side slopes of the gypsum dewatering stacks, and instead is used on certain gypsum areas within cells of a gypsum dewatering stack. According to one facility located in arid climate (see ''EPA Meeting Minutes for Simplot Discussion April 1, 2015,'' which is available in Docket ID No. EPA–HQ–OAR–2012–0522), these areas may be more susceptible to drying out in warmer months due to higher surface temperatures of the gypsum dewatering stack; therefore, a system of weirs can be used to help direct gypsum pond water (not fresh water) to these areas to keep them wet. We agree with the commenter who pointed out that that applying water to a gypsum stack may actually increase fugitive emissions because HF resides primarily in the water used to transport the gypsum slurry to the gypsum dewatering stack. We realize that this option might increase the surface area of the gypsum pond water which conflicts with our understanding that minimizing surface area of the gypsum pond will minimize HF emissions. Therefore, we are not adopting this proposed control measure in the NESHAP subpart AA final rule.

In response to a commenter's assertion that there is lack of evidence of the effectiveness of applying slaked lime to gypsum dewatering stacks as a fugitive HF emissions control measure, we received information after the public comment period ended (see Docket ID No. EPA–HQ–OAR–2012–0522–0048) that at least one facility uses this technique to help meet its state ambient air standard for F. This commenter stated that, based on data from their site-specific ambient air monitoring, they apply a lime solution to their gypsum dewatering stack areas during periods where they are close to violating their 30-day state ambient air standard for F, measured as HF, in order to stay below the standard. Slaked lime can precipitate fluorides from gypsum dewatering stacks and cooling ponds, thus reducing the availability of fluorides in solution that could then be released into the air during evaporation. This is an example of the type of detail that the Administrator may require be included in the facility's site-specific plan (in addition to how compliance would be demonstrated) before it could be approved. We have clarified in the final rule that if this control measure is chosen, then the plan must include the method used to determine the specific locations slaked lime is applied. The plan must also include the methods used to determine the quantity of, and when to apply, slaked lime (*e.g.,* slaked lime may be applied to achieve a state ambient air standard for F, measured as HF).

With respect to the measure involving application of soil caps and vegetation to side slopes of a gypsum dewatering stack, on recent site, visits personnel from Mosaic and the Florida DEP had concerns that this control measure was too specific in that it could be difficult for facilities to demonstrate compliance with the ''50 feet below the stack top'' requirement as well as the requirement to apply soil caps and vegetation to all side slopes (see ''Site Visits to Mosaic Plant City and Mosaic New Wales, March 4, 2015,'' and ''Notes from Meeting with Florida DEP Regarding Gypsum Dewatering Stack and Cooling Pond Management Plan, March 4, 2015,'' which are available in Docket ID No. EPA–HQ–OAR–2012–0522). We recognize that applying soil caps and vegetation to side slopes of a gypsum dewatering stack is an ongoing process that continuously changes over time based on facility-specific operations. Therefore, we have revised this control measure option in the NESHAP subpart AA final rule to acknowledge that this technique will only be applied to portions of the side slopes that are no longer active on a gypsum dewatering stack instead of all side slopes up to 50 feet below the top of the gypsum dewatering stack. We also have revised this option to allow the use of a synthetic cover in lieu of soil caps and vegetation. Furthermore, we expect that if a facility chose to use this specific control measure in their plan, the Administrator may require details on schedule, and how the portion of side slopes that received soil caps and vegetation, or a synthetic cover, is determined (in addition to how compliance would be demonstrated), before the plan could be approved. Therefore, we have clarified in the final rule that the plan must include the method used to determine the specific locations of soil caps and vegetation, or synthetic cover, and specify the acreage and locations where soil caps and vegetation, or synthetic cover, is applied. The plan must also include a schedule describing when soil caps and vegetation, or synthetic cover, is to be applied.

Additionally, we believe that this control measure creates a barrier on the surface of the gypsum dewatering stack side slopes that reduces HF emissions; therefore, we disagree with commenters' assertion that applying soil caps and vegetation may not be an effective option for fugitive HF emissions control. The Florida DEP has used this control measure as part of its overall management of fluorides from gypsum dewatering stacks; and Wyoming has approved this control measure in a facility's title V permit as an optional method for reducing fugitive fluoride emissions. We also disagree with a request [6] to reword this control measure to require a gypsum dewatering stack construction and operation plan because the commenter did not provide any justification on how this activity reduces fugitive HF emissions from gypsum dewatering stacks.

We disagree with commenters' requests to exclude closure from the list of measures for controlling fugitive HF emissions from gypsum dewatering stacks. We believe that closing a gypsum dewatering stack is one of the best solutions for reducing fugitive HF emissions because it permanently reduces the emissions from the greatest contributing source. However, we are revising this control measure option in the NESHAP subpart AA final rule to allow a facility to design its own closure requirement plan, provided that the closure requirements, at a minimum, contain: (1) A specific trigger mechanism for when owners or operators must begin the closure process on the gypsum dewatering stack, and (2) a requirement to install a final cover. As with all gypsum dewatering stack and

[6] See ''EPA Meeting Minutes for TFI Discussion March 12, 2015,'' and ''Summary of Potential Costs for Implementing Phosphate NESHAPs/Recommendations for Phosphogypsum Stack Work Practices, May 5, 2015,'' which are both available in Docket ID No. EPA–HQ–OAR–2012–0522.

cooling pond management plans, this closure requirement must be submitted to the Agency for approval. Although we are not identifying a specific trigger mechanism in the final rule, one example of a trigger mechanism is a facility-specified length of time where the gypsum dewatering stack is inactive and no longer receives gypsum (*i.e.,* once the gypsum dewatering stack stops receiving gypsum for a period of time, the facility must begin closing it). Also, we are clarifying that a final cover means the materials used to cover the top and sides of a gypsum dewatering stack upon closure. This addresses commenters request that the EPA should allow the final cover on a closed stack to consist of a synthetic liner. Finally, in light of our decision to revise the control measure option for closing a gypsum dewatering stack, we are also removing the definition of a ''closed gypsum dewatering stack'' from the NESHAP subpart AA final rule. Since the revised language relies on a specific trigger mechanism for when owners or operators must begin the closure process on the gypsum dewatering stack, the definition of a ''closed gypsum dewatering stack'' is no longer necessary in the final rule. Because we are removing the definition of a ''closed gypsum dewatering stack'' from the final rule, we are revising the definition of an ''active gypsum dewatering stack.'' In the NESHAP subpart AA final rule, an ''active gypsum dewatering stack'' means a gypsum dewatering stack that is currently receiving gypsum, received gypsum within the last year, or is part of the facility's water management system. A gypsum dewatering stack that is considered closed by a state authority is not considered an active gypsum dewatering stack.

As we have stated before, the final list of NESHAP subpart AA control measures is exhaustive enough that a facility has a number of options for selecting a control measure that would be feasible for their particular operations. We assume that facilities would choose the lowest cost option, and that all facilities are using at least one of the control measure options already (*e.g.,* we are not aware of any facilities that do not use a rim ditch (cell) building technique). Therefore, we disagree with the commenters' claim that enormous costs would be incurred if they were required to apply soil caps and vegetation to all side slopes of the active gypsum dewatering stack up to 50 feet below the stack top. We are not requiring that facilities implement this control measure since this specific control technique is not a requirement, but instead an option for how a facility may demonstrate compliance with the work practice standards for fugitive HF emissions from the gypsum management system.

iii. Requirement to Use At Least Two of the Fugitive HF Emissions Control Measures—Comment. One commenter requested that the EPA eliminate the ''dual practice'' approach for new sources. Two commenters declared that the requirement to implement ''at least two of the control techniques'' listed for ''each regulated gypsum dewatering stack and cooling pond'' is not possible without a broader list that includes at least two practices for cooling ponds. Additionally, with regard to closing an active gypsum dewatering stack as a control technique option, the commenter contended that giving an owner of a new gypsum dewatering stack the option of closing it in tandem with a mandatory second control technique is ''nonsensical'' because the ''new stack would immediately have to be closed to implement the practice.'' Another commenter wanted clarification as to whether the lateral expansion of an existing gypsum dewatering stack is considered a new stack, and thus would trigger the proposed work practice standards related to the size of active gypsum dewatering stacks and production ratio. The commenter also sought clarification as to whether at least two of the control techniques be used in the gypsum dewatering stack and cooling pond management plan for controlling fugitive HF emissions would be required.

Response. We agree with the commenter that the proposed requirement for new gypsum dewatering stacks and cooling ponds to implement ''at least two of the control techniques'' listed for ''each'' regulated ''gypsum dewatering stack and cooling pond,'' would make compliance for cooling ponds impossible for new sources without a broader list with at least two control measures for cooling ponds. In the final rule, the Agency is using the terminology ''control measures'' in lieu of the proposed terminology ''control techniques'' because it more accurately describes the list of options in the rule and avoids confusion with other CAA programs. As stated in a previous response, in an effort to clarify the specific emission source that we are regulating in the final rule (NESHAP subpart AA), we have included a new term, ''gypsum dewatering stack system,'' (see sections V.C.3.b.i of this preamble for further details) in the final rule. This revision also clarifies our original intent that the two control measure options that a facility selects can be for any combination of gypsum dewatering stacks and/or cooling ponds in the gypsum dewatering stack system. For example, if a facility operates a cooling pond considered a new source, the facility may choose to not implement the control measure option requiring a submerged discharge pipe for the new cooling pond, and instead implement two control measures at one or more gypsum dewatering stacks no matter whether they be considered a new or existing source. Furthermore, we have revised the control measure option for closing a gypsum dewatering stack (see section V.C.3.b.ii of this preamble for further details). Because of this change to the NESHAP subpart AA final rule, there is no longer a requirement to immediately close the active gypsum dewatering stack in tandem with a mandatory second control measure option.

Lastly, the Agency has revised the definitions in the NESHAP subpart AA final rule for when a gypsum dewatering stack is considered ''new'' or ''existing'' in order to address whether a lateral expansion of an existing gypsum dewatering stack is considered a new gypsum dewatering stack. The revised definitions in the final rule also deal with a concern one commenter raised during the comment period about triggering the proposed regulation for a ''new'' source each time they rotate the functionality of their three gypsum dewatering stack sites at their facility (this topic was also discussed after the comment period closed, see ''USEPA Meeting Minutes for PCS Aurora Discussion (2.2.2015),'' which is available in Docket ID No. EPA–HQ–OAR–2012–0522). We are revising the NESHAP subpart AA final rule such that a gypsum dewatering stack or cooling pond is considered ''new'' if it meets two criteria: (1) It was constructed or reconstructed after August 19, 2015, and (2) it was required to obtain a permit by a state authority for the construction or reconstruction. Some lateral expansions may build beyond a facility's existing permitted capacity (and design dimensions of the gypsum dewatering stack); therefore, these lateral expansions would be considered ''new'' in the final rule because the facility would be required to obtain (or revise) their existing permitted capacity (and design dimensions). Because of this change in the NESHAP subpart AA final rule, we are also revising the criteria for when a gypsum dewatering stack or cooling pond is considered ''existing.'' Specifically, a gypsum dewatering stack or cooling pond is

considered ''existing'' if it meets one of two criteria: (1) It was constructed or reconstructed on or before August 19, 2015, or (2) it was constructed or reconstructed after August 19, 2015 and it was not required to obtain a permit by a state authority for the construction or reconstruction.

iv. Fugitive HF Emissions Control Measure Considerations for Cooling Ponds—Comment. One commenter referenced a 1978 EPA document: ''Evaluation of Emissions and Control Techniques for Reducing Fluoride Emissions from Gypsum Ponds in the Phosphoric Acid Industry'' and questioned why the EPA proposed work practice standards focused solely on gypsum dewatering stacks, while the EPA has in the past studied and documented more work practices for controls of cooling pond emissions, which are not discussed as alternatives to the proposed rule. Another commenter requested that if EPA keeps cooling ponds as part of the gypsum dewatering stack and cooling pond management plan, then EPA should provide more than one work practice that could be implemented at a cooling pond. They suggested that EPA add a control measure option (for cooling ponds) that would require developing a plan to optimize the size of cooling ponds to address fugitive HF emissions (as appropriate based on the conditions at the facility).

In addition, another commenter suggested additional control measure options for reducing fugitive HF emissions from cooling ponds. This commenter suggested EPA include an option to develop and implement a plan for dredging cooling ponds which helps maintain cooling capacity, and, therefore, can reduce fugitive emissions by reducing the vapor pressure of fluoride in the pond water. This commenter also suggested EPA include an option to implement a system for the recovery of fluoride for water that is directed to cooling ponds. The commenter pointed out that one of its facilities has the capability to recover fluoride as hydrofluorosilicic acid during the phosphoric acid evaporation process. The commenter stated that this recovery process is operated as needed to meet the market demand for hydrofluorosilicic acid. Finally, the commenter suggested EPA include an option to implement a system for the removal of fluoride for water that is directed to cooling ponds (for example, by adding lime to increase the pH).

Response. We are aware of the 1978 EPA document, ''Evaluation of Emissions and Control Techniques for Reducing Fluoride Emissions from Gypsum Ponds in the Phosphoric Acid Industry,'' and the six potential control techniques it examines for reducing fluoride emissions from gypsum ponds. These six potential control techniques include: (1) Use of the ''Kidde'' process; (2) use of the ''Swift'' process; (3) use of lime to raise pH; (4) dry conveyance of gypsum, (5) pretreatment of ore by calcining; and (6) changing the entire phosphoric acid production process to a ''hemi/dehydrate'' process. The 1978 EPA document clarifies that the first four of these potential control techniques could also reduce fluoride emissions from cooling ponds. The ''Swift,'' ''Kidde,'' and ''hemi/dehydrate'' processes each use byproduct fluoride in the WPPA to produce hydrofluorosilicic acid (an acid generally used in fluoridation of drinking water, but also has other industry uses) or ammonium silicofluoride. We are aware of at least two facilities that are equipped and capable of making hydrofluorosilicic acid; however, it is not clear which process they use, nor is it clear if either facility is actively making hydrofluorosilicic acid. However, facilities have expressed that production of hydrofluorosilicic acid for the primary purpose of controlling HF emissions is not practical. Facilities that produce hydrofluorosilicic acid seek to sell the product for use in water fluoridation.[7] In fact, one commenter stated that their recovery process is operated as needed to meet the market demand for hydrofluorosilicic acid. Facilities would not produce this product in the absence of a market demand, as the hydrofluorosilicic acid would be another waste stream that would need to be disposed of. Therefore, we do not believe this to be a reasonable control technique option for fugitive HF emissions from these sources.

We have determined that using lime (or any other caustic substance) to raise the pH of liquid discharged into the cooling pond could be a feasible control measure option for reducing fluoride emissions from cooling ponds; therefore, we are including this option in the NESHAP subpart AA final rule. The control measure option simultaneously raises the pH of the cooling pond water and lowers the concentration of soluble F, and, thus reducing the concentration of fluoride (including HF) that could be potentially evaporated into the atmosphere. Based on information provided in the 1978 EPA document, a greater than 90 percent emission reduction in fluoride can be achieved by raising the pond water from pH 1.4 to pH 3.9. In the final rule, if this control measure is chosen, then the plan must include: the method used to raise the pH of the liquid discharged into the cooling pond, the target pH value (of the liquid discharged into the cooling pond) expected to be achieved by using the method, and the analyses used to determine and support the raise in pH. Moreover, this control measure is similar to an option that industry suggested in response to a meeting that occurred after the public comment period closed (see ''EPA Meeting Minutes for TFI Discussion March 12, 2015,'' and ''Summary of Potential Costs for Implementing Phosphate NESHAPs/Recommendations for Phosphogypsum Stack Work Practices, May 5, 2015,'' which are both available in Docket ID No. EPA–HQ–OAR–2012–0522). Industry suggested including an option that would require providing inputs to the gypsum dewatering stack system to react with and precipitate fluoride compounds to insoluble forms.

With regard to the remaining potential control techniques identified in the 1978 EPA document (*i.e.,* dry conveyance of gypsum and pretreatment of ore by calcining), we have determined that these control techniques are not likely to be used by industry because significant process changes would be required. Furthermore, with regard to pretreatment of ore by calcining, the 1978 EPA document states that off-gases from pretreating ore would still need to be scrubbed to remove F, and the scrubbing liquid from this process would likely be disposed of in a cooling pond (which would defeat the purpose of this technique). Therefore, we are not finalizing the NESHAP subpart AA final rule to include these two control measure options for controlling fugitive HF emissions from cooling ponds.

Lastly, we agree with a commenter's request to add a control measure option (for cooling ponds) that would require developing a plan to optimize the size of cooling ponds to address fugitive HF emissions (as appropriate based on the conditions at the facility); therefore, we are including this option in the NESHAP subpart AA final rule. However, in order for a facility to be able to use this control measure option, its cooling pond evaluation must result in a reduction in overall cooling pond surface area. Fugitive HF emissions are calculated using an emission factor that is directly related to gypsum dewatering stack and pond surface area (tons HF per acre per year); therefore, minimizing

[7] *http://www.cdc.gov/fluoridation/factsheets/engineering/wfadditives.htm.*

the surface area of the cooling pond(s) would minimize HF emissions. On a recent site visit (see ''Site Visits to Mosaic Plant City and Mosaic New Wales, March 4, 2015,'' which is available in Docket ID No. EPA–HQ–OAR–2012–0522), we noticed that one company evaluated whether a reduction in the size of its cooling ponds could still support additional water due to rainfall and plant process water needs. However, the result of these evaluations did not lead to a change in size of its cooling ponds, and thus did not lead to a reduction in fugitive HF emissions from the cooling ponds. In the final rule, if this control measure is chosen, then the facility-specific evaluation plan must be certified by an independent licensed professional engineer or similarly qualified individual, and include the method used to reduce the total cooling pond footprint, the analyses used to determine and support the reduction in the total cooling pond surface area, and the amount of total cooling pond surface area that was reduced due to the facility-specific evaluation plan. Furthermore, we agree with the commenter who stated dredging cooling ponds is a good practice for maintaining cooling capacity. With regard to the commenter's request to include this activity (*i.e.,* dredging cooling ponds) as a specific control measure option,[8] we determined that this activity could be considered in the cooling pond evaluation; however, the evaluation would still need to lead to a change in size of the surface area of the cooling pond for it to qualify as a control measure in the final rule.

We also evaluated an additional control measure option suggested by industry in response to a meeting that occurred after the public comment period closed (see ''EPA Meeting Minutes for TFI Discussion March 12, 2015,'' and ''Summary of Potential Costs for Implementing Phosphate NESHAPs/Recommendations for Phosphogypsum Stack Work Practices, May 5, 2015,'' which are both available in Docket ID No. EPA–HQ–OAR–2012–0522). Industry suggested including the option to ''operate the cooling pond systems to adjust the active cooling surface area to address weather conditions, seasonal cooling needs and associated production changes. Cooling circuit adjustments may be accomplished through utilization of either fixed or floating flow diversion devices or by changing flows such that some of the heated water is diverted away from portions of the ponded area.'' However, we are not including this option in the final rule because it is not clear how the option reduces fugitive HF emissions from cooling ponds.

v. Excluding Cooling Ponds from Management Plan—Comment. One commenter requests that the EPA revise the regulatory language in proposed 40 CFR 63.602 (d) through (f) that refers to each ''gypsum dewatering stack and cooling pond'' to instead refer only to each ''gypsum dewatering stack.'' The commenter stated that the regulatory direction seems to encompass ponds that are not part of a ''gypsum dewatering stack.'' Another commenter claimed the rule implies that control measure options apply to cooling ponds distinctly from gypsum dewatering stacks. An additional commenter alleged that work practice standards should not apply to cooling ponds that are physically separate from gypsum stacks. This commenter pointed out that only one practice (submerging the discharge pipe) relates to cooling ponds, and because of the requirement to implement at least one practice for each ''gypsum dewatering stack and cooling pond,'' then cooling ponds that fall within the proposed definition of a gypsum dewatering stack seemingly could choose to submerge the discharge pipe at the pond, or they could implement other techniques from the list.

Response. The NESHAP subpart AA final rule clarifies that the gypsum dewatering stack and cooling pond management plan is intended to cover both gypsum dewatering stacks and cooling ponds. In response to a previous comment, we have included a new term ''gypsum dewatering stack system,'' revised the definition of ''gypsum dewatering stack'' to exclude cooling ponds, and have retained the proposed definition of ''cooling pond'' in the final rule (see section V.C.3.b.i of this preamble for further details).

4. What is the rationale for our final approach pursuant to CAA sections 112(d)(2), 112(d)(3), and 112(h)?

For the reasons provided above and in the preamble for the proposed rule, we are finalizing our proposal to eliminate the use of PM as a surrogate for Hg and are adding Hg and total fluoride emission limits for phosphate rock calciners to the NESHAP subpart AA final rule.

For the reasons provided above, we are making the revisions, clarifications, and corrections noted in section V.C.2 in the NESHAP subpart AA final rule.

D. NSPS Review for the Phosphoric Acid Manufacturing Source Category

The NSPS review focused on the emission limitations that have been adequately demonstrated to be achieved in practice, taking into account the cost of achieving such reduction and any non-air quality health and environmental impact and energy requirements. Determining the BSER that has been adequately demonstrated and the emission limitations achieved in practice necessarily involves consideration of emission reduction methods in use at existing phosphoric acid manufacturing plants. To determine the BSER, the EPA performed an extensive review of several recent sources of information, including a thorough search of the RACT/BACT/LAER Clearinghouse (RBLC), section 114 data received from industry, and other relevant sources.

Our review considered the emission limitations that are currently achieved in practice, and found that more stringent standards are not achievable for this source category. When evaluating the emissions from various process lines, we observed differences in emissions levels, but did not identify any patterns in emission reductions based on control technology configuration. More information concerning our NSPS review can be found in the memorandum, ''CAA Section 111(b)(1)(B) and 112(d)(6) Reviews for the Phosphoric Acid Manufacturing and Phosphate Fertilizer Production Source Categories.'' Though some of the sources are emitting at levels well below the current NSPS, other sources are not. We evaluated emissions based on control technologies and practices used by facilities, and found that the same technologies and practices yielded different results for different facilities. Therefore, we determined that we cannot conclude that new and modified sources would be able to achieve a more stringent NSPS. As explained in the proposed rule, all Phosphoric Acid Manufacturing NSPS (under subpart T and subpart U) emission sources, and the control technologies that would be employed, are the same as those for the NESHAP regulating phosphoric acid plants, such that we reached the same conclusion that there are no identified developments in technology or practices that results in cost-effective emission

[8] Industry also suggested this control measure as an option to reducing fugitive HF emissions from cooling ponds in response to a meeting that occurred after the public comment period closed (see ''EPA Meeting Minutes for TFI Discussion March 12, 2015,'' and ''Summary of Potential Costs for Implementing Phosphate NESHAPs/Recommendations for Phosphogypsum Stack Work Practices, May 5, 2015,'' which are both available in Docket ID No. EPA–HQ–OAR–2012–0522).

reductions strategies. Therefore, we are finalizing our determination that revisions to NSPS subpart T and subpart U standards are not appropriate pursuant to CAA section 111(b)(1)(B).

E. Startup, Shutdown, and Malfunction Provisions for the Phosphoric Acid Manufacturing Source Category

1. What SSM provisions did we propose for the Phosphoric Acid Manufacturing source category?

In its 2008 decision in *Sierra Club* v. *EPA,* 551 F.3d 1019 (D.C. Cir. 2008), the U.S. Court of Appeals for the District of Columbia Circuit vacated portions of two provisions in the EPA's CAA section 112 regulations governing the emissions of HAP during periods of SSM. Specifically, the Court vacated the SSM exemption contained in 40 CFR 63.6(f)(1) and 40 CFR 63.6(h)(1), holding that under section 302(k) of the CAA, emissions standards or limitations must be continuous in nature and that the SSM exemption violates the CAA's requirement that some CAA section 112 standards apply continuously.

We proposed to eliminate the SSM exemption in NESHAP subpart AA. Consistent with *Sierra Club* v. *EPA,* the EPA proposed standards in this rule that apply at all times. We also proposed to revise appendix A of subpart AA (the General Provisions Applicability Table) in several respects as is explained in more detail below. For example, we proposed to eliminate the incorporation of the General Provisions' requirement that the source develop an SSM plan. We also proposed to eliminate and revise certain recordkeeping and reporting related to the SSM exemption as described in detail in the proposed rule and summarized again here.

In proposing the standards in this rule, the EPA took into account startup and shutdown periods and, for the reasons explained below, proposed work practice standards for periods of startup and shutdown in lieu of numeric emission limits. CAA section 112(h)(1) states that the Administrator may promulgate a design, equipment or operational work practice standard in those cases where, in the judgment of the Administrator, it is not feasible to prescribe or enforce an emission standard. CAA section 112(h)(2)(B) further defines the term ''not feasible'' in this context to apply when ''the application of measurement technology to a particular class of sources is not practicable due to technological and economic limitations.''

Startup and shutdown periods at phosphoric acid manufacturing facilities generally only last between 30 minutes and 6 hours. Because of the variability and the relatively short duration, compared to the time needed to conduct a performance test, which typically requires a full working day, the EPA has determined that it is not feasible to prescribe a numeric emission standard for these periods. Furthermore, according to information provided by industry, it is possible that the feed rate (*i.e.,* equivalent P_2O_5 feed, or rock feed) can be zero during startup and shutdown periods. During these periods, it is not feasible to consistently enforce the emission standards that are expressed in terms of lb of pollutant/ton of feed.

Although we requested information on emissions and the operation of control devices during startup and shutdown periods in the CAA section 114 survey issued to the Phosphoric Acid Manufacturing source category, we did not receive any emissions data collected during a startup and shutdown period (nor did we receive data during public comment of the proposed rule), and we do not expect that these data exist. However, based on the information for control device operation received in the survey, we concluded that the control devices could be operated normally during periods of startup or shutdown. Also, we believe that the emissions generated during startup and shutdown periods are lower than during steady-state conditions because the amount of feed materials introduced to the process during those periods is lower compared to normal operations. Therefore, if the emission control devices are operated during startup and shutdown, then HAP emissions will be the same or lower than during steady-state operating conditions.

Consequently, we proposed a work practice standard rather than an emissions limit for periods of startup or shutdown. We proposed that control devices used on the various process lines in this source category are effective at achieving desired emission reductions immediately upon startup; therefore, during startup and shutdown periods, we proposed that sources begin operation of any control device(s) in the production unit prior to introducing any feed into the production unit. We also proposed that sources must continue operation of the control device(s) through the shutdown period until all feed material has been processed through the production unit.

Periods of startup, normal operations and shutdown are all predictable and routine aspects of a source's operations. Malfunctions, in contrast, are neither predictable nor routine. Instead, they are, by definition, sudden, infrequent and not reasonably preventable failures of emissions control, process or monitoring equipment (40 CFR 63.2) (definition of malfunction). The EPA interprets CAA section 112 as not requiring emissions that occur during periods of malfunction to be factored into development of CAA section 112 standards. Under CAA section 112, emission standards for new sources must be no less stringent than the level ''achieved'' by the best controlled similar source and for existing sources generally must be no less stringent than the average emission limitation ''achieved'' by the best performing 12 percent of sources in the category. There is nothing in CAA section 112 that directs the EPA to consider malfunctions in determining the level ''achieved'' by the best performing sources when setting emission standards. As the U.S. Court of Appeals for the District of Columbia Circuit has recognized, the phrase ''average emissions limitation achieved by the best performing 12 percent of'' sources ''says nothing about how the performance of the best units is to be calculated.'' *Nat'l Ass'n of Clean Water Agencies* v. *EPA,* 734 F.3d 1115, 1141 (D.C. Cir. 2013). While the EPA accounts for variability in setting emission standards, nothing in CAA section 112 requires the Agency to consider malfunctions as part of that analysis. A malfunction should not be treated in the same manner as the type of variation in performance that occurs during routine operations of a source. A malfunction is a failure of the source to perform in a ''normal or usual manner'' and no statutory language compels EPA to consider such events in setting CAA section 112 standards.

Further, accounting for malfunctions in setting emission standards would be difficult, if not impossible, given the myriad different types of malfunctions that can occur across all sources in the category and given the difficulties associated with predicting or accounting for the frequency, degree and duration of various malfunctions that might occur. As such, the performance of units that are malfunctioning is not ''reasonably'' foreseeable. See, *e.g., Sierra Club* v. *EPA,* 167 F.3d 658, 662 (D.C. Cir. 1999) (''The EPA typically has wide latitude in determining the extent of data-gathering necessary to solve a problem. We generally defer to an agency's decision to proceed on the basis of imperfect scientific information, rather than to 'invest the resources to conduct the perfect study.' ''). See also *Weyerhaeuser* v. *Costle,* 590 F.2d 1011,

1058 (D.C. Cir. 1978) (''In the nature of things, no general limit, individual permit, or even any upset provision can anticipate all upset situations. After a certain point, the transgression of regulatory limits caused by 'uncontrollable acts of third parties,' such as strikes, sabotage, operator intoxication or insanity, and a variety of other eventualities, must be a matter for the administrative exercise of case-by-case enforcement discretion, not for specification in advance by regulation.''). In addition, emissions during a malfunction event can be significantly higher than emissions at any other time of source operation. For example, if an air pollution control device with 99 percent removal goes off-line as a result of a malfunction (as might happen if, for example, the bags in a baghouse catch fire) and the emission unit is a steady-state type unit that would take days to shutdown, the source would go from 99 percent control to zero control until the control device was repaired. The source's emissions during the malfunction would be 100 times higher than during normal operations, and the emissions over a 4-day malfunction period would exceed the annual emissions of the source during normal operations. As this example illustrates, accounting for malfunctions could lead to standards that are not reflective of (and significantly less stringent than) levels that are achieved by a well-performing non-malfunctioning source. It is reasonable to interpret CAA section 112 to avoid such a result. The EPA's approach to malfunctions is consistent with CAA section 112 and is a reasonable interpretation of the statute.

In the event that a source fails to comply with the applicable CAA section 112(d) standards as a result of a malfunction event, the EPA would determine an appropriate response based on, among other things, the good faith efforts of the source to minimize emissions during malfunction periods, including preventative and corrective actions, as well as root cause analyses to ascertain and rectify excess emissions. The EPA would also consider whether the source's failure to comply with the CAA section 112(d) standard was, in fact, sudden, infrequent, not reasonably preventable and was not instead caused in part by poor maintenance or careless operation 40 CFR 63.2 (definition of malfunction).

If the EPA determines in a particular case that an enforcement action against a source for violation of an emission standard is warranted, the source can raise any and all defenses in that enforcement action, and the federal district court will determine what, if any, relief is appropriate. The same is true for citizen enforcement actions. Similarly, the presiding officer in an administrative proceeding can consider any defense raised and determine whether administrative penalties are appropriate.

In summary, the EPA interpretation of the CAA and, in particular, CAA section 112 is reasonable and encourages practices that will avoid malfunctions. Administrative and judicial procedures for addressing exceedances of the standards fully recognize that violations may occur despite good faith efforts to comply and can accommodate those situations.

To address the U.S. Court of Appeals for the District of Columbia Circuit vacatur of portions of the EPA's CAA section 112 regulations governing the emissions of HAP during periods of SSM, *Sierra Club* v. *EPA,* 551 F.3d 1019 (D.C. Cir. 2008), we proposed to revise and add certain provisions to the Phosphoric Acid Manufacturing rule. As described in detail below, we proposed to revise the General Provisions table (appendix A) to change several references related to requirements that apply during periods of SSM. We also proposed to add other provisions to the Phosphoric Acid Manufacturing rule as described below.

a. 40 CFR 63.608(b) General Duty. We proposed to revise the entry for 40 CFR 63.6(e)(1)(i) and (e)(1)(ii) in the General Provisions table (appendix A) by changing the ''yes'' in column three to ''no.'' Section 63.6(e)(1)(i) describes the general duty to minimize emissions. Some of the language in that section is no longer necessary or appropriate in light of the elimination of the SSM exemption. We proposed instead to add general duty regulatory text at 40 CFR 63.608(b) that reflects the general duty to minimize emissions while eliminating the reference to periods covered by an SSM exemption. The current language in 40 CFR 63.6(e)(1)(i) characterizes what the general duty entails during periods of SSM. With the elimination of the SSM exemption, there is no need to differentiate between normal operations, startup and shutdown and malfunction events in describing the general duty. Therefore, the language the EPA proposed does not include that language from 40 CFR 63.6(e)(1). We also proposed to revise the entry for 40 CFR 63.6(e)(1)(ii) in the General Provisions table (appendix A) by changing the ''yes'' in column three to ''no.'' Section 63.6(e)(1)(ii) imposes requirements that are not necessary with the elimination of the SSM exemption or are redundant of the general duty requirement being added at 40 CFR 63.608(b).

b. SSM Plan. We proposed to revise the entry for 40 CFR 63.6(e)(3) in the General Provisions table (appendix A) by changing the ''yes'' in column three to ''no.'' Generally, these paragraphs require development of an SSM plan and specify SSM recordkeeping and reporting requirements related to the SSM plan. As noted, the EPA proposed to remove the SSM exemptions. Therefore, affected units will be subject to an emission standard during such events. The applicability of a standard during such events will ensure that sources have ample incentive to plan for and achieve compliance and thus the SSM plan requirements are no longer necessary.

c. Compliance with Standards. We proposed to revise the entry for 40 CFR 63.6(f) in the General Provisions table (appendix A) by changing the ''yes'' in column three to ''no.'' The current language of 40 CFR 63.6(f)(1) exempts sources from non-opacity standards during periods of SSM. As discussed above, the Court in Sierra Club v. EPA vacated the exemptions contained in this provision and held that the CAA requires that some CAA section 112 standard apply continuously. Consistent with Sierra Club v. EPA, the EPA proposed to revise standards in this rule to apply at all times.

d. 40 CFR 63.606 Performance Testing. We proposed to revise the entry for 40 CFR 63.7(e)(1) in the General Provisions table (appendix A) by changing the ''yes'' in column three to ''no.'' Section 63.7(e)(1) describes performance testing requirements. The EPA instead proposed to add a performance testing requirement at 40 CFR 63.606(d). The performance testing requirements that were proposed differ from the General Provisions performance testing provisions in several respects. The proposed regulatory text does not allow testing during startup, shutdown, or malfunction. The proposed regulatory text does not include the language in 40 CFR 63.7(e)(1) that restated the SSM exemption and language that precluded startup and shutdown periods from being considered ''representative'' for purposes of performance testing. Furthermore, as in 40 CFR 63.7(e)(1), performance tests conducted under this subpart should not be conducted during malfunctions because conditions during malfunctions are often not representative of operating conditions.

e. Monitoring. We proposed to revise the entry for 40 CFR 63.8(c)(1)(i) and (iii) in the General Provisions table by changing the ''yes'' in column three to

''no.'' The cross-references to the general duty and SSM plan requirements in those subparagraphs are not necessary in light of other requirements of 40 CFR 63.8 that require good air pollution control practices (40 CFR 63.8(c)(1)) and that set out the requirements of a quality control program for monitoring equipment (40 CFR 63.8(d)).

We proposed to revise the entry for 40 CFR 63.8(d)(3) in the General Provisions table (appendix A) by changing the ''yes'' in column three to ''no.'' The final sentence in 40 CFR 63.8(d)(3) refers to the General Provisions' SSM plan requirement, which is no longer applicable. The EPA proposed to add to the rule at 40 CFR 63.608(c)(3) text that is identical to 40 CFR 63.8(d)(3), except that the final sentence is replaced with the following sentence: ''You must include the program of corrective action required under § 63.8(d)(2) in the plan.''

f. 40 CFR 63.607 Recordkeeping. We proposed to revise the entry for 40 CFR 63.10(b)(2)(i) in the General Provisions table (appendix A) by changing the ''yes'' in column three to ''no.'' Section 63.10(b)(2)(i) describes the recordkeeping requirements during startup and shutdown. These recording provisions are no longer necessary because the EPA proposed that recordkeeping and reporting applicable to normal operations will apply to startup and shutdown. In the absence of special provisions applicable to startup and shutdown, such as a startup and shutdown plan, there is no reason to retain additional recordkeeping for startup and shutdown periods.

We proposed to revise the entry for 40 CFR 63.10(b)(2)(ii) in the General Provisions table (appendix A) by changing the ''yes'' in column three to ''no.'' Section 63.10(b)(2)(ii) describes the recordkeeping requirements during a malfunction. The EPA proposed to add such requirements to 40 CFR 63.607(b). The regulatory text we proposed to add differs from the General Provisions it is replacing in that the General Provisions requires the creation and retention of a record of the occurrence and duration of each malfunction of process, air pollution control and monitoring equipment. The EPA proposed that this requirement apply to any failure to meet an applicable standard and that the source record the date, time and duration of the failure rather than the ''occurrence.'' The EPA also proposed to add to 40 CFR 63.607(b) a requirement that sources keep records that include a list of the affected source or equipment and actions taken to minimize emissions, an estimate of the volume of each regulated pollutant emitted over the applicable standard and a description of the method used to estimate the emissions. Examples of such methods would include product-loss calculations, mass balance calculations, measurements when available or engineering judgment based on known process parameters. The EPA proposed requiring that sources keep records of this information to ensure that there is adequate information to allow the EPA to determine the severity of any failure to meet a standard, and to provide data that may document how the source met the general duty to minimize emissions when the source has failed to meet an applicable standard.

We proposed to revise the entry for 40 CFR 63.10(b)(2)(iv) in the General Provisions table (appendix A) by changing the ''yes'' in column three to ''no.'' When applicable, the provision requires sources to record actions taken during SSM events when actions were inconsistent with their SSM plan. The requirement is no longer appropriate because SSM plans will no longer be required. The requirement previously applicable under 40 CFR 63.10(b)(2)(iv)(B) to record actions to minimize emissions and record corrective actions is now applicable by reference to 40 CFR 63.607.

We proposed to revise the entry for 40 CFR 63.10(b)(2)(v) in the General Provisions table (appendix A) by changing the ''yes'' in column three to ''no.'' When applicable, the provision requires sources to record actions taken during SSM events to show that actions taken were consistent with their SSM plan. The requirement is no longer appropriate because SSM plans will no longer be required.

We proposed to revise the entry for 40 CFR 63.10(c)(15) in the General Provisions table (appendix A) by changing the ''yes'' in column three to ''no.'' The EPA proposed that 40 CFR 63.10(c)(15) no longer apply. When applicable, the provision allows an owner or operator to use the affected source's SSM plan or records kept to satisfy the recordkeeping requirements of the SSM plan, specified in 40 CFR 63.6(e), to also satisfy the requirements of 40 CFR 63.10(c)(10) through (12). The EPA proposed to eliminate this requirement because SSM plans would no longer be required, and, therefore, 40 CFR 63.10(c)(15) no longer serves any useful purpose for affected units.

g. 40 CFR 63.607 Reporting. We proposed to revise the entry for 40 CFR 63.10(d)(5) in the General Provisions table (appendix A) by changing the ''yes'' in column three to ''no.'' Section 63.10(d)(5) describes the reporting requirements for startups, shutdowns and malfunctions. To replace the General Provisions reporting requirement, the EPA proposed to add reporting requirements to 40 CFR 63.607. The replacement language differs from the General Provisions requirement in that it eliminates periodic SSM reports as a stand-alone report. We proposed language that requires sources that fail to meet an applicable standard at any time to report the information concerning such events in the excess emission report already required under this rule. We proposed that the report must contain the number, date, time, duration and the cause of such events (including unknown cause, if applicable), a list of the affected source or equipment, an estimate of the volume of each regulated pollutant emitted over any emission limit, and a description of the method used to estimate the emissions (*e.g.,* product-loss calculations, mass balance calculations, direct measurements or engineering judgment based on known process parameters). The EPA proposed this requirement to ensure that adequate information is available to determine compliance, to allow the EPA to determine the severity of the failure to meet an applicable standard, and to provide data that may document how the source met the general duty to minimize emissions during a failure to meet an applicable standard.

The proposed rule eliminates the cross reference to 40 CFR 63.10(d)(5)(i) that contains the description of the previously-required SSM report format and submittal schedule from this section. We proposed that these specifications would no longer be necessary because the events will be reported in otherwise required reports with similar format and submittal requirements. We proposed that owners or operators no longer be required to determine whether actions taken to correct a malfunction are consistent with an SSM plan because the plans would no longer be required.

We proposed to revise the entry for 40 CFR 63.10(d)(5)(ii) in the General Provisions table (appendix A) by changing the ''yes'' in column three to ''no.'' Section 63.10(d)(5)(ii) describes an immediate report for SSM when a source failed to meet an applicable standard but did not follow the SSM plan. We proposed that we would no longer require owners and operators to report when actions taken during a startup, shutdown, or malfunction were not consistent with an SSM plan because the plans would no longer be required.

2. How did the SSM provisions change for the Phosphoric Acid Manufacturing source category?

We are finalizing the proposed work practice standards for periods of startup and shutdown; however, in consideration of comments received during the public comment period for the proposed rulemaking (as discussed in sections V.E.3.a and V.E.3.b of this preamble), we are making changes to this work practice in order to clarify the standard applies in lieu of numeric emission limits and to clarify how compliance with the standard is demonstrated. Additionally, as discussed in section V.E.3.c of this preamble, we added a definition of ''startup'' and ''shutdown'' in the final rule to specify when startup begins and ends, and when shutdown begins and ends.

3. What key comments did we receive on the SSM provisions, and what are our responses?

We received comments regarding the proposed revisions to remove the SSM exemptions for the Phosphoric Acid Manufacturing source category, and the proposed work practice standards for periods of startup and shutdown. The following is a summary of some of the comments specific to the proposed work practice standards and our response to those comments. Other comments and our specific responses to those comments can be found in the Comment Summary and Response document available in the docket for this action (EPA–HQ–OAR–2012–0522).

a. Work Practice Standard In Place Of Emission Limits—Comment. One commenter argued that the EPA should specify that the proposed work practices for plant startup and shutdown periods apply ''in lieu of'' any other emission standards, and that such periods should not be counted for testing, monitoring, or operating parameter requirements. The commenter noted that the proposed rule at 40 CFR 63.602(h) requires the use of work practices ''to demonstrate compliance with any emission limits'' during periods of startup and shutdown. The commenter agrees with the EPA's conclusion that it is not feasible to apply numeric limits to startup and shutdown because certain variables required to calculate emissions would be zero during such periods. The commenter also agreed with the EPA that existing emission control devices would still be effective during periods of startup or shutdown, if activated. However, the commenter recommended that the rule should clarify that startup and shutdown events should not be required to comply with the monitoring and operating parameter requirements because startup and shutdown events generally are not representative of operating conditions for other compliance purposes, such as emissions testing. Instead, the commenter, as well as a second commenter, recommended that, because the startup and shutdown periods are not representative, the rule should only require that (1) all emission control devices be kept active, and (2) owners and operators follow the general duty to control emissions, and owners and operators should not be required to monitor operating parameters during startup and shutdown periods.

The commenter argued that the approach in the proposed rule at 40 CFR 63.602(h) to require the use of work practices ''to demonstrate compliance with any emission limits'' during periods of startup and shutdown is ''directly inconsistent'' with the approach that the EPA has applied to other source categories, where such practices clearly were prescribed ''in lieu of'' numeric emission limits that would otherwise apply. (The commenter cites, for example, 78 FR 10015, February 12, 2013.) According to the commenter, the EPA made it clear in other industries' rules that such work practice standards apply ''in place of'' or ''in lieu of'' numeric standards, including with respect to monitoring and recordkeeping requirements. (See id. at 10013 and 10015.) The commenter argues that according to the preamble language cited for those other industries, ''there will no longer be a numeric emission standard applicable during startup and shutdown,'' and the EPA recognizes that ''the recordkeeping requirement must change to reflect the content of the work practice standard''(Id. at 10014).

Therefore, the commenter recommended that the EPA should clearly explain that work practices are not applied to ''demonstrate compliance'' with numeric limits under subpart AA, which the EPA acknowledges are ''not feasible'' for startup and shutdown periods, and, instead, the work practices should be written to apply ''in lieu of'' the numeric limits during those periods. The commenter argues that without this clarification, it will appear that both the numeric standards and the work practice standards would apply during startup and shutdown. The commenter suggests that this can be corrected in the rule by using the ''in lieu of'' language used for other industries.

Response. The commenter is correct that our intention at proposal was that the numeric emission limits would not apply during periods of startup and shutdown, but that facilities would comply with the work practice instead. We did not intend for the work practice to be a method to demonstrate compliance with the emission limit. We are replacing the phrasing ''to demonstrate compliance'' with ''in lieu of'' as this language is more consistent with our original intent. Accordingly, in the final rule, 40 CFR 63.602(f) specifies that the emission limits of 40 CFR 63.602(a) do not apply during periods of startup and shutdown. Instead, owners and operators must follow the work practice specified in 40 CFR 63.602(f). See section V.E.3.b of this preamble for our response to commenters' argument that owners and operators should not be required to monitor operating parameters during startup and shutdown periods.

b. Applicability Of Operating Limits—Comment. Two commenters recommended that the EPA amend the rule to make clear that the work practice standards for startup and shutdown also apply in lieu of the parametric monitoring requirements set forth in subpart AA and make explicit that parametric operating requirements do not apply during times of startup and shutdown.

One commenter argued that when the EPA established the flow rate and pressure drop parametric monitoring requirements in its 1999 final rule, the EPA concluded that requiring continuous monitoring of these parameters ''help[ed] assure continuous compliance with the emission limit'' (64 FR 31365, June 10, 1999). The commenter also asserted that the rules specify that ''[t]he emission limitations and operating parameter requirements of this subpart do not apply during periods of startup, shutdown, or malfunction . . .'' (40 CFR 63.600(e)). The commenter argued that this was a reasonable action because the operating parameter ranges are established during annual performance tests, and these tests cannot be performed during startup and shutdown conditions.

The commenter suggested that in the proposed rule, the EPA exempted compliance with the emission limits during startup and shutdown periods, imposed work practice standards in lieu thereof, and retained the prohibition on conducting a performance test during periods of startup or shutdown (79 FR 66570 (proposed 40 CFR 63.606(d)). The commenter suggested that the proposed rule is silent on the applicability of the parametric monitoring requirements during startup and shutdown. The commenter asserted that because the parametric monitoring provisions

provide an inference of compliance with the emission limits (64 FR 31365, June 10, 1999), and these emission limits do not apply during startup and shutdown, the commenter concluded that the parametric monitoring provisions similarly should not apply during startups and shutdowns.

The commenters pointed to two recent EPA NESHAP rulemakings to support their conclusion. First, the commenters argued that in its industrial, commercial and institutional boilers and process heaters NESHAP reconsideration proposal (hereinafter, the ''Boiler NESHAP''), the EPA, responding to a comment soliciting clarification ''that the operating limits and opacity limits do not apply during periods of startup and shutdown,'' stated that with the finalization of work practice standards, ''EPA agrees that the requested clarification is what was intended in the final rule'' (76 FR 80598 and 80615, December 23, 2011). The commenters asserted that to this end, in its response to the reconsideration, the EPA made clear that affected sources must comply with ''all applicable emissions and operating limits at all times the unit is operating except for periods that meet the definitions of startup and shutdown in this subpart, during which times you must comply with these work practices'' (78 FR 7138 and 7142, January 31, 2013). The commenters noted that in the Boiler NESHAP regulations, the EPA required the implementation of work practice standards in lieu of compliance with the operating parameter requirements during startup and shutdown by (1) Excluding periods of startup and shutdown from the averaging period (Id. at 7187, 40 CFR 63.7575, the definition of a 30-day rolling average'' excludes ''hours during startup and shutdown''), and (2) expressly stating that the ''standards'' (the emission limits and operating requirements) do not apply during periods of startup or shutdown. (Id. at 7163, 40 CFR 63.7500(f), titled ''What emission limitations, work practice standards, and operating limits must I meet?'' applies ''at all times the affected unit is operating, except during periods of startup and shutdown during which time you must comply only with Table 3 of this subpart.'')

Second, the commenters argued that in its Portland Cement NESHAP, the EPA specified an operating limit for kilns, identified as a temperature limit established during a performance test, and that the temperature limit applied at all times the raw mill is operating, ''except during periods of startup and shutdown'' (78 FR 10039, February 12, 2013, 40 CFR 63.1346(a)(1)). Further, for the continuous monitoring requirements, including operating limits, the Portland Cement NESHAP required operating of the monitoring system at all times the affected source is operating, ''[e]xcept for periods of startup and shutdown'' (Id. at 10041, 40 CFR 63.1348(b)(1)(ii)).

The commenters argued that given the EPA's conclusion in the proposed rule that the emission limits should not apply during startup and shutdown, and because the parametric monitoring requirements are established during a performance test (which cannot be performed during a startup or a shutdown) and used to infer compliance with the emission limits, the EPA should make clear in the final rule that the operating parameters requirements do not apply during startup or shutdown. The commenter recommended that the EPA should make this explicit: (1) In the operating and monitoring requirement section of subpart AA (proposed 40 CFR 63.605), and (2) by defining the averaging period (currently daily) as excluding periods of startup and shutdown (proposed 40 CFR part 63, subpart AA, Table 4.) As an alternative, the commenters recommended that if the EPA continues to require compliance with the parametric monitoring requirements during startup and shutdown periods, then the EPA should adopt a longer averaging period, from daily to 30 days, to allow for the effects of startups and shutdowns to be reduced by a longer period of steady-state operations. The commenter noted that the Boiler NESHAP has a 30-day averaging period for pressure drop and liquid flow rate, and excludes periods of startup and shutdown from the averaging period (40 CFR 63.7575, definition of ''30-day rolling average'' and 40 CFR part 63, subpart DDDDD, Table 4.) The commenter stated that a 30-day averaging period would be substantially more stringent than the Boiler NESHAP approach since it would include periods of startup and shutdown, while at the same time avoid misleading ''exceedances'' caused by the inclusion of periods of startup and shutdown compared to daily average parametric limits.

Response. We disagree with the commenters about the applicability of the operating limits. Based on these comments, we have clarified in the final rule at 40 CFR 63.602(f) that to comply with the work practice during periods of startup and shutdown, facilities must monitor the operating parameters specified in Table 3 to subpart AA and comply with the operating limits specified in Table 4 of subpart AA. The purpose of the work practice is to ensure that the air pollution control equipment that is used to comply with the emission limit during normal operations is operated during periods of startup and shutdown. Monitoring of control device operating parameters is necessary to demonstrate compliance with the work practice. We have concluded that it is reasonable for the control device at phosphoric acid processes to meet the same operating limits during startup and shutdown that apply during normal operation, and that it is not necessary to specify different averaging times for periods of startup and shutdown. Meeting the operating limits of Table 4 of subpart AA will ensure that owners and operators meet the General Duty requirement to operate and maintain the affected source and associated air pollution control equipment in a manner consistent with safety and good air pollution control practices for minimizing emissions.

The analogies that the commenters made to the Industrial Boiler NESHAP and the Portland Cement NESHAP are not relevant to this rulemaking. In each rulemaking, we consider the feasibility of applying standards during startup and shutdown based on relevant process considerations for each source category, the pollutants regulated, and control devices on which the rule is based. In developing this rule, we obtained information on the operation of control devices during startup and shutdown periods in the CAA section 114 survey issued to the phosphoric acid manufacturing industry. Based on survey results, we concluded that for this source category, control devices (*i.e.,* absorbers and WESP) could be operated during periods of startup and shutdown. We found no indication that process operations during startup and shutdown would interfere with the ability to operate the relevant control devices according to good engineering practice. Moreover, the commenters provided no technical justification as to why a different operating limit is needed during startup and shutdown.

Regarding the comparison to the Industrial Boiler NESHAP, the operation of boilers and their associated control devices are different than phosphoric acid plants. While boiler control devices do not have to comply with specific operating limits during startup or shutdown, they must meet a work practice that includes firing clean fuels, operating relevant control devices (*e.g.,* absorbers) as expeditiously as possible, and monitoring the applicable operating parameters (*e.g.,* flow rate) to demonstrate that the control devices are being operated properly. The EPA

currently is reconsidering the control requirements for industrial boilers during startup and shutdown (80 FR 3090, January 21, 2015). In the proposed action on reconsideration, we pointed out that some of the control devices used for boilers cannot be operated during the full duration of startup and shutdown because of safety concerns and the possibility of control equipment degradation due to fouling and corrosion. The control devices used for phosphoric acid production do not pose these same risks. Likewise, the fact the Portland Cement NESHAP does not require monitoring of kiln temperature during startup and shutdown is not relevant. The Portland Cement NESHAP requires maintaining a kiln temperature as part of the MACT operating limit. The operating limit for the Portland Cement NESHAP does not apply during startup and shutdown because it is not physically possible to maintain a constant temperature during startup and shutdown of a kiln. In contrast, the feasibility of operating the control devices used to control HAP emissions from phosphoric acid manufacturing is not limited by specific process operating conditions. Therefore, it is feasible to operate the devices during startup and shutdown, and we have determined that it is reasonable to do so considering cost, nonair health and environmental impacts, and energy requirements.

c. Definition Of Startup And Shutdown—Comment. Several commenters argued that the EPA's proposed work practice standard for periods of startup and shutdown failed to account for how equipment in the phosphoric acid industry works. In order to comply with the proposed startup and shutdown requirements, the operator must begin operation of any control device(s) being used at the affected source prior to introducing any feed into the affected source and continue operation of the control device(s) through the shutdown period until all feed material has been processed through the affected source. The commenters noted that it is not feasible to process all feed material from a process prior to shutting down most equipment at a facility. For example, the phosphoric acid reactors and beds in the calciners may not be able to process all the feed material in them prior to shutdown and there would always still be feed material left in the equipment even after it is shutdown. The same would be true for nearly all process units in the industry. The commenters requested that the EPA revise 40 CFR 63.602(h) to require compliance with the work practice standard only up to the point in time when no more feed or in-process materials are being introduced into the production unit.

Two commenters agreed with other commenters that it is not feasible to base the conclusion of a ''shutdown'' on the point at which all feed has ''been processed.'' Instead, they suggested that the EPA should clarify the work practice standard of keeping all emission control equipment active during shutdowns. The commenters reported that facilities in the industry consider the commencement of ''shutdown'' as the moment at which the plant ceases adding feed to the affected process, rather than basing shutdown on when all feed materials have been processed through the process. The commenters recommended that the EPA should define ''shutdown'' to begin when the facility ceases adding feed to an affected process line, and to conclude when the affected process line equipment is deactivated, even though some feed or residues may still be present within particular parts of the process.

One of the commenters also noted that it is common practice to have short-term shutdown of process inputs for temporary maintenance work (including work on emission control equipment) where the entire system is not emptied. In these cases, feed of phosphoric acid and ammonia to the process is suspended as is flow from the reactor to the granulator. The commenter argued that because the source of fluoride to the system has ceased and dust generating material flows are suspended, there should be no significant source of emissions to control, and it is not necessary to require the use of control devices until all feed material has been processed. Instead, the commenter recommended that an affected entity should be allowed to turn off control devices when reactor and granulator feeds have been stopped, unless the system is being emptied, in which case control devices should be required as long as the material handling system is in operation.

Response. We agree with the commenters that the rule needs to have a more precise definition of startup and shutdown that more clearly and reasonably establishes the times when the work practice applies and when the emission limits apply. Accordingly, we added a definition of ''startup'' and ''shutdown'' in the definitions section of the final rule to specify when startup begins and ends, and when shutdown begins and ends.

Based on additional information provided by industry (see ''Email Correspondence Received After Comment Period re Startup Shutdown (May 5, 2015),'' which is available in Docket ID No. EPA–HQ–OAR–2012–0522), we are including a definition of startup in the final rule. The final rule defines startup as commencing when any feed material is first introduced into an affected source and ends when feed material is fully loaded into the affected source. Regarding shutdown, we agree with the commenters that it is not feasible to process all feed material from a process prior to shutting down most equipment at a facility. Such requirement would imply that the control device must be operated after the shutdown ends. The final rule defines shutdown as commencing when the facility ceases adding feed to an affected source and ends when the affected source is deactivated, regardless of whether feed material is present in the affected source. This definition will address concerns about temporary shutdowns as well as shutdowns of longer duration.

In addition, the final rule at 40 CFR 63.602(f) specifies that any control device used at the affected source must be operated during the entire period of startup and shutdown, and must meet the operating limits in Table 4 of the final rule.

4. What is the rationale for our final decisions for the SSM provisions?

For the reasons provided above and in the preamble for the proposed rule, we are finalizing the proposed revisions to the General Provisions table (appendix A of NESHAP subpart AA) to change several references related to requirements that apply during periods of SSM. For these same reasons, we are also finalizing the addition of the following proposed provisions to NESHAP subpart AA: (1) Work practice standards for periods of startup and shutdown in lieu of numeric emission limits; (2) the general duty to minimize emissions at all times; (3) performance testing conditions requirements; (4) site-specific monitoring plan requirements; and (5) malfunction recordkeeping and reporting requirements.

F. Other Changes Made to the Phosphoric Acid Manufacturing NESHAP and NSPS

1. What other changes did we propose for the Phosphoric Acid Manufacturing NESHAP and NSPS?

a. Clarifications to Applicability and Certain Definitions—i. NESHAP Subpart AA. As stated in the preamble to the proposed rule, to ensure the emission standards reflect inclusion of HAP emissions from all sources in the source category, we proposed to amend the

definitions of WPPA process line, SPA process line, and PPA process line to include relevant emission points, including clarifiers and defluorination systems at WPPA process lines, and oxidation reactors at SPA production lines. We also proposed removing text from the applicability section that is duplicative of the revised definitions.

We also proposed revising the term ''gypsum stack'' to ''gypsum dewatering stack'' in order to help clarify the meaning of this fugitive emission source, and to alleviate any potential misconception that the ''stack'' is a point source. Other changes we proposed included the addition of definitions for ''cooling pond,'' ''phosphoric acid defluorination process,'' ''process line,'' and ''raffinate stream.''

ii. NSPS Subpart T. As stated in the preamble to the proposed rule, to ensure the emission standards we proposed reflected inclusion of total fluoride emissions from all sources in the defined source category, we proposed to amend the definition of WPPA plant to include relevant emission points, including clarifiers and defluorination systems. We also proposed to remove text from the applicability section that is duplicative of the revised definitions.

iii. NSPS Subpart U. To ensure the emission standards we proposed reflected inclusion of total fluoride emissions from all sources in the defined source category, we proposed to amend the definition of SPA plant to include relevant emission points, including oxidation reactors. We also proposed to remove text from the applicability section that is duplicative of the revised definitions.

b. Testing, Monitoring, Recordkeeping and Reporting —i. NESHAP Subpart AA. As stated in the preamble to the proposed rule, to provide flexibility, we proposed several monitoring options, including pressure and temperature measurements, as alternatives to monitoring of absorber differential pressure. We also proposed monitoring the absorber inlet gas flow rate along with the influent absorber liquid flow rate (and determining liquid-to-gas ratio) in lieu of monitoring only the absorber inlet liquid flow rate.

In addition, we proposed removing the requirement that facilities may not implement new operating parameter ranges until the Administrator has approved them, or 30 days have passed since submission of the performance test results. We proposed that facilities must immediately comply with new operating ranges when they are developed and submitted; and new operating ranges must be established using the most recent performance test conducted by a facility, which allows for changes in control device operation to be appropriately reflected.

As stated in the preamble to the proposed rule, we modified the language for the conditions under which testing must be conducted to require that testing be conducted at ''maximum representative operating conditions'' for the process.[9]

In keeping with the general provisions for CMS (including CEMS and continuous parameter monitoring system (CPMS)), we proposed the addition of a site-specific monitoring plan and calibration requirements for CMS. Provisions were also proposed that included electronic reporting of stack test data. We also proposed modifying the format of NESHAP subpart AA to reference tables for emissions limits and monitoring requirements.

Finally, we proposed HF standards in NESHAP subpart AA by translating the current total fluoride limits (lb total F/ton P_2O_5 feed) into HF limits (lb HF/ton P_2O_5 feed). To comply with HF standards, we proposed that facilities use EPA Method 320.

ii. NSPS Subpart T. We proposed new monitoring and recordkeeping requirements for any WPPA plant that commences construction, modification, or reconstruction after November 7, 2014 to ensure continuous compliance with the standard. As stated in the preamble to the proposed rule, to ensure that the process scrubbing system is properly maintained over time; ensure continuous compliance with standards; and improve data accessibility, we proposed the owner or operator establish an allowable range for the pressure drop through the process scrubbing system. We also proposed that the owner or operator keep records of the daily average pressure drop through the process scrubbing system, and keep records of deviations.

For consistency with terminology used in the associated NESHAP subpart AA, we proposed changing the term ''process scrubbing system'' to ''absorber'' in NSPS subpart T.

iii. NSPS Subpart U. We proposed new monitoring and recordkeeping requirements for any SPA plant that commences construction, modification or reconstruction after November 7, 2014 to ensure continuous compliance with the standard. As stated in the preamble to the proposed rule, to ensure that the process scrubbing system is properly maintained over time; ensure continuous compliance with standards; and improve data accessibility, we proposed the owner or operator establish an allowable range for the pressure drop through the process scrubbing system. We also proposed that the owner or operator keep records of the daily average pressure drop through the process scrubbing system, and keep records of deviations.

For consistency with terminology used in the associated NESHAP subpart AA, we proposed changing the term ''process scrubbing system'' to ''absorber'' in NSPS subpart U.

2. How did the provisions regarding these other proposed changes to the Phosphoric Acid Manufacturing NESHAP and NSPS change since proposal?

a. Clarifications to Applicability and Certain Definitions—i. NESHAP Subpart AA. In consideration of comments received during the public comment period for the proposed rulemaking, we are adopting the proposed clarifications for oxidation reactors as discussed in section V.F.3.a.i of this preamble; however, we are also revising the definition of oxidation reactor in the final rule to clarify that oxidizing agents may include: Nitric acid, ammonium nitrate, or potassium permanganate. Also, in consideration of comments received (see section V.F.3.a.ii of this preamble for details), we are not adopting the proposed clarifications for defluorination systems and clarifiers.

We have not made any change to the proposed revision to rename ''gypsum stack'' to ''gypsum dewatering stack.'' We have also not made any changes to the proposed definitions for ''cooling pond'' and ''raffinate stream''; however, we are removing the proposed definitions for ''phosphoric acid defluorination process'' and ''process line'' for reasons discussed in sections V.F.3.a.ii and V.F.3.a.iii of this preamble, respectively.

Finally, we are removing the proposed language ''includes, but is not limited to'' in the definitions of WPPA, SPA, and PPA process lines for reasons discussed in section V.F.3.a.iv of this preamble.

ii. NSPS Subpart T. In consideration of comments received (see section V.F.3.a.ii of this preamble for details), we are not adopting the proposed clarifications for defluorination systems and clarifiers. We are also removing the proposed language ''includes, but is not limited to'' in the definitions of WPPA plant for reasons discussed in section V.F.3.a.iv of this preamble.

[9] Based on the EPA memorandum, ''Issuance of the Clean Air Act National Stack Testing Guidance,'' dated April 27, 2009.

iii. NSPS Subpart U. In consideration of comments received during the public comment period for the proposed rulemaking, we are adopting the proposed clarifications for oxidation reactors as discussed in section V.F.3.a.i of this preamble; however, we are also revising the proposed definition of oxidation reactor in the final rule to clarify that oxidizing agents may include: Nitric acid, ammonium nitrate, or potassium permanganate. We are also removing the proposed language ''includes, but is not limited to'' in the definitions of SPA plant for reasons discussed in section V.F.3.a.iv of this preamble.

b. Testing, Monitoring, Recordkeeping and Reporting—i. NESHAP Subpart AA. We have not made any changes in our proposed determination that pressure drop is not an appropriate monitoring parameter for absorbers that are designed to operate with pressure drops of 5 inches of water column or less. However, in consideration of comments received during the public comment period for the proposed rulemaking, we are not adopting the proposed options to monitor: (1) The temperature at the wet scrubber gas stream outlet and pressure at the liquid inlet of the absorber, or (2) the temperature at the scrubber gas stream outlet and scrubber gas stream inlet. Instead, we have revised Table 3 of NESHAP subpart AA to require liquid-to-gas ratio monitoring for low-energy absorbers, and influent liquid flow and pressure drop monitoring for high-energy absorbers; and we are keeping liquid-to-gas ratio monitoring as an option for high-energy absorbers in the final rule. (See section V.F.3.b.i and V.F.3.b.ii of this preamble for details.)

In addition to these revisions, we are making corrections at 40 CFR 63.607(a) to clarify the procedures for establishing a new operating limit based on the most recent performance test. We are also revising the requirements at 40 CFR 63.605(d)(1)(ii)(B) of the final rule to remove the requirement that facilities must request and obtain approval of the Administrator for changing operating limits. (See section V.F.3.b.iii and V.F.3.b.iv of this preamble for details.)

Also, for reasons discussed in the in the Comment Summary and Response document available in the docket, we are revising the annual testing schedule in the final rule at 40 CFR 63.606(b), and the terminology for ''maximum representative operating conditions'' in the final rule at 40 CFR 63.606(d).

We are not making any changes to the proposed addition of a site-specific monitoring plan and calibration requirements for CMS. We are also keeping the proposed term ''absorber'' in lieu of ''scrubber,'' as well as the proposed format of NESHAP subpart AA to reference tables for emissions limits and monitoring requirements.

Lastly, we are retaining the current total fluoride limits and not adopting the proposed HF standards and associated EPA Method 320 testing in NESHAP subpart AA (see section V.F.3.c of this preamble for details).

ii. NSPS Subpart T. We are not making changes to the proposed monitoring and recordkeeping requirements for any WPPA plant that commences construction, modification or reconstruction after August 19, 2015 to ensure continuous compliance with the standard. We are also keeping the proposed term ''absorber'' in lieu of ''process scrubbing system.''

iii. NSPS Subpart U. We are not making changes to the proposed monitoring and recordkeeping requirements for any SPA plant that commences construction, modification, or reconstruction after August 19, 2015 to ensure continuous compliance with the standard. We are also keeping the proposed term ''absorber'' in lieu of ''process scrubbing system.''

3. What key comments did we receive on the other changes to the Phosphoric Acid Manufacturing NESHAP and NSPS, and what are our responses?

Several comments were received regarding the proposed clarifications to applicability and certain definitions, revisions to testing, monitoring, recordkeeping and reporting, translation of total fluoride to HF emission limits, and revisions to other provisions for the Phosphoric Acid Manufacturing source category. The following is a summary of significant comments and our response to those comments. Other comments received and our responses to those comments can be found in the Comment Summary and Response document available in the docket for this action (EPA–HQ–OAR–2012–0522).

a. Applicability Clarifications and Certain Definitions—i. Oxidation Reactors—Comment. Several commenters remarked that the proposed definition of SPA process line to include oxidation reactors is problematic and goes beyond clarification. These commenters requested that the EPA develop more specific language or provide a clear technical basis under the CAA because any equipment that was not expressly included in EPA's MACT floor calculations should not be included in the affected source definition.

Commenters mentioned that the EPA's memorandum ''Applicability Clarifications to the Phosphoric Acid Manufacturing Source Category,'' which is available in the docket for this action, captured four facilities, but it was not clear whether the PCS Aurora facility was included in the count. These commenters stated that the oxidation step at this facility is carried out in agitated tanks that do not have any emissions control, and the emissions from the oxidation step are not included in their annual performance testing (when demonstrating compliance with the current total fluoride limits). The commenters said that it was not clear whether this oxidation step involves an ''oxidation reactor'' as proposed; and, if it does, the commenters argued that the EPA has not considered additional costs imposed by including ''any equipment that uses an oxidizing agent to treat phosphoric acid'' within the scope of the NESHAP at 40 CFR part 63, subpart AA.

Response. We are adopting the proposed SPA process line definition in NESHAP subpart AA, and the proposed SPA plant definition in NSPS subpart U, to include oxidation reactors. Based on information in process flow diagrams provided by facilities, we initially believed that oxidation reactors were part of the SPA process lines that would have been considered in the original MACT analysis, and, thus subject to the existing limits. In response to comments that stated the opposite was true, we searched historical data, specifically the 1996 memorandum ''National Emission Standards for Hazardous Air Pollutants from Phosphoric Acid Manufacturing and Phosphate Fertilizers Production; Proposed Rules—Draft Technical Support Document and Additional Technical Information'' (1996 TSD). The 1996 TSD lists, in Attachment 2, the test data for SPA process lines that were assembled for the MACT floor analysis (the 1996 TSD is item II–B–20 in Docket A–94–02). Based on this review as well as a facility construction air permit, we determined that oxidation reactor emissions from at least one facility, PCS White Springs (see the emission point ''Occidental, Suwanee Rv., FL–G'' in the 1996 TSD), were included with this assembled SPA test dataset. It is possible that three other facilities (see the emission points ''J.R. Simplot, Pocatello, ID'' for the Simplot Don-Pocatello facility, ''Nu-West, Soda Springs, ID'' for the Agrium Nu-West facility, and ''Texasgulf, Aurora, NC'' for the PCS Aurora facility in the 1996 TSD) with oxidation reactors were also included in this original dataset since we know today that these facilities have oxidation reactors; however, it is unclear whether the oxidation reactors

at these facilities were operating when the dataset was assembled. Nevertheless, based on the emission point ''Occidental, Suwanee Rv., FL–G,'' SPA process lines that incorporate an oxidation reactor were included as part of the SPA emissions dataset that was evaluated in order to conduct the MACT floor analysis.

In addition, the EPA's technology review revealed that SPA process lines at four different facilities include an oxidation reactor to remove organic impurities from the acid. We determined that one of these facilities (Simplot Don-Pocatello) already ducts their oxidation reactor emissions through their SPA process line wet scrubber, and is achieving compliance with the SPA total fluoride emission limit. For two of these facilities (PCS White Springs and Agrium Nu-West), we determined that when their oxidation reactor emissions are combined with the rest of their SPA process line emissions, the facilities are in compliance with the total fluoride emission limit. Therefore, for these three facilities it would not be necessary to upgrade existing control systems, or to install a control system, in order to comply with the rule.

With regard to the oxidation reactor at the fourth facility (PCS Aurora), the Agency has determined that this process (*i.e.,* an oxidation step carried out in agitated tanks) does qualify as an oxidation reactor. Based on information that we received from industry after the public comment period ended for the proposal (see docket item EPA–HQ–OAR–2012–0522–0051), potassium permanganate is used in the PCS Aurora oxidation step. This oxidizing agent was one of three specifically cited in our memorandum ''Applicability Clarifications to the Phosphoric Acid Manufacturing Source Category,'' which is available in the docket for this action, so based on the data available, this oxidation step should be included as part of the SPA process line emissions when determining compliance with the SPA total fluoride emission limit. Furthermore, based on this same information that we received from industry after the public comment period ended for the proposal, PCS Aurora may need to install a new absorber in order to control its oxidation process emissions due to logistical complications and concerns about inadequate capacity of other existing absorbers at their SPA units. PCS Aurora estimated the absorber (venturi scrubber) would incur capital costs of approximately $270,500, based on prior absorber purchases for its facility. We estimated annual costs of approximately $95,000. The costs associated with this change are discussed further in the memorandum ''Control Costs and Emissions Reductions for Phosphoric Acid and Phosphate Fertilizer Production Source Categories—Final Rule,'' which is available in Docket ID No. EPA–HQ–OAR–2012–0522.

The definition of oxidation reactor in the final rule for NESHAP subpart AA has been revised to clarify that oxidizing agents may include: Nitric acid, ammonium nitrate, or potassium permanganate. The words ''or step'' has also been added to the definition of oxidation reactor, for instances when a facility may not typically identify their oxidation process as occurring in a reactor. The definition now states that ''oxidation reactor means any equipment or step that uses an oxidizing agent (*e.g.,* nitric acid, ammonium nitrate, or potassium permanganate) to treat SPA.'' Similarly, the definition of ''SPA plant'' in the final rule for NSPS subpart U has also been revised to reflect these changes.

ii. Defluorination and Clarifiers—Comment. Many commenters opposed the proposed expanded definition of ''wet-process phosphoric acid line'' to include ''clarifiers'' and ''defluorination processes.'' These commenters stated that the proposed revisions have the potential to pull in several ''defluorination processes'' and ''clarifiers'' that are not subject to the current rule (*e.g.,* animal feed phosphate production operations that have traditionally been outside the scope of this subpart). These commenters argued that any unit operation that conducts evaporation or concentrates phosphoric acid will have the effect of defluorinating to some extent. One of these commenters stated that they have a desulfation process at one of their facilities that reduces F; the commenter also said that this facility's WPPA process line has several filter product tanks, evaporator feed tanks, and evaporator product tanks that could potentially be deemed clarifiers, and thus be pulled into the proposed rule. Another of these commenters argued that it is not logical to include clarifier and defluorination systems in the definition because they operate independently of process lines, and are often operated when feed is not put into process lines (and so are not a process line manufacturing phosphoric acid by reacting phosphate rock and acid). This commenter added that clarifiers often operate more like tanks than process equipment and are not routinely emptied; and emissions from clarifiers are not a function of phosphate feed material to the reactor. The commenter stated that the addition of clarifiers will require significant facility modifications to accommodate emissions testing because although some clarifiers are evacuated to WPPA scrubbers, others are not; and even though some clarifiers have independent evacuation and scrubbing systems, other clarifiers have no evacuation and scrubbing systems. Another commenter also stated that one of their facilities contains clarifiers that are not source tested or vented to a wet scrubber. This commenter stated that it was not possible for one of their facilities to determine whether they meet the proposed standard for a WPPA process line that includes defluorination processes because their defluorination units are not only integrated with their WPPA process, but also with processes that do not meet the definition of WPPA lines. A commenter added that defluorination processes and clarifiers are often subject to separate emissions control requirements in their title V permits.

Two commenters stated that since the original rule was adopted, the definition of ''wet-process phosphoric line'' has not been interpreted to extend or apply to clarifiers or defluorination processes. One of these commenters claimed that the only rationale the EPA provides is that the rules were ''initially intended'' to cover these sources, but argued that neither the original proposal, nor the original final rule mentioned the term ''clarifier'' or ''defluorination process.'' The commenters requested that the EPA conduct CAA section 112(d)(2) or 112(d)(3) analyses for these new affected units. If the EPA conducts these analyses, and decides to expand the definition of ''wet-process phosphoric acid line'' to include ''clarifiers'' and ''defluorination processes,'' a commenter suggested that the definition exclude units that partially clarify or defluorinate an in-process stream incidentally.

Response. Based on information in process flow diagrams provided by facilities, we initially believed that clarifiers and defluorination systems were part of the WPPA process lines that would have been considered in the original MACT analysis, and, thus, subject to the existing limits. However, the EPA agrees that clarifiers and defluorination systems should not be included in the WPPA process line definition of NESHAP subpart AA, based on the new information available. We also agree that clarifiers and defluorination systems should not be included in the WPPA plant definition of NSPS subpart T.

In the proposed rules, the EPA was specifically referring to defluorination

processes that use diatomaceous earth and are included as part of the WPPA process line; however, commenters explained that this type of process is used solely in animal feed production. Because defluorination processes that use diatomaceous earth are not related to phosphoric acid manufacturing, as we first surmised, it is not appropriate to include defluorination processes in the WPPA process line definition.

In response to comments regarding the inclusion of clarifiers in the WPPA process line definition, we searched historical data. Specifically, we reviewed the 1996 memorandum ''National Emission Standards for Hazardous Air Pollutants from Phosphoric Acid Manufacturing and Phosphate Fertilizers Production; Proposed Rules—Draft Technical Support Document and Additional Technical Information'' (1996 TSD) to determine if clarifier emissions were included in the MACT floor evaluation for WPPA process lines (the 1996 TSD is item II–B–20 in Docket A–94–02). The 1996 TSD lists, in Attachment 2, the WPPA test data that were assembled for the MACT floor analysis. Based on this review, we were not able to confirm that clarifiers were included as part of the WPPA emissions dataset that was evaluated in order to conduct the MACT floor analysis; therefore, we are not including clarifiers in the WPPA process line definition. Similarly, we are not including clarifiers in the WPPA plant definition of NSPS subpart T.

iii. Generic Process Line Definition—Comment. One commenter stated that the EPA has introduced ambiguity and vagueness with its definition of a generic ''process line'' that includes ''all equipment associated with the production of any grade or purity of a phosphoric acid product including emission control equipment.'' The commenter asserted that under this expansive definition, every hypothetical fugitive emission source would have to be accounted for in determining compliance. The commenter explained that the EPA has not collected emission data from ''all equipment'' nor provided guidance on estimating emissions for such sources in order to allow entities with process lines to demonstrate compliance. The commenter stressed the ''process line'' definition, as it currently stands, could include a wash plant that prepares phosphate ore or product storage tanks due to these sources being considered ''associated'' with production and thus subject to the proposed NESHAP.

Response. The Agency agrees with the commenter that it is not necessary to include the generic ''process line'' definition, and has removed it from the NESHAP subpart AA final rule. This definition did not provide additional clarity to facilities, and it was not our intent to include emissions from ''all equipment'' that is ''associated'' with phosphoric acid production for compliance determinations. Specific definitions are provided for WPPA process line, SPA process line, and PPA process line and, therefore, enough specificity is already provided in the rule.

iv. ''Includes, but is Not Limited to''—Comment. A commenter remarked that incorporating the language ''includes, but is not limited to'' in the definitions of WPPA, SPA, and PPA process lines is overly broad and creates ambiguity. They stated that industry should have certainty as to the applicability and scope of the rule, but the language ''includes, but is not limited to'' creates uncertainty as to where the affected equipment begins and ends for purposes of demonstrating compliance.

Response. We agree that this language creates overly broad process line definitions and can lead to regulatory uncertainty for affected sources. Therefore, we are not finalizing the language ''includes, but is not limited to'' in the definitions of WPPA, SPA, and PPA process lines of NESHAP subpart AA. Similarly, we are not finalizing the language ''includes, but is not limited to'' in the definitions of WPPA plant and SPA plant of NSPS subpart T and NSPS subpart U, respectively.

b. Testing, Monitoring, Recordkeeping and Reporting—i. Pressure Drop Across Absorber—Comment. Several commenters requested the EPA delete the requirement that pressure drop across an absorber must be greater than 5 inches of water in order to use the option of measuring pressure drop as an operating parameter. These commenters contended that the EPA has not articulated any basis for the requirement. These commenters provided data demonstrating that units operate in compliance with the emission standards when the pressure drop across an absorber is less than 5 inches of water. One of these commenters expressed safety concerns associated with operating scrubbers at higher range pressure drop settings, citing one of its facilities that experienced the entrainment of moisture within the absorbing tower when operating at pressure drops in excess of 8 inches of water, and another that experienced the buildup of excessive fumes on the digester floor when operating the digester scrubber as high as 6 inches of water.

Response. The Agency maintains its determination that pressure drop is not an appropriate monitoring parameter for absorbers that do not use the energy from the inlet gas to increase contact between the gas and liquid in the absorber (see ''Use of Pressure Drop as an Operating Parameter,'' which is available in Docket ID No. EPA–HQ–OAR–2012–0522). Therefore, we are not revising this proposed amendment.

High-energy (*i.e.,* high pressure drop) absorbers, such as venturi scrubbers, are designed to use the energy in the inlet gas to atomize the liquid stream entering the absorber which increases the contact between the liquid droplets and gas. For these types of absorbers, pressure drop is an appropriate monitoring parameter because changes in pressure drop values indicate that either liquid droplets are not being formed effectively inside the absorber (falling pressure drop), or that the absorber is fouled (increasing pressured drop). Pressure drop is not an appropriate monitoring parameter for low-energy absorbers (*i.e.,* absorbers that are designed to operate with pressure drops of 5 inches of water column or less) because pressure drop is not integral to the mechanism used in the absorber to mix the scrubbing liquid and inlet gas. Furthermore, in a meeting that occurred after the public comment period closed (see ''EPA Meeting Minutes for TFI Discussion March 12, 2015,'' which is available in Docket ID No. EPA–HQ–OAR–2012–0522), industry stated that there is no correlation between pressure drop and absorber performance.

With regard to the safety concerns raised by one commenter when operating low-energy absorbers at high pressure drop settings, the proposed rule (NESHAP subpart AA) did not require low-energy absorbers (*i.e.,* absorbers that are designed to operate with pressure drops of 5 inches of water column or less) to operate at pressure drops greater than 5 inches of water column. Instead, the proposed rule required a different parameter to be monitored for these types of absorbers. Nevertheless, based on other comments received, we are not adopting the proposed monitoring for low-energy absorbers, and have revised the final rule (NESHAP subpart AA) to require liquid-to-gas ratio monitoring for low-energy absorbers in lieu of monitoring influent liquid flow and pressure drop through the absorber (see section V.F.3.b.ii of this preamble for further details).

ii. Absorber Monitoring Options—Comment. Several commenters called attention to the options of either measuring: (1) The temperature at the

wet scrubber gas stream outlet and pressure at the liquid inlet of the absorber, or (2) the temperature at the scrubber gas stream outlet and scrubber gas stream inlet. One of these commenters said that they do not believe monitoring gas temperature in locations of large ambient temperature ranges would provide accurate monitoring of the absorbers performance. The commenter argued that temperature and pressure probes would be very susceptible to scaling issues. In addition, this commenter contended that liquid inlet pressure does not provide any additional monitoring of the absorber performance, since the inlet liquid flow rate is already measured and monitored. Another commenter contended that the EPA has not provided any data or analysis to show that there is a correlation between temperature and emissions; the commenter stated that they were not aware of any data suggesting a relationship between exit temperature and emissions, or that monitoring temperature difference across an absorber would be effective. One of these commenters argued that they were not in a position to evaluate the difficulties associated with performing the associated monitoring and establishing the requisite operating ranges.

Response. Absorber outlet gas temperature is often used to indicate a change in operation for absorbers that are used to control thermal processes. Because this source category uses the wet process in lieu of a thermal process to produce phosphoric acid, the Agency agrees with the commenters that temperature is not an appropriate monitoring parameter for absorbers used in this source category, and has removed these monitoring options from Table 3 of the final rule (NESHAP subpart AA). However, in light of this comment, the Agency has revised Table 3 of NESHAP subpart AA to require liquid-to-gas ratio monitoring for low-energy absorbers (*i.e.,* absorbers that are designed to operate with pressure drops of 5 inches of water column or less) in lieu of monitoring influent liquid flow and pressure drop through the absorber. (See section V.F.3.b.i of this preamble for further details of why we are not allowing pressure drop monitoring for low-energy absorbers.) Although liquid flow to the absorber is the most critical parameter for monitoring absorption systems, monitoring the inlet gas flow rate along with the influent liquid flow rate (and determining liquid-to-gas ratio) provides better indication of whether enough water is present to provide adequate scrubbing for the amount of gas flowing through the system. Furthermore, the Agency has revised Table 3 of NESHAP subpart AA to require influent liquid flow and pressure drop monitoring for high-energy (*i.e.,* high pressure drop) absorbers, such as venturi scrubbers; and we are keeping liquid-to-gas ratio monitoring as an option for high-energy absorbers in the final rule. Rather than calculating one minimum flow rate at maximum operating conditions that must be continuously adhered to, this alternative provision (*i.e.,* liquid-to-gas ratio monitoring for high-energy absorbers) allows a facility to optimize the liquid flow for varying gas flow rates. By using a liquid-to-gas ratio, sources may save resources by reducing the liquid rate with reductions in gas flow due to periods of lower production rates.

The Agency believes the cost to implement these finalized monitoring requirements is minimal for facilities. For low-energy absorbers, we are allowing the gas stream to be measured by either measuring the gas stream flow at the absorber inlet or using the design blower capacity, with appropriate adjustments for pressure drop. Therefore, facilities would not need to purchase new equipment to measure gas flow at the inlet of the absorber since they may choose to use design blower capacity. Furthermore, we are not requiring any new monitoring for high-energy absorbers; therefore, these facilities are already equipped to monitor as required in the final rule.

iii. Operating Range Established From a Previous Test—Comment. One commenter stated that 40 CFR 63.607(a) is somewhat ambiguous, tending to suggest that affected facilities would be immediately required to implement new equipment operating ranges following a source test, even if operating conditions from previous source tests demonstrated compliance with fluoride emission standards. The commenter argued that there is no reason that a new performance test at a new operating range should invalidate a previous performance test at a different operating range.

Response. The Agency has clarified in the final rule at 40 CFR 63.607(a) that during the most recent performance test, if owners or operators demonstrate compliance with the emission limit while operating their control device outside the previously established operating limit, then limits must be established. Owners or operators must establish a new operating limit based on that most recent performance test and notify the Administrator that the operating limit changed based on data collected during the most recent performance test. Public comments on the 1999 rule stated that the equipment and control devices in these source categories are subject to harsh conditions that cause corrosion and scaling of the process components. Accordingly, the performance of the emissions controls will vary over time, and so might emissions. Thus, the Agency disagrees with the commenter's argument. We have determined that a new performance test conducted under a particular operating range should invalidate a previous operating range that was established under different operating conditions. An operating limit (*e.g.,* an operating range, a minimum operating level, or maximum operating level) is established using the most recent performance test, or in certain instances, a series of tests (potentially including historical tests). However, in all cases, if owners or operators demonstrate compliance with an emission limit during the most recent performance test, and during this performance test an owner's or operator's control device was operating outside the previously established operating limit, the owner or operator must establish a new operating limit that incorporates that most recent performance test.

iv. Approving Operating Ranges—Comment. Several commenters support the EPA's proposal to eliminate the requirement that facilities may not implement new operating parameter ranges until the Administrator has approved them, or 30 days have passed since submission of the performance test results. A commenter pointed out that 40 CFR 63.605(d)(1)(iii)(B), as proposed, does not provide the 30-day default period for the effectiveness of the new ranges if the EPA Administrator does not act; therefore, as currently set forth in the proposed rule, sources will be left in limbo waiting for the EPA Administrator to respond before they can implement new ranges. A commenter suggested that the EPA revise the proposed regulatory language to require submission of the new ranges to EPA, but delete the requirement to request and obtain EPA's approval of the new ranges. Similarly, another commenter requested the EPA clarify the process for establishing new equipment operating ranges following source performance testing. This commenter contended that facilities should have the ability to update operating parameters if they desire based on source testing, and the facility should be required to submit the new

ranges, but not be required to obtain EPA's approval of the new ranges.

In addition, a commenter requested that the EPA clarify how revising the proposed regulatory language to require submission of the new ranges to the EPA, but deleting the requirement to request and obtain EPA's approval of the new ranges, will affect possible obligations to undertake permit modifications of title V permits under 40 CFR part 70. This commenter stated that such administrative processes are not fully anticipated in the proposed rule.

Response. In the proposed NESHAP subpart AA, the Agency intended that facilities not be required to obtain approval, and, instead, immediately comply with a new operating limit when it is developed and submitted to the Administrator. Therefore, the requirements at proposed 40 CFR 63.605(d)(1)(iii)(B) have been revised in the final rule at 40 CFR 63.605(d)(1)(ii)(B), as the commenter requests, to remove the requirement that facilities must request and obtain approval of the Administrator for changing operating limits. Furthermore, the Agency suggests that the title V permit be modified as soon as the Administrator is notified of a change in an operating limit. The Agency acknowledges that corrections and modifications to permit applications could become a problem for a facility, particularly if the Administrator determines the operating limit is not appropriate after a facility has already applied for the change to be made in its air permit; however, we expect this scenario to be rare.

c. Translation of Total Fluoride to HF Emission Limits—Comment. With regard to the proposed NESHAP subpart AA, several commenters opposed the use of EPA Method 320 to test for HF, and supported the retention of a total fluoride compliance standard and associated testing using EPA Method 13A or 13B. These commenters argued that EPA Method 320 leads to unreliable and unrepresentative results because some reactive fluoride compounds in the exhaust may form HF in the sampling equipment. The commenters explained that complex reactions leading to fluoride emissions occur not only in the processing units located at the Phosphoric Acid Manufacturing source category, but also in the scrubber systems designed to remove fluoride from the stack gases. Commenters stated that these reactions result in a mix of gaseous, aerosol, and particle bound fluoride (all three phases) in the stack gas, in the form of compounds like silica tetrafluoride, various fluorosilicate aerosols and/or droplets, ammonium fluoride, ammonium bifluoride, and/or ammonium fluorosilicate; and argued that these compounds have the potential to be captured in a Method 320 sampling equipment, biasing or interfering with the results of the sampling. Commenters specified that the EPA Method 320 sampling conducted in response to the EPA's information requests demonstrated that SiF_4 readily reacts with water vapor in the stack gas producing HF and silicon hydroxide; and one of the commenters provided information showing that this reaction is dependent on temperature, moisture, and residence time in the sampling system. Additionally, some of the commenters listed technical issues that they encountered during the EPA Method 320 sampling that they conducted in response to EPA's information requests. These commenters recommended certain procedures be followed when conducting EPA Method 320 at the Phosphoric Acid Manufacturing source category; however, they also cautioned that their recommendations would not resolve all of the inherent problems with the sampling and analysis process. The commenters also expressed concern over the increase in testing costs from using EPA Method 320 instead of EPA Method 13A or 13B, citing an increase of at least 3 to 4 times when using EPA Method 320 instead of EPA Method 13B.

We also received comments regarding the option to use Fourier transform infrared spectroscopy (FTIR) HF CEMS as a continuous monitoring compliance approach for HF at NESHAP subpart BB affected sources. One commenter contended that the EPA must consider requiring continuous HF emission monitoring before finalizing the proposal, and pointed out that there is a HF sensor (suitable for 0–10 part per million (ppm) monitoring range and a 0.1 ppm resolution) available for the Ultima X Series Gas Monitors. Several commenters opposed this option and cited EPA's technical memorandum ''Approach for Hydrogen Fluoride Continuous Emission Monitoring and Compliance Determination with EPA Method 320.'' They argued that the option to use FTIR HF CEMS exceeds the capabilities of existing technology, and that there are no details on the required methods to implement such a system or known field demonstrations of this type of system, and that the option has not been proven.

Finally, one commenter requested the EPA explain its technical basis for abandoning the longstanding total fluoride surrogate for HF. The commenter argued that the EPA has established similar surrogacy relationships to measure HAP in other regulated source categories in the past.

Response. In response to the January 2014 CAA section 114 request, processes at the Phosphoric Acid Manufacturing source category were tested for HF using EPA Method 320. Based on those results, the Agency concluded that moving to a form of the standard that requires HF (the target HAP) to be measured (but retaining the same numeric values as the current total fluoride standards) would be achievable by all facilities. However, in light of information provided by commenters, the Agency has re-evaluated the proposed revision to the standard and determined that EPA Method 320 is not an appropriate test method for accurately measuring HF emissions from process lines in this specific source category due to the complex and often incomplete chemical reactions with silicon compounds in these sources. Accordingly, the Agency is not adopting the proposed HF standards in NESHAP subpart AA. The Agency has determined that SiF_4 and water are naturally present in the exhaust gases of the processes located at the Phosphoric Acid Manufacturing source category; and these chemical compounds will react to form HF and silicon dioxide in the near field from the emission point on release into the atmosphere. The Agency has reviewed a study [10] stating that the equilibrium of this chemical reaction is highly dependent on temperature such that as temperature increases, the conversion of SiF_4 to HF increases. At high sampling temperatures (*i.e.,* sampling temperatures ranged from about 150 to 300 degrees Fahrenheit during the EPA Method 320 testing conducted pursuant to the January 2014 CAA section 114 requests), there is nearly a complete conversion of SiF_4 to HF. Therefore, as SiF_4 is captured in the EPA Method 320 sampling system, it may react with moisture (water) to form HF, resulting in HF measurements from this source category that are biased. That is, due to the chemical interactions and reactions with moisture at different temperatures, some of the HF emissions detected by EPA Method 320 may not represent HF that exists in the exhaust stack or HF released from phosphoric acid production.

As a result of our determination to not adopt the proposed HF standards, the

[10] Koogler & Associates, Inc. ''Technical Evaluation of the Measurement Limitations Associated with Source HF Emissions by EPA Method 320.'' January 21, 2015.

Agency has retained the current total fluoride limits (lb total F/ton P_2O_5 feed) measured using EPA Method 13A or 13B in NESHAP subpart AA as a surrogate for the HAP HF, rather than HF emission limits using EPA Method 320. Furthermore, in light of this conclusion, the Agency is not finalizing an option to use FTIR HF CEMS. In the final rule promulgated on June 10, 1999 (64 FR 31358), the EPA explained that total fluoride was used as a surrogate for HF to establish MACT for emissions from process sources because no direct measurements of HF were available and because the NSPS are based on total F. On November 7, 2014, we proposed HF emission limits in an attempt to base the standard on the specific HAP (HF) that is emitted by this source category because we concluded that new technology (EPA Method 320) allows for direct measurement of HF, and because it is preferred to measure the listed HAP directly when possible. However, in light of the chemical interactions that may occur at this source category during sample collection using EPA Method 320 (skewing HF testing results), we are retaining the long-standing surrogate of total fluoride for HF and the annual testing with EPA Method 13A or 13B. Results from EPA Method 13A or 13B testing include all fluoride compounds, including HF. Furthermore, since the control of total fluoride and HF from process sources at this source category is accomplished with the same control technology (scrubbers), the total fluoride emission limits will result in installation of the MACT for HF and the same level of HF control will be achieved regardless of how the emission limits are expressed. The use of total fluoride as a surrogate for HF simply changes the metric for compliance demonstration, not the actual level of emission control achieved. As such, we are retaining the existing total fluoride limits for all emission sources in NESHAP subpart AA. Although, at present time, the Agency is not finalizing HF standards in NESHAP subpart AA, it may be possible to do so in a future rulemaking with additional data and specificity on monitoring requirements.

4. What is the rationale for our final decisions regarding these other changes to the Phosphoric Acid Manufacturing NESHAP and NSPS?

For the reasons provided above and in the preamble for the proposed rule, we are finalizing: The proposed requirement in NESHAP subpart AA that pressure drop across an absorber must be greater than 5 inches of water in order to use the option of measuring pressure drop as an operating parameter; the proposed definitions for ''superphosphoric acid process line'' (in NESHAP subpart AA) and ''superphosphoric acid plant'' (in NSPS subpart U) to include oxidation reactors; and other proposed clarifications and corrections.

Additionally, for the reasons provided above, we are making the revisions, clarifications and corrections noted in section V.F.2 in the final rules for NESHAP subpart AA, NSPS subpart T, and NSPS subpart U.

VI. What is the rationale for our final decisions and amendments for the Phosphate Fertilizer Production source category?

For each issue related to the Phosphate Fertilizer Production source category, this section provides a description of what we proposed and what we are finalizing for the issue, the EPA's rationale for the final decisions, and amendments and a summary of key comments and responses. For all comments not discussed in this preamble, comment summaries and the EPA's responses can be found in the Comment Summary and Response document available in the docket.

A. Residual Risk Review for the Phosphate Fertilizer Production Source Category

1. What did we propose pursuant to CAA section 112(f) for the Phosphate Fertilizer Production source category?

Pursuant to CAA section 112(f), we conducted a residual risk review and presented the results of this review, along with our proposed decisions regarding risk acceptability and ample margin of safety, in the November 7, 2014, proposed rule for the Phosphate Fertilizer Production NESHAP (79 FR 66512). The results of the risk assessment are presented briefly below in Table 4 of this preamble, and in more detail in the residual risk document, ''Residual Risk Assessment for Phosphate Fertilizer Production and Phosphate Fertilizer Production Source Categories in support of the July 2015 Risk and Technology Review Final Rule,'' which is available in the docket for this rulemaking.

TABLE 4—HUMAN HEALTH RISK ASSESSMENT FOR PHOSPHATE FERTILIZER PRODUCTION

Category & number of facilities modeled	Cancer MIR (in 1 million)		Cancer incidence (cases per year)	Population with risks of 1-in-1 million or more	Population with risks of 10-in-1 million or more	Max chronic non-cancer HI		Worst-case max acute non-cancer HQ
	Based on actual emissions	Based on allowable emissions				Based on actual emissions	Based on allowable emissions	
Phosphate Fertilizer ..... (11 facilities)	0.5	0.5	0.001	0	0	0.003	0.003	HQ_{REL} = 0.4 (elemental Hg) HQ_{AEGL-1} = 0.09 (hydrofluoric acid).
Facility-wide (11 facilities).	0.5	.....	0.001	0	0	0.2		

Based on actual emissions for the Phosphate Fertilizer Production source category, the MIR was estimated to be less than 1-in-1 million, the maximum chronic non-cancer TOSHI value was estimated to be up to 0.003, and the maximum off-site acute HQ value was estimated to be up to 0.4. The total estimated national cancer incidence from this source category, based on actual emission levels, was 0.001 excess cancer cases per year, or one case in every 1,000 years. Based on MACT-allowable emissions for the Phosphate Fertilizer Production source category, the MIR was estimated to be less than 1-in-1 million, and the maximum chronic non-cancer TOSHI value was estimated to be up to 0.003. We also found there were emissions of several PB–HAP with an available RTR multipathway screening value, and, with the exception of Hg compounds, the reported emissions of these HAP

(*i.e.,* lead compounds, and cadmium compounds) were below the multipathway screening value for each compound. One facility emitted divalent Hg (Hg^{2+}) above the Tier I screening threshold level, exceeding the screening threshold by a factor of 20. Consequently, we conducted a Tier II screening assessment for Hg^{2+}. This assessment uses the assumption that the biological productivity limitation of each lake is 1 gram of fish per acre of water, meaning that in order to fulfill the adult ingestion rate, a fisher would need to fish from 373 total acres of lakes. The result of this analysis was the development of a site-specific emission screening threshold for Hg^{2+}. We compared this Tier II screening threshold for Hg^{2+} to the facility's Hg^{2+} emissions. The facility's emissions exceeded the Tier II screening threshold by a factor of 3.

Additionally, to refine our Hg Tier II Screen for this facility, we first examined the set of lakes from which the angler ingested fish. Any lakes that appeared to not be fishable or publicly accessible were removed from the assessment, and the screening assessment was repeated. After we made the determination the three critical lakes were fishable, we analyzed the hourly meteorology data from which the Tier II meteorology statistics were derived. Using buoyancy and momentum equations from literature, and assumptions about facility fenceline boundaries, we estimated by hour the height achieved by the emission plume before it moved laterally beyond the assumed fenceline. If the plume height was above the mixing height, we assumed there was no chemical exposure for that hour. The cumulative loss of chemical being released above the mixing height reduces the exposure and decreases the Tier II screening quotient. Although the refined Tier II analysis for Hg emissions indicated a 23-percent loss of emissions above the mixing layer due to plume rise, this reduction still resulted in an angler screening non-cancer value equal to 2.

For this facility, after we performed the lake and plume rise analyses, we reran the relevant Tier II screening scenarios for the travelling subsistence angler in TRIM.FaTE with the same hourly meteorology data and hourly plume-rise adjustments from which the Tier II meteorology statistics were derived. The use of the time-series meteorology reduced the screening value further to a value of 0.6. For this source category our analysis indicated no potential for multipathway impacts of concern from this facility. The maximum facility-wide MIR was less than or equal to 1-in-1 million and the maximum facility-wide TOSHI was 0.2. We weighed all health risk factors in our risk acceptability determination, and we proposed that the residual risks from the Phosphate Fertilizer Production source category are acceptable.

We then considered whether the Phosphate Fertilizer Production NESHAP provides an ample margin of safety to protect public health and prevents, taking into consideration costs, energy, safety, and other relevant factors, an adverse environmental effect. In considering whether the standards should be tightened to provide an ample margin of safety to protect public health, we considered the same risk factors that we considered for our acceptability determination and also considered the costs, technological feasibility and other relevant factors related to emissions control options that might reduce risk associated with emissions from the source category. We proposed that the current standards provided an ample margin of safety to protect public health. With respect to adverse environmental effects, none of the individual modeled concentrations for any facility in the source category exceeded any of the ecological benchmarks (either the LOAEL or NOAEL). Based on the results of our screening analysis for risks to the environment, we also proposed that the current standards prevent an adverse environmental effect.

2. How did the risk review change for the Phosphate Fertilizer Production source category?

The residual risk review for the Phosphate Fertilizer Production source category did not change since proposal (79 FR 66512). Accordingly, we are not tightening the standards under section 112(f)(2) based on the residual risk review, and are thus readopting the existing standards under section 112(f)(2).

3. What key comments did we receive on the risk review, and what are our responses?

The comments received on the proposed residual risk review were generally supportive of our determination of risk acceptability and ample margin of safety analysis. However, we received several comments requesting we make changes to the residual risk review, including:

- Update the residual risk review with the recommendations and information from the NAS;
- Incorporate the best currently available information on children's exposure to lead, and go beyond using the 2008 Lead NAAQS;
- Reevaluate whether the residual risk review is consistent with the key recommendations made by the SAB;
- Clarify in the rulemaking docket that data received by industry were commensurate with the relevant statutory obligations;
- Revise HF emission data because they are not representative of actual HF emissions, but rather overestimate emissions causing the residual risk review to have an overly conservative bias;
- Reconsider the assumption used in the NESHAP residual risk assessment that all chromium is hexavalent chromium;
- Revise certain stack parameters used in the analysis;
- Clarify meteorological data used in the analysis;
- Adequately explain rationale for the maximum 1-hour emission rate used for determining potential acute exposures;
- Clarify the selection of ecological assessment endpoints; and
- Provide some quantitative or qualitative rationale for the characterization of the exposure modeling uncertainty.

We evaluated the comments and determined that no changes were needed. Since none of these comments had an effect on the final rule, their summaries and corresponding EPA responses are not included in this preamble. A summary of these comments and our responses can be found in the Comment Summary and Response document available in the docket for this action (EPA–HQ–OAR–2012–0522).

4. What is the rationale for our final approach and final decisions for the risk review?

For the reasons explained in the proposed rule, we determined that the risks from the Phosphate Fertilizer Production source category are acceptable, the current emissions standards provide an ample margin of safety to protect public health, and prevent an adverse environmental effect. Since proposal, neither the risk assessment nor our determinations regarding risk acceptability, ample margin of safety or adverse environmental effects have changed. Therefore, pursuant to CAA section 112(f)(2), we are finalizing our residual risk review as proposed.

B. Technology Review for the Phosphate Fertilizer Production Source Category

1. What did we propose pursuant to CAA section 112(d)(6) for the Phosphate Fertilizer Production source category?

Pursuant to CAA section 112(d)(6), we conducted a technology review, which focused on identifying and evaluating developments in practices, processes, and control technologies for the emission sources in the Phosphate

Fertilizer Production source category. At proposal, we did not identify cost-effective developments in practices, processes, or control technologies that warrant revisions to the NESHAP for this source category. More information concerning our technology review can be found in the memorandum, ''CAA Section 111(b)(1)(B) and 112(d)(6) Reviews for the Phosphate Fertilizer Production and Phosphate Fertilizer Production Source Categories,'' which is available in the docket, and in the preamble to the proposed rule, 79 FR 66538–66539.

2. How did the technology review change for the Phosphate Fertilizer Production source category?

The technology review for the Phosphate Fertilizer Production source category did not change since proposal (79 FR 66512). Therefore, we are not revising NESHAP subpart BB based on the technology review.

3. What key comments did we receive on the technology review, and what are our responses?

Commenters agreed with our conclusion that there are no new cost-effective developments in practices, processes, or control technologies that can be applied to the Phosphate Fertilizer Production source category that would reduce HAP emissions below current levels.

4. What is the rationale for our final approach for the technology review?

For the reasons explained in the proposed rule, we concluded that additional standards are not necessary pursuant to CAA section 112(d)(6); therefore, we are not finalizing changes to NESHAP subpart BB as part of our technology review.

C. NSPS Review for the Phosphate Fertilizer Production Source Category

The NSPS review focused on the emission limitations that have been adequately demonstrated to be achieved in practice, taking into account the cost of achieving such reduction and any non-air quality health and environmental impact and energy requirements. Determining the BSER that has been adequately demonstrated and the emission limitations achieved in practice necessarily involves consideration of emission reduction methods in use at existing phosphate fertilizer production plants. To determine the BSER, the EPA performed an extensive review of several recent sources of information including a thorough search of the RBLC, section 114 data received from industry and other relevant sources.

Our review considered the emission limitations that are currently achieved in practice, and found that more stringent standards are not achievable for this source category. When evaluating the emissions from various process lines, we observed differences in emissions levels, but did not identify any patterns in emission reductions based on control technology configuration. More information concerning our NSPS review can be found in the memorandum, ''CAA Section 111(b)(1)(B) and 112(d)(6) Reviews for the Phosphoric Acid Manufacturing and Phosphate Fertilizer Production Source Categories.'' Though some of the sources are emitting at levels well below the current NSPS, other sources are not. We evaluated emissions based on control technologies and practices used by facilities, and found that the same technologies and practices yielded different results for different facilities. Therefore, we determined that we cannot conclude that new and modified sources would be able to achieve a more stringent NSPS. As explained in the proposed rule, all Phosphate Fertilizer Production NSPS (under subpart V, subpart W, and subpart X) emission sources, and the control technologies that would be employed, are the same as those for the NESHAP regulating phosphate fertilizer plants, such that we reached the same conclusion that there are no identified developments in technology or practices that results in cost-effective emission reductions strategies. Therefore, we are finalizing our determination that revisions to NSPS subpart V, subpart W, and subpart X standards are not appropriate pursuant to CAA section 111(b)(1)(B).

D. Startup, Shutdown, and Malfunction Provisions for the Phosphate Fertilizer Production Source Category

1. What SSM provisions did we propose for the Phosphate Fertilizer Production source category?

To address the U.S. Court of Appeals for the District of Columbia Circuit vacatur of portions of the EPA's CAA section 112 regulations governing the emissions of HAP during periods of SSM, *Sierra Club* v. *EPA,* 551 F.3d 1019 (D.C. Cir. 2008), we proposed to revise and add certain provisions to the NESHAP subpart BB. We proposed to revise the General Provisions table (appendix A of NESHAP subpart BB) to change several references related to requirements that apply during periods of SSM. We also proposed to add the following provisions to the rule: (1) Work practice standards for periods of startup and shutdown in lieu of numeric emission limits; (2) the general duty to minimize emissions at all times; (3) performance testing conditions requirements; (4) site-specific monitoring plan requirements; and (5) malfunction recordkeeping and reporting requirements. These proposed changes are discussed in more detail in section V.E of this preamble where we describe these same proposed changes for NESHAP subpart AA.

2. How did the SSM provisions change for the Phosphate Fertilizer Production source category?

We are finalizing the proposed work practice standards for periods of startup and shutdown; however, in consideration of comments received during the public comment period for the proposed rulemaking (as discussed in sections VI.D.3.a and VI.D.3.b of this preamble), we are making changes to this work practice in order to clarify the standard applies in lieu of numeric emission limits and how compliance with the standard is demonstrated. Additionally, as discussed in section VI.D.3.c of this preamble, we added definitions of ''startup'' and ''shutdown'' to provide additional clarity regarding when startup begins and ends, and when shutdown begins and ends.

3. What key comments did we receive on the SSM provisions, and what are our responses?

Comments were received regarding the proposed revisions to remove the SSM exemptions for the Phosphate Fertilizer Production source category, and the proposed work practice standards for periods of startup and shutdown. The following is a summary of some of the comments specific to the proposed work practice standards and our response to those comments. Other comments and our specific responses to those comments can be found in the Comment Summary and Response document available in the docket for this action (EPA–HQ–OAR–2012–0522).

a. Work Practice Standard In Place Of Emission Limits—Comment. One commenter argued that the EPA should specify that the proposed work practices for plant startup and shutdown periods apply ''in lieu of'' any other emission standards, and that such periods should not be counted for testing, monitoring, or operating parameter requirements. The commenter noted that the proposed rule at 40 CFR 63.622(d) requires the use of work practices ''to demonstrate compliance with any emission limits''

during periods of startup and shutdown. The commenter agrees with the EPA's conclusion that it is not feasible to apply numeric limits to startup and shutdown because certain variables required to calculate emissions would be zero during such periods. The commenter also agreed with the EPA that existing emission control devices would still be effective during periods of startup or shutdown, if activated. However, the commenter recommended that the rule should clarify that startup and shutdown events should not be required to comply with the monitoring and operating parameter requirements because startup and shutdown events generally are not representative operating conditions for other compliance purposes, such as emissions testing. Instead, the commenter, as well as a second commenter, recommended that because the startup and shutdown periods are not representative, the rule should only require that (1) All emission control devices be kept active, and (2) owners and operators follow the general duty to control emissions, and owners and operators should not be required to monitor operating parameters during startup and shutdown periods.

The commenter argued that the approach in the proposed rule at 40 CFR 63.622(d) to require the use of work practices ''to demonstrate compliance with any emission limits'' during periods of startup and shutdown is ''directly inconsistent'' with the approach that the EPA has applied to other source categories, where such practices clearly were prescribed ''in lieu of'' numeric emission limits that would otherwise apply. (The commenter cites, for example, 78 FR 10015, February 12, 2013.) According to the commenter, the EPA made it clear in other industries' rules that such work practice standards apply ''in place of'' or ''in lieu of'' numeric standards, including with respect to monitoring and recordkeeping requirements. (See id. at 10013 and 10015.) The commenter argues that according to the preamble language cited for those other industries, ''there will no longer be a numeric emission standard applicable during startup and shutdown,'' and the EPA recognizes that ''the recordkeeping requirement must change to reflect the content of the work practice standard'' (Id. at 10014).

Therefore, the commenter recommended that the EPA should clearly explain that work practices are not applied to ''demonstrate compliance'' with numeric limits under subpart BB, which the EPA acknowledges are ''not feasible'' for startup and shutdown periods, and, instead, the work practices should be written to apply ''in lieu of'' the numeric limits during those periods. The commenter argues that without this clarification, it will appear that both the numeric standards and the work practice standards would apply during startup and shutdown. The commenter suggests that this can be corrected in the rule by using the ''in lieu of'' language used for other industries.

Response. The commenter is correct that our intention at proposal was that the numeric emission limits would not apply during periods of startup and shutdown, but that facilities would comply with the work practice instead. We did not intend for the work practice to be a method to demonstrate compliance with the emission limit. We are replacing the phrasing ''to demonstrate compliance'' with ''in lieu of'' as this language is more consistent with our original intent. Accordingly, in the final rule, 40 CFR 63.622(d) specifies that the emission limits of 40 CFR 63.622(a) do not apply during periods of startup and shutdown. Instead, owners and operators must follow the work practice specified in 40 CFR 63.622(d). See section VI.D.3.b of this preamble for our response to commenters argument that owners and operators should not be required to monitor operating parameters during startup and shutdown periods.

b. Applicability of Operating Limits—Comment. Two commenters recommended that the EPA amend the rule to make clear that the work practice standards for startup and shutdown also apply in lieu of the parametric monitoring requirements set forth in NESHAP subpart BB and make explicit that parametric operating requirements do not apply during times of startup and shutdown.

One commenter argued that when the EPA established the flow rate and pressure drop parametric monitoring requirements in its 1999 final rule, the EPA concluded that requiring continuous monitoring of these parameters ''help[ed] assure continuous compliance with the emission limit'' (64 FR 31365, June 10, 1999). The commenter also asserted that the rule specifies that ''[t]he emission limitations and operating parameter requirements of this subpart do not apply during periods of startup, shutdown, or malfunction . . . '' (40 CFR 63.620(e)). The commenter argued that this was a reasonable action because the operating parameter ranges are established during annual performance tests, and these tests cannot be performed during startup and shutdown conditions.

The commenter suggested that in the proposed rule, the EPA exempted compliance with the emission limits during startup and shutdown periods, imposed work practice standards in lieu thereof, and retained the prohibition on conducting a performance test during periods of startup or shutdown (79 FR 66582 (proposed 40 CFR 63.626(d)). The commenter suggested that the proposed rule is silent on the applicability of the parametric monitoring requirements during startup and shutdown. The commenter asserted that because the parametric monitoring provisions provide an inference of compliance with the emission limits (64 FR 31365, June 10, 1999), and these emission limits do not apply during startup and shutdown, the commenter concluded that the parametric monitoring provisions similarly should not apply during startups and shutdowns.

The commenters pointed to two recent EPA NESHAP rulemakings to support their conclusion. First, the commenters argued that in its industrial, commercial and institutional boilers and process heaters NESHAP reconsideration proposal (hereinafter, the ''Boiler NESHAP''), the EPA, responding to a comment soliciting clarification ''that the operating limits and opacity limits do not apply during periods of startup and shutdown,'' stated that with the finalization of work practice standards, ''EPA agrees that the requested clarification is what was intended in the final rule'' (76 FR 80598 and 80615, December 23, 2011.) The commenters asserted that to this end, in its response to the reconsideration, the EPA made clear that affected sources must comply with ''all applicable emissions and operating limits at all times the unit is operating except for periods that meet the definitions of startup and shutdown in this subpart, during which times you must comply with these work practices'' (78 FR 7138 and 7142, January 31, 2013.) The commenters noted that in the Boiler NESHAP, the EPA required the implementation of work practice standards in lieu of compliance with the operating parameter requirements during startup and shutdown by (1) Excluding periods of startup and shutdown from the averaging period (Id. at 7187, 40 CFR 63.7575, the definition of a 30-day rolling average'' excludes ''hours during startup and shutdown''), and (2) expressly stating that the ''standards'' (the emission limits and operating requirements) do not apply during periods of startup or shutdown. (Id. at 7163, 40 CFR 63.7500(f), titled ''What emission limitations, work

practice standards, and operating limits must I meet?'' applies ''at all times the affected unit is operating, except during periods of startup and shutdown during which time you must comply only with Table 3 of this subpart'').

Second, the commenters argued that in its Portland Cement NESHAP, the EPA specified an operating limit for kilns, identified as a temperature limit established during a performance test, and that the temperature limit applied at all times the raw mill is operating, ''except during periods of startup and shutdown'' (78 FR 10039, February 12, 2013, 40 CFR 63.1346(a)(1).) Further, for the continuous monitoring requirements, including operating limits, the Portland Cement NESHAP required operating of the monitoring system at all times the affected source is operating, ''[e]xcept for periods of startup and shutdown'' (Id. at 10041, 40 CFR 63.1348(b)(1)(ii).)

The commenters argued that given the EPA's conclusion in the Proposed Rule that the emission limits should not apply during startup and shutdown, and because the parametric monitoring requirements are established during a performance test (which cannot be performed during a startup or a shutdown) and used to infer compliance with the emission limits, the EPA should make clear in the final rule that the operating parameters requirements do not apply during a startup or a shutdown. The commenter recommended that the EPA should make this explicit: (1) In the operating and monitoring requirement section of subpart BB (proposed 40 CFR 63.625), and (2) by defining the averaging period (currently daily) as excluding periods of startup and shutdown (Proposed 40 CFR part 63, subpart BB, Table 4). As an alternative, the commenters recommended that if the EPA continues to require compliance with the parametric monitoring requirements during startup and shutdown periods, then the EPA should adopt a longer averaging period, from daily to 30 days, to allow for the effects of startups and shutdowns to be reduced by a longer period of steady-state operations. The commenter noted that the Boiler NESHAP has a 30-day averaging period for pressure drop and liquid flow rate, and excludes periods of startup and shutdown from the averaging period (40 CFR 63.7575, definition of ''30-day rolling average'' and 40 CFR part 63, subpart DDDDD, Table 4). The commenter stated that a 30-day averaging period would be substantially more stringent than the Boiler NESHAP approach since it would include periods of startup and shutdown, while at the same time avoid misleading ''exceedances'' caused by the inclusion of periods of startup and shutdown compared to daily average parametric limits.

Response. We disagree with the commenters about the applicability of the operating limits. Based on these comments, we have clarified in the final rule at 40 CFR 63.622(d) that to comply with the work practice during periods of startup and shutdown, facilities must monitor the operating parameters specified in Table 3 to subpart BB and comply with the operating limits specified in Table 4 of subpart BB. The purpose of the work practice is to ensure that the air pollution control equipment that is used to comply with the emission limit during normal operations is operated during periods of startup and shutdown. Monitoring of control device operating parameters is necessary to demonstrate compliance with the work practice. We have concluded that it is reasonable for the control device at phosphate fertilizer production processes to meet the same operating limits during startup and shutdown that apply during normal operation, and that it is not necessary to specify different averaging times for periods of startup and shutdown. Meeting the operating limits of Table 4 of subpart BB will ensure that owners and operators meet the General Duty requirement to operate and maintain the affected source and associated air pollution control equipment in a manner consistent with safety and good air pollution control practices for minimizing emissions.

The analogies that the commenters made to the Boiler NESHAP and the Portland Cement NESHAP are not relevant to this rulemaking. In each rulemaking, we consider the feasibility of applying standards during startup and shutdown based on relevant process considerations for each source category, the pollutants regulated, and control devices on which the rule is based. In developing this rule, we obtained information on the operation of control devices during startup and shutdown periods in the CAA section 114 survey issued to the phosphate fertilizer production industry. Based on survey results, we concluded that for this source category, control devices (*i.e.,* absorbers) could be operated during periods of startup and shutdown. We found no indication that process operations during startup and shutdown would interfere with the ability to operate the relevant control devices according to good engineering practice. Moreover, the commenters provided no technical justification as to why a different operating limit is needed during startup and shutdown.

Regarding the comparison to the industrial boiler NESHAP, the operation of boilers and their associated control devices are different than phosphate fertilizer production plants. While boiler control devices do not have to comply with specific operating limits during startup or shutdown, they must meet a work practice that includes firing clean fuels, operating relevant control devices (*e.g.,* absorbers) as expeditiously as possible, and monitoring the applicable operating parameters (*e.g.,* flow rate) to demonstrate that the control devices are being operated properly. The EPA currently is reconsidering the control requirements for industrial boilers during startup and shutdown (80 FR 3090, January 21, 2015). In the proposed action on reconsideration, we pointed out that some of the control devices used for boilers cannot be operated during the full duration of startup and shutdown because of safety concerns and the possibility of control equipment degradation due to fouling and corrosion. The control devices used for phosphate fertilizer production do not pose these same risks. Likewise, the fact that the Portland Cement NESHAP does not require monitoring of kiln temperature during startup and shutdown is not relevant. The Portland Cement NESHAP requires maintaining a kiln temperature as part of the MACT operating limit. The operating limit for Portland Cement does not apply during startup and shutdown because it is not physically possible to maintain a constant temperature during startup and shutdown of a kiln. In contrast, the feasibility of operating the control devices used to control HAP emissions from phosphate fertilizer production is not limited by specific process operating conditions. Therefore, it is feasible to operate the devices during startup and shutdown, and we have determined that it is reasonable to do so considering cost, nonair health and environmental impacts, and energy requirements.

c. Definition of Startup and Shutdown—Comment. Several commenters stated that it is not feasible to base the conclusion of a ''shutdown'' on the point at which all feed has ''been processed.'' Instead, they suggested that the EPA should clarify the work practice standard of keeping all emission control equipment active during shutdowns. The commenters reported that facilities in the industry consider the commencement of ''shutdown'' as the moment at which the plant ceases adding feed to the affected process, rather than basing shutdown on when

all feed materials have been processed through the process. The commenters recommended that the EPA should define ''shutdown'' to begin when the facility ceases adding feed to an affected process line, and to conclude when the affected process line equipment is deactivated, even though some feed or residues may still be present within particular parts of the process.

One of the commenters also noted that it is common practice to have short-term shutdown of process inputs for temporary maintenance work (including work on emission control equipment) where the entire system is not emptied. In these cases, feed of phosphoric acid and ammonia to the process is suspended as is flow from the reactor to the granulator. The commenter argued that because the source of fluoride to the system has ceased and dust generating material flows are suspended, there should be no significant source of emissions to control, and it is not necessary to require the utilization of control devices until all feed material has been processed. Instead, the commenter recommended that an affected entity should be allowed to turn off control devices when reactor and granulator feeds have been stopped, unless the system is being emptied, in which case control devices should be required as long as the material handling system is in operation.

Response. We agree with the commenters that the rule needs to have a more precise definition of startup and shutdown that more clearly and reasonably establishes the times when the work practice applies and when the emission limits apply. Accordingly, we added a definition of ''startup'' and ''shutdown'' in the Definitions section of the final rule to specify when startup begins and ends, and when shutdown begins and ends.

Based on additional information provided by industry (see ''Email Correspondence Received After Comment Period re Startup Shutdown (May 5, 2015),'' which is available in Docket ID No. EPA–HQ–OAR–2012–0522), we are including a definition of startup in the final rule. The final rule defines startup as commencing when any feed material is first introduced into an affected source and ends when feed material is fully loaded into the affected source. Regarding shutdown, we agree with the commenters that it is not feasible to process all feed material from a process prior to shutting down most equipment at a facility. Such requirement would imply that the control device must be operated after the shutdown ends. The final rule defines shutdown as commencing when the facility ceases adding feed to an affected source and ends when the affected source is deactivated, regardless of whether feed material is present in the affected source. This definition will address concerns about temporary shutdowns as well as shutdowns of longer duration.

In addition, the final rule at 40 CFR 63.622(d) specifies that any control device used at the affected source must be operated during the entire period of startup and shutdown, and must meet the operating limits in Table 4 of the rule.

4. What is the rationale for our final decisions for the SSM provisions?

For the reasons provided above and in the preamble for the proposed rule, we are finalizing the proposed revisions to the General Provisions table (appendix A of NESHAP subpart BB) to change several references related to requirements that apply during periods of SSM. For these same reasons, we are also finalizing the addition of the following proposed provisions to NESHAP subpart BB: (1) Work practice standards for periods of startup and shutdown in lieu of numeric emission limits; (2) the general duty to minimize emissions at all times; (3) performance testing conditions requirements; (4) site-specific monitoring plan requirements; and (5) malfunction recordkeeping and reporting requirements.

E. Other Changes Made to the Phosphate Fertilizer Production NESHAP and NSPS

1. What other changes did we propose for the Phosphate Fertilizer Production NESHAP and NSPS?

a. Clarifications to Applicability and Certain Definitions —i. NESHAP Subpart BB. As stated in the preamble to the proposed rule, to ensure the emission standards reflect inclusion of HAP emissions from all sources in the source category, we proposed to clarify the applicability of the NESHAP to include reaction products of ammonia and phosphoric acid, and not just diammonium and monoammonium phosphate.

For consistency between NESHAP subpart AA and NESHAP subpart BB, we also proposed conditions in NESHAP subpart BB that exclude (like NESHAP subpart AA does) the use of evaporative cooling towers for any liquid effluent from any wet scrubbing device installed to control HF emissions from process equipment. Lastly, we proposed to amend the definitions of ''diammonium and/or monoammonium phosphate process line,'' ''granular triple superphosphate process line,'' and ''granular triple superphosphate storage building'' to include relevant emission points, and to remove text from the applicability section that is duplicative of the revised definitions.

ii. NSPS Subpart V. We did not propose changes to applicability or definitions in NSPS subpart V.

iii. NSPS Subpart W. We proposed changing the word ''cookers'' as listed in 40 CFR 60.230(a) to ''coolers'' in order to correct the typographical error.

iv. NSPS Subpart X. We did not propose changes to applicability or definitions in NSPS subpart X.

b. Testing, Monitoring, Recordkeeping and Reporting—i. NESHAP Subpart BB. As stated in the preamble to the proposed rule, to provide flexibility, we proposed several monitoring options, including pressure and temperature measurements, as alternatives to monitoring of absorber differential pressure. We also proposed monitoring the absorber inlet gas flow rate along with the influent absorber liquid flow rate (and determining liquid-to-gas ratio) in lieu of monitoring only the absorber inlet liquid flow rate.

In addition, we proposed removing the requirement that facilities may not implement new operating parameter ranges until the Administrator has approved them, or 30 days have passed since submission of the performance test results. We proposed that facilities must immediately comply with new operating ranges when they are developed and submitted; and new operating ranges must be established using the most recent performance test conducted by a facility, which allows for changes in control device operation to be appropriately reflected.

We also proposed monitoring requirements for fabric filters in NESHAP subpart BB because we identified two processes that used fabric filters rather than wet scrubbing as control technology.

As stated in the preamble to the proposed rule, we modified the language for the conditions under which testing must be conducted to require that testing be conducted at ''maximum representative operating conditions'' for the process.[11]

In keeping with the general provisions for CMS (including CEMS and CPMS), we proposed the addition of a site-specific monitoring plan and calibration requirements for CMS. Provisions were also proposed that included electronic reporting of stack test data. We also

[11] Based on the EPA memorandum, ''Issuance of the Clean Air Act National Stack Testing Guidance,'' dated April 27, 2009.

proposed modifying the format of NESHAP subpart BB to reference tables for emissions limits and monitoring requirements.

Finally, we proposed HF standards in NESHAP subpart BB by translating the current total fluoride limits (lb total F/ton P_2O_5 feed) into HF limits (lb HF/ton P_2O_5 feed). To comply with HF standards, we proposed that facilities use EPA Method 320.

ii. NSPS Subpart V. We proposed new monitoring and recordkeeping requirements for any granular diammonium phosphate plant that commences construction, modification or reconstruction after November 7, 2014 to ensure continuous compliance with the standard. As stated in the preamble to the proposed rule, to ensure that the process scrubbing system is properly maintained over time; ensure continuous compliance with standards; and improve data accessibility, we proposed the owner or operator establish an allowable range for the pressure drop through the process scrubbing system. We also proposed that the owner or operator keep records of the daily average pressure drop through the process scrubbing system, and keep records of deviations.

For consistency with terminology used in the associated NESHAP subpart BB, we proposed changing the term ''scrubbing system'' to ''absorber'' in NSPS subpart V.

iii. NSPS Subpart W. We proposed new monitoring and recordkeeping requirements for any TSP plant that commences construction, modification or reconstruction after November 7, 2014 to ensure continuous compliance with the standard. As stated in the preamble to the proposed rule, to ensure that the process scrubbing system is properly maintained over time; ensure continuous compliance with standards; and improve data accessibility, we proposed the owner or operator establish an allowable range for the pressure drop through the process scrubbing system. We also proposed that the owner or operator keep records of the daily average pressure drop through the process scrubbing system, and keep records of deviations.

For consistency with terminology used in the associated NESHAP subpart BB, we proposed changing the term ''process scrubbing system'' to ''absorber'' in NSPS subpart W.

iv. NSPS Subpart X. We proposed new monitoring and recordkeeping requirements for any GTSP storage facility that commences construction, modification or reconstruction after November 7, 2014 to ensure continuous compliance with the standard. As stated in the preamble to the proposed rule, to ensure that the process scrubbing system is properly maintained over time; ensure continuous compliance with standards; and improve data accessibility, we proposed the owner or operator establish an allowable range for the pressure drop through the process scrubbing system. We also proposed that the owner or operator keep records of the daily average pressure drop through the process scrubbing system, and keep records of deviations.

For consistency with terminology used in the associated NESHAP subpart BB, we proposed changing the term ''process scrubbing system'' to ''absorber'' in NSPS subpart X.

2. How did the provisions regarding these other proposed changes to the Phosphate Fertilizer Production NESHAP and NSPS change since proposal?

a. Clarifications to Applicability and Certain Definitions—i. NESHAP Subpart BB. In consideration of comments received during the public comment period for the proposed rulemaking, we are defining ''phosphate fertilizer process line'' and ''phosphate fertilizer production plant'' separately as discussed in section VI.E.3.a.i of this preamble. We are also revising rule language at 40 CFR 63.620(b)(1), 63.622(a), 63.622(a)(1), 63.622(a)(2), 63.625(a), 63.626(f), in Table 1, and in Table 2 to accommodate this change. We are also removing the proposed language ''includes, but is not limited to'' in the definition of DAP and/or MAP process line for reasons discussed in section VI.E.3.a.ii of this preamble.

ii. NSPS Subpart V. We are not making changes to applicability or definitions in NSPS subpart V.

iii. NSPS Subpart W. We are not making changes to applicability or definitions in NSPS subpart W.

iv. NSPS Subpart X. We are not making changes to applicability or definitions in NSPS subpart X.

b. Testing, Monitoring, Recordkeeping and Reporting.—i. NESHAP Subpart BB. We have not made any changes to our proposed determination that pressure drop is not an appropriate monitoring parameter for absorbers that are designed to operate with pressure drops of 5 inches of water column or less. However, in consideration of comments received during the public comment period for the proposed rulemaking, we are not adopting the proposed options to monitor: (1) The temperature at the wet scrubber gas stream outlet and pressure at the liquid inlet of the absorber, or (2) the temperature at the scrubber gas stream outlet and scrubber gas stream inlet. Instead, we have revised Table 3 of NESHAP subpart BB to require liquid-to-gas ratio monitoring for low-energy absorbers, and influent liquid flow and pressure drop monitoring for high-energy absorbers; and we are keeping liquid-to-gas ratio monitoring as an option for high-energy absorbers in the final rule. (See sections VI.E.3.b.i and VI.E.3.b.ii of this preamble for details.)

In addition to these revisions, we are making corrections at 40 CFR 63.627(a) to clarify the procedures for establishing a new operating limit based on the most recent performance test. We are also revising the requirements at 40 CFR 63.625(d)(1)(ii)(B) to remove the requirement that facilities must request and obtain approval of the Administrator for changing operating limits. (See section VI.E.3.b.iv and VI.E.3.b.v of this preamble for details.)

Also, for reasons discussed in the Comment Summary and Response document available in the docket, we are revising the annual testing schedule in the final rule at 40 CFR 63.626(b), and the terminology for ''maximum representative operating conditions'' in the final rule at 40 CFR 63.626(d).

We are not making any changes to the proposed addition of a site-specific monitoring plan and calibration requirements for CMS. We are also keeping the proposed term ''absorber'' in lieu of ''scrubber,'' as well as the proposed format of NESHAP subpart BB to reference tables for emissions limits and monitoring requirements.

Lastly, we are retaining the current total fluoride limits and not adopting the proposed HF standards and associated EPA Method 320 testing in NESHAP subpart BB (see section VI.E.3.c of this preamble for details).

ii. NSPS Subpart V. We are not making changes to the proposed monitoring and recordkeeping requirements for any granular diammonium phosphate plant that commences construction, modification or reconstruction after August 19, 2015 to ensure continuous compliance with the standard. We are also keeping the proposed term ''absorber'' in lieu of ''scrubbing system.''

iii. NSPS Subpart W. We are not making changes to the proposed monitoring and recordkeeping requirements for any TSP plant that commences construction, modification or reconstruction after August 19, 2015 to ensure continuous compliance with the standard. We are also keeping the proposed term ''absorber'' in lieu of ''process scrubbing system.''

iv. NSPS Subpart X. We are not making changes to the proposed

monitoring and recordkeeping requirements for any GTSP storage facility that commences construction, modification or reconstruction after August 19, 2015 to ensure continuous compliance with the standard. We are also keeping the proposed term ''absorber'' in lieu of ''process scrubbing system.''

3. What key comments did we receive on the other changes to the Phosphate Fertilizer Production NESHAP and NSPS, and what are our responses?

Several comments were received regarding the proposed clarifications to applicability and certain definitions, revisions to testing, monitoring, recordkeeping and reporting, translation of total fluoride to HF emission limits, and revisions to other provisions for the Phosphate Fertilizer Production source category. The following is a summary of several of these comments and our response to those comments. Other comments received and our responses to those comments can be found in the Comment Summary and Response document available in the docket for this action (EPA–HQ–OAR–2012–0522).

a. Applicability Clarifications and Certain Definitions—i. Phosphate Fertilizer Process Line—Comment. Several commenters disapproved of the proposed expansion of the applicability provision for DAP and MAP process lines in 40 CFR 63.620(b)(1) to include ''any process line that produces a reaction product of ammonia and phosphoric acid.'' One commenter asserted that the expanded language could include production of non-granular products that were in existence since the original NESHAP but not regulated by it, and EPA provided no basis for expansion of applicability to bring in these processes now. Other commenters also reiterated that the proposed applicability provision for DAP and MAP process lines was vague and overbroad and would inadvertently regulate any process that combines ammonia and phosphoric acid regardless of the end-product or purpose of facility. One commenter recommended a change in the definition to clarify that subpart BB applies specifically to solid, granulated phosphate products to avoid inclusion of liquid fertilizer products in the proposed rule.

Response. The Agency agrees with the commenter that the proposed language could be interpreted to include production of non-granular products at a phosphate fertilizer production plant. It was not our intent to expand the applicability of 40 CFR subpart BB to include the production of non-granular products at a phosphate fertilizer production plant; therefore, we are revising the definitions of ''phosphate fertilizer process line'' and ''phosphate fertilizer production plant'' in the final rule at 40 CFR 63.621 to reference granular phosphate fertilizer. Also, the definitions of phosphate fertilizer process line and phosphate fertilizer production plant were defined together at proposal (phosphate fertilizer process line or production plant), but are defined separately in the final rule for clarity. The definition of phosphate fertilizer process line means ''any process line that manufactures a granular phosphate fertilizer by reacting phosphoric acid with ammonia. A phosphate fertilizer process line includes: Reactors, granulators, dryers, coolers, screens, and mills.'' The definition of phosphate fertilizer production plant means ''any production plant that manufactures a granular phosphate fertilizer by reacting phosphoric acid with ammonia.''

As an outgrowth of this comment, the Agency revised rule language surrounding the use of ''phosphate fertilizer process line,'' to create clarity and consistency in rule language. Specifically, where the phrase ''diammonium and/or monoammonium phosphate process line and any process line that produces a reaction product of ammonia and phosphoric acid'' was used at proposal, this phrase now reads ''phosphate fertilizer process line (*e.g.,* diammonium and/or monoammonium phosphate process line)'' in the finalized rule. This phrasing was incorporated into final rule language at 40 CFR 63.620(b)(1), 63.622(a), 63.622(a)(1), 63.622(a)(2), 63.625(a), 63.626(f), in Table 1, and in Table 2.

ii. ''Includes, but is Not Limited to''—Comment. A commenter remarked that incorporating the language ''includes, but is not limited to'' in the definition of DAP and/or MAP process line is overly broad and creates ambiguity. They stated that industry should have certainty as to the applicability and scope of the rule, but the language ''includes, but is not limited to'' creates uncertainty as to where the affected equipment begins and ends for purposes of demonstrating compliance.

Response. We agree that this language creates overly broad process line definitions and can lead to regulatory uncertainty for affected sources. Therefore, we are not finalizing the language ''includes, but is not limited to'' in the definition of DAP and/or MAP process line.

b. Testing, Monitoring, Recordkeeping and Reporting—i. Pressure Drop Across Absorber—Comment. Several commenters requested the EPA delete the requirement that pressure drop across an absorber must be greater than 5 inches of water in order to use the option of measuring pressure drop as an operating parameter. These commenters contended that the EPA has not articulated any basis for the requirement. These commenters provided data demonstrating that units operate in compliance with the emission standards when the pressure drop across an absorber is less than 5 inches of water. One of these commenters expressed safety concerns associated with operating scrubbers at higher range pressure drop settings, citing that one of its facilities has experienced the entrainment of moisture within the absorbing tower when operating at pressure drops in excess of 8 inches of water, and another has experienced the buildup of excessive fumes on the digester floor when operating the digester scrubber as high as 6 inches of water.

Response. The Agency maintains its determination that pressure drop is not an appropriate monitoring parameter for absorbers that do not use the energy from the inlet gas to increase contact between the gas and liquid in the absorber (see ''Use of Pressure Drop as an Operating Parameter,'' which is available in Docket ID No. EPA–HQ–OAR–2012–0522). Therefore, we are not revising this proposed amendment. For further explanation please see our response to the identical comment that was made for NESHAP subpart AA in section V.F.3.b.i of this preamble.

ii. Absorber Monitoring Options—Comment. Several commenters called attention to the options of either measuring: (1) The temperature at the wet scrubber gas stream outlet and pressure at the liquid inlet of the absorber, or (2) the temperature at the scrubber gas stream outlet and scrubber gas stream inlet. One of these commenters said that they do not believe monitoring gas temperature in locations of large ambient temperature ranges would provide accurate monitoring of the absorbers performance. The commenter argued that temperature and pressure probes would be very susceptible to scaling issues. In addition, this commenter contended that liquid inlet pressure does not provide any additional monitoring of the absorber performance, since the inlet liquid flow rate is already measured and monitored. Another commenter contended that the EPA has not provided any data or analysis to show that there is a correlation between temperature and emissions; the commenter stated that they were not

aware of any data suggesting a relationship between exit temperature and emissions, or that monitoring temperature difference across an absorber would be effective. One of these commenters argued that they were not in a position to evaluate the difficulties associated with performing the associated monitoring and establishing the requisite operating ranges.

Response. Absorber outlet gas temperature is often used to indicate a change in operation for absorbers used to control thermal processes. Because this source category does not use a thermal process to produce fertilizer, the Agency agrees with the commenters that temperature is not an appropriate monitoring parameter for absorbers used in this source category, and has removed these monitoring options from Table 3 of the final rule (NESHAP subpart BB). However, in light of this comment, the Agency has revised Table 3 of NESHAP subpart BB to require liquid-to-gas ratio monitoring for low-energy absorbers (*i.e.,* absorbers that are designed to operate with pressure drops of 5 inches of water column or less) in lieu of monitoring influent liquid flow and pressure drop through the absorber. Furthermore, the Agency has revised Table 3 of NESHAP subpart BB to require influent liquid flow and pressure drop monitoring for high-energy (*i.e.,* high pressure drop) absorbers, such as venturi scrubbers; and we are keeping liquid-to-gas ratio monitoring as an option for high-energy absorbers in the final rule. For further explanation please see our response to the identical comment that was made for NESHAP subpart AA in section V.F.3.b.ii of this preamble.

iii. Acceptable Range From Baseline Average Value—Comment. One commenter requested that the EPA revise 40 CFR 63.625(d)(1)(ii)(B) to have similar wording to 40 CFR 63.625(d)(1)(ii)(A), in which the allowable parametric limits may encompass up to +/−20 percent of the of the baseline average values for the series of tests used under this option; that is, the parametric limit may extend −20 percent below the lowest baseline average and up to +20 percent above the highest baseline average from the series of performance tests used for this option.

Response. The Agency determined that it is not necessary to revise 40 CFR 63.625(d)(1)(ii)(B) to allow for a ±20 percent operating margin, as this commenter requests, because this provision already allows owners or operators to establish an operating limit range for a control device without having to apply an operating margin, such as ±20 percent. Owners or operators that use an absorber or a WESP to comply with the emission limits (and monitor pressure drop across each absorber or secondary voltage for a WESP) have two options to establish operating limits for demonstrating continuous compliance: (1) At 40 CFR 63.625(d)(1)(ii)(A), the operating limits may be determined using the most recent performance test and applying an operating margin of ±20 percent (*e.g.,* during the three test runs conducted for an owner's or operator's most recent performance test that demonstrated compliance with the emission limit, the arithmetic average of the absorber pressure drops recorded was 7 inches of water; therefore, under this option, the owner's or operator's operating limit range for this absorber would be 5.6 to 8.4 inches of water, or ±20 percent of 7); or (2) at 40 CFR 63.625(d)(1)(ii)(B), owners or operators may establish operating limit ranges based upon baseline values of operating parameters established in either historic performance tests or performance tests conducted specifically to establish such ranges (*e.g.,* an owner or operator could choose to conduct two consecutive performance tests consisting of three test runs each and if the owner or operator demonstrates compliance with the emission limit while operating an absorber with a pressure drop of 6 inches of water during the first performance test, and then in the second performance test the owner or operator demonstrates compliance with the emission limit while operating an absorber with a pressure drop of 10 inches of water, the owner's or operator's operating limit range for this absorber would be 6 to 10 inches of water under this option). Additionally, the rule permits owners or operators to undertake additional performance testing (for either option) to establish control device operating limits which reflect compliance with the emission limit for the full range of operating conditions of the control device. Therefore, the Agency has determined that no change to 40 CFR 63.625(d)(1)(ii)(B) is warranted.

iv. Operating Range Established From a Previous Test—Comment. One commenter stated that 40 CFR 63.627(a) is somewhat ambiguous, tending to suggest that affected facilities would be immediately required to implement new equipment operating ranges following a source test, even if operating conditions from previous source tests demonstrated compliance with fluoride emission standards. The commenter argued that there is no reason that a new performance test at a new operating range should invalidate a previous performance test at a different operating range.

Response. The Agency has clarified in the final rule at 40 CFR 63.627(a) that during the most recent performance test, if owners or operators demonstrate compliance with the emission limit while operating their control device outside the previously established operating limit, then limits must be established. Owners or operators must establish a new operating limit based on that most recent performance test and notify the Administrator that the operating limit changed based on data collected during the most recent performance test. For further explanation please see our response to the identical comment that was made for NESHAP subpart AA in section V.F.3.b.iii of this preamble.

v. Approving Operating Ranges—Comment. Several commenters support the EPA's proposal to eliminate the requirement that facilities may not implement new operating parameter ranges until the Administrator has approved them, or 30 days have passed since submission of the performance test results. However, two of these commenters pointed out that the EPA did not make the same allowance in 40 CFR 63.625(d)(1)(ii)(B), where a series of tests (potentially including historical tests) are used to establish an operating range. A commenter pointed out that 40 CFR 63.625(d)(1)(ii)(B), as proposed, does not provide the 30-day default period for the effectiveness of the new ranges if the EPA Administrator does not act; therefore, as currently set forth in the proposed rule, sources will be left in limbo waiting for the EPA Administrator to respond before they can implement new ranges. A commenter suggested that the EPA revise the proposed regulatory language to require submission of the new ranges to EPA, but delete the requirement to request and obtain EPA's approval of the new ranges. Similarly, another commenter requested the EPA clarify the process for establishing new equipment operating ranges following source performance testing. This commenter contended that facilities should have the ability to update operating parameters if they desire based on source testing, and the facility should be required to submit the new ranges, but not be required to obtain EPA's approval of the new ranges.

In addition, a commenter requested that the EPA clarify how revising the proposed regulatory language to require submission of the new ranges to the

EPA, but deleting the requirement to request and obtain EPA's approval of the new ranges, will affect possible obligations to undertake permit modifications of title V permits under 40 CFR part 70. This commenter stated that such administrative processes are not fully anticipated in the proposed rule.

Response. In the proposed NESHAP subpart BB, the Agency intended that facilities not be required to obtain approval, and instead, immediately comply with a new operating limit when it is developed and submitted to the Administrator. Therefore, the requirements at 40 CFR 63.625(d)(1)(ii)(B) have been revised in the final rule, as the commenter requests, to remove the requirement that facilities must request and obtain approval of the Administrator for changing operating limits. Furthermore, the Agency suggests that the title V permit be modified as soon as the Administrator is notified of a change in an operating limit. The Agency acknowledges that corrections and modifications to permit applications could become a problem for a facility, particularly if the Administrator determines the operating limit is not appropriate after a facility has already applied for the change to be made in their air permit; however, we expect this scenario to be rare.

c. Translation of Total Fluoride to HF Emission Limits—Comment. Several commenters expressed concerns regarding the methodology for expressing the existing total fluoride limits in terms of HF (refer to section V.F.3.c of this preamble for a summary of comments received on this topic).

Response. In light of information provided by commenters, the Agency has re-evaluated the proposed revision to the standard and determined that EPA Method 320 is not an appropriate test method for accurately measuring HF emissions from process lines at this specific source category due to the complex and often incomplete chemical reactions with silicon compounds in these sources. Accordingly, we are not adopting the proposed HF standards, and instead we are retaining the existing total fluoride limits for all emission sources in subpart BB. For further explanation on this determination, refer to section V.F.3.c of this preamble. Although, at the present time, the Agency is not finalizing HF standards in NESHAP subpart BB, it may be possible to do so in a future rulemaking with additional data and specificity on monitoring requirements.

4. What is the rationale for our final decisions regarding these other changes to the Phosphate Fertilizer Production NESHAP and NSPS?

For the reasons provided above and in the preamble for the proposed rule, we are finalizing the proposed requirement in NESHAP subpart BB that pressure drop across an absorber must be greater than 5 inches of water in order to use the option of measuring pressure drop as an operating parameter; and other proposed clarifications and corrections.

Additionally, for the reasons provided above, we are making the revisions, clarifications and corrections noted in section VI.E.2 in the final rules for NESHAP subpart BB, NSPS subpart V, NSPS subpart W, and NSPS subpart X.

VII. Summary of Cost, Environmental, and Economic Impacts and Additional Analyses Conducted

A. What are the affected facilities?

We anticipate that the 13 facilities currently operating in the U.S. will be affected by these amendments. We do not expect any new facilities to be constructed or expanded in the foreseeable future.

B. What are the air quality impacts?

We anticipate HF emissions reductions as a result of one facility installing controls on its oxidation reactor to comply with the SPA total fluoride limit. However, we do not have emissions data for its oxidation reactor to calculate these reductions. In addition, the revised rule will mitigate future increases of Hg emissions from phosphate rock calciners by requiring compliance with numeric emission limits.

C. What are the cost impacts?

We have estimated compliance costs for all existing sources to add the necessary controls and monitoring devices, perform inspections, and implement recordkeeping and reporting requirements to comply with the final rules. Based on this analysis, we anticipate an overall total capital investment of $346,000, with an associated total annualized cost of approximately $294,000. We do not anticipate the construction of any new phosphoric acid manufacturing plants or phosphate fertilizer production facilities in the next 5 years. Therefore, there are no anticipated new source cost impacts. We estimated the cost to install a venturi scrubber to meet the SPA process line total fluoride standard, when oxidation reactor emissions are included, for one facility. For all emission sources, we calculated capital and annual costs for testing, monitoring, recordkeeping, and reporting. The memorandum, ''Control Costs and Emissions Reductions for Phosphoric Acid and Phosphate Fertilizer Production Source Categories—Final Rule,'' which is available in the docket for this action, documents the control cost analyses.

D. What are the economic impacts?

Economic impact analyses focus on changes in market prices and output levels. If changes in market prices and output levels in the primary markets are significant, we also examine impacts on other markets. Both the magnitude of costs needed to comply with the rule and the distribution of these costs among affected facilities can have a role in determining how the market will change in response to the rule. We project that no facility will incur significant costs.

Because no small firms will incur control costs, there is no significant impact on small entities. Thus, we do not expect this regulation to have a significant impact on a substantial number of small entities.

E. What are the benefits?

The revised rule will mitigate future increases of Hg emissions from phosphate rock calciners by requiring compliance with numeric emission limits. These avoided emissions will result in improvements in air quality and reduced negative health effects associated with exposure to air pollution of these emissions. However, we have not quantified or monetized the benefits of reducing these emissions for this rulemaking because information is not available to monetize potential benefits and we are not aware of any new phosphate rock calciners that will be constructed in the next three years.

F. What analysis of environmental justice did we conduct?

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

The EPA has determined that this rule will not have disproportionately high and adverse human health or environmental effects on minority, low-

income, or indigenous populations because it increases the level of environmental protection for all affected populations without having any disproportionately high and adverse human health or environmental effects on any population, including any minority or low-income population. To gain a better understanding of the source category and near source populations, the EPA conducted a proximity analysis on phosphate facilities to identify any overrepresentation of minority, low income, or indigenous populations. This analysis only gives some indication of the prevalence of sub-populations that may be exposed to air pollution from the sources; it does not identify the demographic characteristics of the most highly affected individuals or communities, nor does it quantify the level of risk faced by those individuals or communities.

The proximity analysis reveals that most demographic categories are below or within 20 percent of their corresponding national averages. The two exceptions are the minority and African American populations. The ratio of African Americans living within 3 miles of any source affected by this rule is 131 percent higher than the national average (29 percent versus 13 percent). The percentage of minorities living within 3 miles of any source affected by this rule is 37 percent above the national average (35 percent versus 28 percent). The large minority population is a direct result of the higher percentage of African Americans living near these facilities (the other racial minorities are below or equal to the national average). However, as noted previously, we found the risks from these source categories to be acceptable for all populations.

The changes to the standard increase the level of environmental protection for all affected populations by ensuring no future emission increases from the source categories. The proximity analysis results and the details concerning their development are presented in the October 2012 memorandum, ''Environmental Justice Review: Phosphate Fertilizer Production and Phosphoric Acid,'' a copy of which is available in Docket ID No. EPA–HQ–OAR–2012–0522.

G. What analysis of children's environmental health did we conduct?

While this action is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), we note that the current standards provide an ample margin of safety to protect public health. Consideration of children's health is accounted for in our risk analyses, which compare projected exposures to various health benchmarks that are based on the most sensitive populations.

VIII. Statutory and Executive Order Reviews

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

This action is not a significant regulatory action and was, therefore, not submitted to the Office of Management and Budget (OMB) for review. The EPA analyzed the potential costs and benefits associated with this action. The results are presented in sections VII.C and E of this preamble.

B. Paperwork Reduction Act (PRA)

The information collection activities in these rules have been submitted for approval to OMB under the PRA. The Information Collection Request (ICR) document that the EPA prepared has been assigned EPA ICR number 1790.06. You can find a copy of the ICR in the docket for this rule, and it is briefly summarized here. The information collection requirements are not enforceable until OMB approves them.

We are finalizing new paperwork requirements to the Phosphoric Acid Manufacturing and Phosphate Fertilizer Production source categories in the form of additional requirements for stack testing, performance evaluations, and work practices for fugitive sources.

We estimate 12 regulated entities are currently subject to 40 CFR part 63, subpart AA and 11 regulated entities are currently subject to 40 CFR part 63, subpart BB and each will be subject to all applicable standards. The annual monitoring, reporting, and recordkeeping burden for these amendments to subpart AA and BB is estimated to be $224,000 per year (averaged over the first 3 years after the effective date of the standards). This includes 670 labor hours per year at a total labor cost of $55,000 per year, and total non-labor capital and operating and maintenance costs of $169,000 per year. This estimate includes performance tests, notifications, reporting and recordkeeping associated with the new requirements for emission points and associated control devices. The total burden to the federal government is estimated to be 330 hours per year at a total labor cost of $17,000 per year (averaged over the first 3 years after the effective date of the standard). Burden is defined at 5 CFR 1320.3(b).

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for the EPA's regulations in 40 CFR are listed in 40 CFR part 9. When OMB approves this ICR, the Agency will announce that approval in the **Federal Register** and publish a technical amendment to 40 CFR part 9 to display the OMB control number for the approved information collection activities contained in this final rule.

C. Regulatory Flexibility Act (RFA)

I certify that this action will not have a significant economic impact on a substantial number of small entities under the RFA. In making this determination, the impact of concern is any significant adverse economic impact on small entities. An agency may certify that a rule will not have a significant economic impact on a substantial number of small entities if the rule relieves regulatory burden, has no net burden or otherwise has a positive economic effect on the small entities subject to the rule. This rule will not impose any requirements on small entities because we do not project that any small entities will incur costs due to these rule amendments. We have therefore concluded that this action will have no net regulatory burden for all directly regulated small entities.

D. Unfunded Mandates Reform Act (UMRA)

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

E. Executive Order 13132: Federalism

This action does not have federalism implications. It will not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government.

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

This action has tribal implications. However, it will neither impose substantial direct compliance costs on federally recognized tribal governments, nor preempt tribal law. The tribal implications are primarily due to the close proximity of one facility to a tribe (the Shoshone-Bannock).

The EPA consulted with tribal officials under the EPA Policy on

Consultation and Coordination with Indian Tribes early in the process of developing this regulation to permit them to have meaningful and timely input into its development. The Agency provided an overview of the source categories and rulemaking process during a monthly teleconference with the National Tribal Air Association. Additionally, we provided targeted outreach, including a visit to the Shoshone-Bannock tribe and meeting with environmental leaders for the tribe.

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

This action is not subject to Executive Order 13045 because it is not economically significant as defined in Executive Order 12866, and because the EPA does not believe the environmental health or safety risks addressed by this action present a disproportionate risk to children. This action's health and risk assessments are contained in sections V.A. and VI.A.

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

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

I. National Technology Transfer and Advancement Act (NTTAA) and 1 CFR part 51

This action involves technical standards. The EPA has decided to use analytical methods of the Association of Official Analytical Chemists (AOAC) and of the Association of Fertilizer and Phosphate Chemists (AFPC). The AOAC methods include: AOAC Official Method 957.02 Phosphorus (Total) in Fertilizers, Preparation of Sample Solution, AOAC Official Method 929.01 Sampling of Solid Fertilizers, AOAC Official Method 929.02 Preparation of Fertilizer Sample, AOAC Official Method 978.01 Phosphorous (Total) in Fertilizers, Automated Method, AOAC Official Method 969.02 Phosphorous (Total) in Fertilizers, Alkalimetric Quinolinium Molybdophosphate Method, AOAC Official Method 962.02 Phosphorous (Total) in Fertilizers, Gravimetric Quinolinium Molybdophosphate Method and Quinolinium Molybdophosphate Method 958.01 Phosphorous (Total) in Fertilizers, Spectrophotometric Molybdovanadophosphate Method. The AFPC methods for analysis of phosphate rock include: No. 1 Preparation of Sample, No. 3 Phosphorus-P_2O_5 or $Ca_3(PO_4)_2$, Method A—Volumetric Method, No. 3 Phosphorus-P_2O_5 or $Ca_3(PO_4)_2$, Method B—Gravimetric Quimociac Method, No. 3 Phosphorus-P_2O_5 or $Ca_3(PO_4)_2$, Method C—Spectrophotometric Method. The AFPC methods for analysis of phosphoric acid, superphosphate, triple superphosphate and ammonium phosphates include: No. 3 Total Phosphorus-P_2O_5, Method A-Volumetric Method, No. 3 Total Phosphorus-P_2O_5, Method B—Gravimetric Quimociac Method and No. 3 Total Phosphorus-P_2O_5, Method C—Spectrophotometric Method.

As discussed in the preamble of the proposal, under NESHAP subpart AA and NESHAP subpart BB, we conducted searches for EPA Methods 5, 13A, 13B, and 30B. The EPA conducted searches through the Enhanced National Standards Systems Network (NSSN) Database managed by the American National Standards Institute (ANSI). We contacted voluntary consensus standards (VCS) organizations, and accessed and searched their databases. We did not identify any applicable VCS for EPA Methods 5, 13A, 13B, or 30B. Additional information for the VCS search and determinations can be found in the memorandum, ''Voluntary Consensus Standard Results for Phosphoric Acid Manufacturing and Phosphate Fertilizer Production RTR and Standards of Performance for Phosphate Processing,'' which is available in the docket for this action. The EPA solicited comments on VCS and invited the public to identify potentially applicable VCS; however, we did not receive comments regarding this aspect of NESHAP subpart AA and NESHAP subpart BB.

The EPA is incorporating, into NESHAP subpart AA and NESHAP subpart BB, the following guidance document: EPA–454/R–98–015, Office Of Air Quality Planning And Standards (OAQPS), Fabric Filter Bag Leak Detection Guidance, September 1997. This guidance document provides procedures for selecting, installing, setting up, adjusting, and operating a bag leak detection system; and also includes quality assurance procedures. This guidance document is readily accessible at *http://www.epa.gov/ttn/emc/cem.html*.

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

The EPA believes the human health or environmental risk addressed by this action will not have potential disproportionately high and adverse human health or environmental effects on minority, low-income, or indigenous populations because it increases the level of protection provided to human health or the environment. The results of this evaluation are contained in the memorandum titled ''Environmental Justice Review: Phosphate Fertilizer Production and Phosphoric Acid,'' which is available in Docket ID No. EPA–HQ–OAR–2012–0522, and are discussed in section VII.F of this preamble.

K. Congressional Review Act

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

List of Subjects

40 CFR Part 60

Environmental protection, Air pollution control, Fertilizers, Fluoride, Particulate matter, Phosphate, Reporting and recordkeeping requirements.

40 CFR Part 63

Environmental protection, Administrative practice and procedures, Air pollution control, Hazardous substances, Incorporation by reference, Intergovernmental relations, Reporting and recordkeeping requirements.

Dated: July 21, 2015.

Gina McCarthy,

Administrator.

For the reasons stated in the preamble, parts 60 and 63 of title 40, chapter I, of the Code of Federal Regulations are amended as follows:

PART 60—STANDARDS OF PERFORMANCE FOR NEW STATIONARY SOURCES

■ 1. The authority citation for part 60 continues to read as follows:

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

Subpart T—Standards of Performance for the Phosphate Fertilizer Industry: Wet-Process Phosphoric Acid Plants

■ 2. Section 60.200 is amended by revising paragraph (a) to read as follows:

§ 60.200 Applicability and designation of affected facility.

(a) The affected facility to which the provisions of this subpart apply is each wet-process phosphoric acid plant having a design capacity of more than 15 tons of equivalent P_2O_5 feed per calendar day.

* * * * *

■ 3. Section 60.201 is amended by revising paragraph (a) to read as follows:

§ 60.201 Definitions.

* * * * *

(a) *Wet-process phosphoric acid plant* means any facility manufacturing phosphoric acid by reacting phosphate rock and acid. A wet-process phosphoric acid plant includes: Reactors, filters, evaporators, and hot wells.

* * * * *

■ 4. Section 60.203 is amended by revising paragraph (c) and adding paragraph (d) to read as follows:

§ 60.203 Monitoring of operations.

* * * * *

(c) The owner or operator of any wet-process phosphoric acid plant subject to the provisions of this part shall install, calibrate, maintain, and operate a monitoring device which continuously measures and permanently records the total pressure drop across the absorber. The monitoring device shall have an accuracy of ±5 percent over its operating range.

(d) Any facility under § 60.200(a) that commences construction, modification or reconstruction after November 7, 2014 is subject to the requirements of this paragraph instead of the requirements in paragraph (c) of this section. If an absorber is used to comply with § 60.202, then the owner or operator shall continuously monitor pressure drop through the absorber and meet the requirements specified in paragraphs (d)(1) through (4) of this section.

(1) The owner or operator shall install, calibrate, maintain, and operate a continuous monitoring system (CMS) that continuously measures and permanently records the pressure at the gas stream inlet and outlet of the absorber. The pressure at the gas stream inlet of the absorber may be measured using amperage on the blower if a correlation between pressure and amperage is established.

(2) The CMS must have an accuracy of ±5 percent over the normal range measured or 0.12 kilopascals (0.5 inches of water column), whichever is greater.

(3) The owner or operator shall establish an allowable range for the pressure drop through the absorber. The allowable range is ±20 percent of the arithmetic average of the three test runs conducted during the performance test required in § 60.8. The Administrator retains the right to reduce the ±20 percent adjustment to the baseline average values of operating ranges in those instances where performance test results indicate that a source's level of emissions is near the value of an applicable emissions standard. However, the adjustment must not be reduced to less than ±10 percent under any instance.

(4) The owner or operator shall demonstrate continuous compliance by maintaining the daily average pressure drop through the absorber to within the allowable range established in paragraph (d)(3) of this section. The daily average pressure drop through the absorber for each operating day shall be calculated using the data recorded by the monitoring system. If the emissions unit operation is continuous, the operating day is a 24-hour period. If the emissions unit operation is not continuous, the operating day is the total number of hours of control device operation per 24-hour period. Valid data points must be available for 75 percent of the operating hours in an operating day to compute the daily average.

■ 5. Subpart T is amended by adding § 60.205 to read as follows:

§ 60.205 Recordkeeping.

Any facility under § 60.200(a) that commences construction, modification or reconstruction after November 7, 2014 is subject to the requirements of this section. You must maintain the records identified as specified in § 60.7(f) and in paragraphs (a) and (b) of this section. All records required by this subpart must be maintained on site for at least 5 years.

(a) *Records of the daily average pressure.* Records of the daily average pressure drop through the absorber.

(b) *Records of deviations.* A deviation is determined to have occurred when the monitoring data or lack of monitoring data result in any one of the criteria specified in paragraphs (b)(1) and (2) of this section being met.

(1) A deviation occurs when the daily average value of a monitored operating parameter is less than the minimum pressure drop, or greater than the maximum pressure drop established in § 60.203(d)(3).

(2) A deviation occurs when the monitoring data are not available for at least 75 percent of the operating hours in a day.

Subpart U—Standards of Performance for the Phosphate Fertilizer Industry: Superphosphoric Acid Plants

■ 6. Section 60.210 is amended by revising paragraph (a) to read as follows:

§ 60.210 Applicability and designation of affected facility.

(a) The affected facility to which the provisions of this subpart apply is each superphosphoric acid plant having a design capacity of more than 15 tons of equivalent P_2O_5 feed per calendar day.

* * * * *

■ 7. Section 60.211 is amended by revising paragraph (a) to read as follows:

§ 60.211 Definitions.

* * * * *

(a) *Superphosphoric acid plant* means any facility that concentrates wet-process phosphoric acid to 66 percent or greater P_2O_5 content by weight for eventual consumption as a fertilizer. A superphosphoric acid plant includes: evaporators, hot wells, acid sumps, oxidation reactors, and cooling tanks. An oxidation reactor includes any equipment or step that uses an oxidizing agent (*e.g.,* nitric acid, ammonium nitrate, or potassium permanganate) to treat superphosphoric acid.

* * * * *

■ 8. Section 60.213 is amended by revising paragraph (c) and adding paragraph (d) to read as follows:

§ 60.213 Monitoring of operations.

* * * * *

(c) Except as specified in paragraph (d) of this section, the owner or operator of any superphosphoric acid plant subject to the provisions of this part shall install, calibrate, maintain, and operate a monitoring device which continuously measures and permanently records the total pressure drop across the absorber. The monitoring device shall have an accuracy of ±5 percent over its operating range.

(d) Any affected facility as defined in § 60.210(a) that commences construction, modification or reconstruction after November 7, 2014 is subject to the requirements of this paragraph instead of the requirements in paragraph (c) of this section. If an absorber is used to comply with § 60.212, then the owner or operator shall continuously monitor pressure drop through the absorber and meet the requirements specified in paragraphs (d)(1) through (4) of this section.

(1) The owner or operator shall install, calibrate, maintain, and operate a continuous monitoring system (CMS) that continuously measures and permanently records the pressure at the gas stream inlet and outlet of the absorber. The pressure at the gas stream inlet of the absorber may be measured using amperage on the blower if a correlation between pressure and amperage is established.

(2) The CMS must have an accuracy of ±5 percent over the normal range measured or 0.12 kilopascals (0.5 inches of water column), whichever is greater.

(3) The owner or operator shall establish an allowable range for the pressure drop through the absorber. The allowable range is ±20 percent of the arithmetic average of the three test runs conducted during the performance test required in § 60.8. The Administrator retains the right to reduce the ±20 percent adjustment to the baseline average values of operating ranges in those instances where performance test results indicate that a source's level of emissions is near the value of an applicable emissions standard. However, the adjustment must not be reduced to less than ±10 percent under any instance.

(4) The owner or operator shall demonstrate continuous compliance by maintaining the daily average pressure drop through the absorber to within the allowable range established in paragraph (d)(3) of this section. The daily average pressure drop through the absorber for each operating day shall be calculated using the data recorded by the monitoring system. If the emissions unit operation is continuous, the operating day is a 24-hour period. If the emissions unit operation is not continuous, the operating day is the total number of hours of control device operation per 24-hour period. Valid data points must be available for 75 percent of the operating hours in an operating day to compute the daily average.

■ 9. Subpart U is amended by adding § 60.215 to read as follows:

§ 60.215 Recordkeeping.

An affected facility as defined in § 60.210(a) that commences construction, modification, or reconstruction after November 7, 2014 is subject to the requirements of this section. You must maintain the records identified as specified in § 60.7(f) and in paragraphs (a) and (b) of this section. All records required by this subpart must be maintained on site for at least 5 years.

(a) *Records of the daily average pressure.* Records of the daily average pressure drop through the absorber.

(b) *Records of deviations.* A deviation is determined to have occurred when the monitoring data or lack of monitoring data result in any one of the criteria specified in paragraphs (b)(1) and (2) of this section being met.

(1) A deviation occurs when the daily average value of a monitored operating parameter is less than the minimum pressure drop, or greater than the maximum pressure drop established in § 60.213(d)(3).

(2) A deviation occurs when the monitoring data are not available for at least 75 percent of the operating hours in a day.

Subpart V—Standards of Performance for the Phosphate Fertilizer Industry: Diammonium Phosphate Plants

■ 10. Section 60.223 is amended by revising paragraph (c) and adding paragraph (d) to read as follows:

§ 60.223 Monitoring of operations.

* * * * *

(c) Except as specified in paragraph (d) of this section, the owner or operator of any granular diammonium phosphate plant subject to the provisions of this subpart shall install, calibrate, maintain, and operate a monitoring device which continuously measures and permanently records the total pressure drop across the scrubbing system. The monitoring device shall have an accuracy of ±5 percent over its operating range.

(d) Any affected facility as defined in § 60.220(a) that commences construction, modification, or reconstruction after November 7, 2014 is subject to the requirements of this paragraph instead of the requirements in paragraph (c) of this section. If an absorber is used to comply with § 60.222, then the owner or operator shall continuously monitor pressure drop through the absorber and meet the requirements specified in paragraphs (d)(1) through (4) of this section.

(1) The owner or operator shall install, calibrate, maintain, and operate a continuous monitoring system (CMS) that continuously measures and permanently records the pressure at the gas stream inlet and outlet of the absorber. The pressure at the gas stream inlet of the absorber may be measured using amperage on the blower if a correlation between pressure and amperage is established.

(2) The CMS must have an accuracy of ±5 percent over the normal range measured or 0.12 kilopascals (0.5 inches of water column), whichever is greater.

(3) The owner or operator shall establish an allowable range for the pressure drop through the absorber. The allowable range is ±20 percent of the arithmetic average of the three test runs conducted during the performance test required in § 60.8. The Administrator retains the right to reduce the ±20 percent adjustment to the baseline average values of operating ranges in those instances where performance test results indicate that a source's level of emissions is near the value of an applicable emissions standard. However, the adjustment must not be reduced to less than ±10 percent under any instance.

(4) The owner or operator shall demonstrate continuous compliance by maintaining the daily average pressure drop through the absorber to within the allowable range established in paragraph (d)(3) of this section. The daily average pressure drop through the absorber for each operating day shall be calculated using the data recorded by the monitoring system. If the emissions unit operation is continuous, the operating day is a 24-hour period. If the emissions unit operation is not continuous, the operating day is the total number of hours of control device operation per 24-hour period. Valid data points must be available for 75 percent of the operating hours in an operating day to compute the daily average.

■ 11. Section 60.224 is amended by revising paragraph (b)(3)(ii) to read as follows:

§ 60.224 Test methods and procedures.

* * * * *

(b) * * *

(3) * * *

(ii) The Association of Official Analytical Chemists (AOAC) Method 9 (incorporated by reference—see § 60.17) shall be used to determine the P_2O_5 content (R_p) of the feed.

■ 12. Subpart V is amended by adding § 60.225 to read as follows:

§ 60.225 Recordkeeping.

An affected facility as defined in § 60.220(a) that commences construction, modification, or reconstruction after November 7, 2014 is subject to the requirements of this section. You must maintain the records identified as specified in § 60.7(f) and in paragraphs (a) and (b) of this section. All records required by this subpart must be maintained on site for at least 5 years.

(a) Records of the daily average pressure drop through the absorber.

(b) Records of deviations. A deviation is determined to have occurred when the monitoring data or lack of monitoring data result in any one of the criteria specified in paragraphs (b)(1) and (2) of this section being met.

(1) A deviation occurs when the daily average value of a monitored operating parameter is less than the minimum pressure drop, or greater than the maximum pressure drop established in § 60.223(d)(3).

(2) A deviation occurs when the monitoring data are not available for at least 75 percent of the operating hours in a day.

Subpart W—Standards of Performance for the Phosphate Fertilizer Industry: Triple Superphosphate Plants

■ 13. Section 60.230 is amended by revising paragraph (a) to read as follows:

§ 60.230 Applicability and designation of affected facility.

(a) The affected facility to which the provisions of this subpart apply is each triple superphosphate plant having a design capacity of more than 15 tons of equivalent P_2O_5 feed per calendar day. For the purpose of this subpart, the affected facility includes any combination of: mixers, curing belts (dens), reactors, granulators, dryers, coolers, screens, mills, and facilities that store run-of-pile triple superphosphate.

* * * * *

■ 14. Section 60.233 is revised to read as follows:

§ 60.233 Monitoring of operations.

(a) The owner or operator of any triple superphosphate plant subject to the provisions of this subpart shall install, calibrate, maintain, and operate a flow monitoring device that can be used to determine the mass flow of phosphorus-bearing feed material to the process. The flow monitoring device shall have an accuracy of ±5 percent over its operating range.

(b) The owner or operator of any triple superphosphate plant shall maintain a daily record of equivalent P_2O_5 feed by first determining the total mass rate in Mg/hr of phosphorus-bearing feed using a flow monitoring device meeting the requirements of paragraph (a) of this section and then by proceeding according to § 60.234(b)(3).

(c) Except as specified in paragraph (d) of this section, the owner or operator of any triple superphosphate plant subject to the provisions of this part shall install, calibrate, maintain, and operate a monitoring device that continuously measures and permanently records the total pressure drop across the absorber. The monitoring device shall have an accuracy of ±5 percent over its operating range.

(d) Any facility under § 60.230(a) that commences construction, modification, or reconstruction after November 7, 2014 is subject to the requirements of this paragraph instead of the requirements in paragraph (c) of this section. If an absorber is used to comply with § 60.232, then the owner or operator shall continuously monitor pressure drop through the absorber and meet the requirements specified in paragraphs (d)(1) through (4) of this section.

(1) The owner or operator shall install, calibrate, maintain, and operate a continuous monitoring system (CMS) that continuously measures and permanently records the pressure at the gas stream inlet and outlet of the absorber. The pressure at the gas stream inlet of the absorber may be measured using amperage on the blower if a correlation between pressure and amperage is established.

(2) The CMS must have an accuracy of ±5 percent over the normal range measured or 0.12 kilopascals (0.5 inches of water column), whichever is greater.

(3) The owner or operator shall establish an allowable range for the pressure drop through the absorber. The allowable range is ±20 percent of the arithmetic average of the three test runs conducted during the performance test required in § 60.8. The Administrator retains the right to reduce the ±20 percent adjustment to the baseline average values of operating ranges in those instances where performance test results indicate that a source's level of emissions is near the value of an applicable emissions standard. However, the adjustment must not be reduced to less than ±10 percent under any instance.

(4) The owner or operator shall demonstrate continuous compliance by maintaining the daily average pressure drop through the absorber to within the allowable range established in paragraph (d)(3) of this section. The daily average pressure drop through the absorber for each operating day shall be calculated using the data recorded by the monitoring system. If the emissions unit operation is continuous, the operating day is a 24-hour period. If the emissions unit operation is not continuous, the operating day is the total number of hours of control device operation per 24-hour period. Valid data points must be available for 75 percent of the operating hours in an operating day to compute the daily average.

■ 15. Subpart W is amended by adding § 60.235 to read as follows:

§ 60.235 Recordkeeping.

Any facility under § 60.230(a) that commences construction, modification, or reconstruction after November 7, 2014 is subject to the requirements of this section. You must maintain the records identified as specified in § 60.7(f) and in paragraphs (a) and (b) of this section. All records required by this subpart must be maintained onsite for at least 5 years.

(a) Records of the daily average pressure drop through the absorber.

(b) Records of deviations. A deviation is determined to have occurred when the monitoring data or lack of monitoring data result in any one of the criteria specified in paragraphs (b)(1) and (2) of this section being met.

(1) A deviation occurs when the daily average value of a monitored operating parameter is less than the minimum pressure drop, or greater than the maximum pressure drop established in § 60.233(d)(3).

(2) A deviation occurs when the monitoring data are not available for at least 75 percent of the operating hours in a day.

Subpart X—Standards of Performance for the Phosphate Fertilizer Industry: Granular Triple Superphosphate Storage Facilities

■ 16. Section 60.243 is amended by revising paragraph (c) and adding (e) to read as follows:

§ 60.243 Monitoring of operations.

* * * * *

(c) Except as specified in paragraph (e) of this section, the owner or operator of any granular triple superphosphate storage facility subject to the provisions of this subpart shall install, calibrate, maintain, and operate a monitoring device that continuously measures and permanently records the total pressure drop across any absorber. The monitoring device shall have an accuracy of ±5 percent over its operating range.

* * * * *

(e) Any facility under § 60.240(a) that commences construction, modification, or reconstruction after November 7, 2014 is subject to the requirements of this paragraph instead of the requirements in paragraph (c) of this section. If an absorber is used to comply with § 60.232, then the owner or operator shall continuously monitor pressure drop through the absorber and meet the requirements specified in paragraphs (e)(1) through (4) of this section.

(1) The owner or operator shall install, calibrate, maintain, and operate a continuous monitoring system (CMS) that continuously measures and permanently records the pressure at the gas stream inlet and outlet of the absorber. The pressure at the gas stream inlet of the absorber may be measured using amperage on the blower if a correlation between pressure and amperage is established.

(2) The CMS must have an accuracy of ±5 percent over the normal range measured or 0.12 kilopascals (0.5 inches of water column), whichever is greater.

(3) The owner or operator shall establish an allowable range for the

pressure drop through the absorber. The allowable range is ±20 percent of the arithmetic average of the three test runs conducted during the performance test required in § 60.8. The Administrator retains the right to reduce the ±20 percent adjustment to the baseline average values of operating ranges in those instances where performance test results indicate that a source's level of emissions is near the value of an applicable emissions standard. However, the adjustment must not be reduced to less than ±10 percent under any instance.

(4) The owner or operator shall demonstrate continuous compliance by maintaining the daily average pressure drop through the absorber to within the allowable range established in paragraph (e)(3) of this section. The daily average pressure drop through the absorber for each operating day shall be calculated using the data recorded by the monitoring system. If the emissions unit operation is continuous, the operating day is a 24-hour period. If the emissions unit operation is not continuous, the operating day is the total number of hours of control device operation per 24-hour period. Valid data points must be available for 75 percent of the operating hours in an operating day to compute the daily average.

■ 17. Subpart X is amended by adding § 60.245 to read as follows:

§ 60.245 Recordkeeping.

Any facility under § 60.240(a) that commences construction, modification, or reconstruction after November 7, 2014 is subject to the requirements of this section. You must maintain the records identified as specified in § 60.7(f) and in paragraphs (a) and (b) of this section. All records required by this subpart must be maintained onsite for at least 5 years.

(a) Records of the daily average pressure drop through the absorber.

(b) Records of deviations. A deviation is determined to have occurred when the monitoring data or lack of monitoring data result in any one of the criteria specified in paragraphs (b)(1) and (2) of this section being met.

(1) A deviation occurs when the daily average value of a monitored operating parameter is less than the minimum pressure drop, or greater than the maximum pressure drop established in § 60.243(e)(3).

(2) A deviation occurs when the monitoring data are not available for at least 75 percent of the operating hours in a day.

PART 63—NATIONAL EMISSION STANDARDS FOR HAZARDOUS AIR POLLUTANTS FOR SOURCE CATEGORIES

■ 18. The authority citation for part 63 continues to read as follows:

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

Subpart A—General Provisions

■ 19. Section 63.14 is amended by revising paragraphs (b), (c)(1) through (7), and (l)(2) to read as follows:

§ 63.14 Incorporations by reference.

* * * * *

(b) The Association of Florida Phosphate Chemists, P.O. Box 1645, Bartow, Florida 33830.

(1) Book of Methods Used and Adopted By The Association of Florida Phosphate Chemists, Seventh Edition 1991:

(i) Section IX, Methods of Analysis for Phosphate Rock, No. 1 Preparation of Sample, IBR approved for § 63.606(f), § 63.626(f).

(ii) Section IX, Methods of Analysis for Phosphate Rock, No. 3 Phosphorus-P2O5 or Ca3(PO4)2, Method A—Volumetric Method, IBR approved for § 63.606(f), § 63.626(f).

(iii) Section IX, Methods of Analysis for Phosphate Rock, No. 3 Phosphorus-P2O5 or Ca3(PO4)2, Method B—Gravimetric Quimociac Method, IBR approved for § 63.606(f), § 63.626(f).

(iv) Section IX, Methods of Analysis For Phosphate Rock, No. 3 Phosphorus-P2O5 or Ca3(PO4)2, Method C—Spectrophotometric Method, IBR approved for § 63.606(f), § 63.626(f).

(v) Section XI, Methods of Analysis for Phosphoric Acid, Superphosphate, Triple Superphosphate, and Ammonium Phosphates, No. 3 Total Phosphorus-P2O5, Method A—Volumetric Method, IBR approved for § 63.606(f), § 63.626(f), and (g).

(vi) Section XI, Methods of Analysis for Phosphoric Acid, Superphosphate, Triple Superphosphate, and Ammonium Phosphates, No. 3 Total Phosphorus-P2O5, Method B—Gravimetric Quimociac Method, IBR approved for § 63.606(f), § 63.626(f), and (g).

(vii) Section XI, Methods of Analysis for Phosphoric Acid, Superphosphate, Triple Superphosphate, and Ammonium Phosphates, No. 3 Total Phosphorus-P2O5, Method C—Spectrophotometric Method, IBR approved for § 63.606(f), § 63.626(f), and (g).

(2) [Reserved]

(c) * * *

(1) AOAC Official Method 929.01 Sampling of Solid Fertilizers, Sixteenth edition, 1995, IBR approved for § 63.626(g).

(2) AOAC Official Method 929.02 Preparation of Fertilizer Sample, Sixteenth edition, 1995, IBR approved for § 63.626(g).

(3) AOAC Official Method 957.02 Phosphorus (Total) in Fertilizers, Preparation of Sample Solution, Sixteenth edition, 1995, IBR approved for § 63.626(g).

(4) AOAC Official Method 958.01 Phosphorus (Total) in Fertilizers, Spectrophotometric Molybdovanadophosphate Method, Sixteenth edition, 1995, IBR approved for § 63.626(g).

(5) AOAC Official Method 962.02 Phosphorus (Total) in Fertilizers, Gravimetric Quinolinium Molybdophosphate Method, Sixteenth edition, 1995, IBR approved for § 63.626(g).

(6) AOAC Official Method 969.02 Phosphorus (Total) in Fertilizers, Alkalimetric Quinolinium Molybdophosphate Method, Sixteenth edition, 1995, IBR approved for § 63.626(g).

(7) AOAC Official Method 978.01 Phosphorus (Total) in Fertilizers, Automated Method, Sixteenth edition, 1995, IBR approved for § 63.626(g).

* * * * *

(l) * * *

(2) EPA–454/R–98–015, Office Of Air Quality Planning And Standards (OAQPS), Fabric Filter Bag Leak Detection Guidance, September 1997, IBR approved for §§ 63.548(e), 63.606(m), 63.607(b), 63.626(h), 63.627(b), 63.7525(j), and 63.11224(f).

* * * * *

■ 20. Part 63 is amended by revising subpart AA to read as follows:

Subpart AA—National Emission Standards for Hazardous Air Pollutants from Phosphoric Acid Manufacturing Plants

Sec.

63.600 Applicability.
63.601 Definitions.
63.602 Standards and compliance dates.
63.603 [Reserved]
63.604 [Reserved]
63.605 Operating and monitoring requirements.
63.606 Performance tests and compliance provisions.
63.607 Notification, recordkeeping, and reporting requirements.
63.608 General requirements and applicability of general provisions of this part.
63.609 [Reserved]
63.610 Exemption from new source performance standards.
63.611 Implementation and enforcement.

Table 1 to Subpart AA of Part 63—Existing Source Emission Limits
Table 2 to Subpart AA of Part 63—New Source Emission Limits
Table 3 to Subpart AA of Part 63—Monitoring Equipment Operating Parameters
Table 4 to Subpart AA of Part 63—Operating Parameters, Operating Limits and Data Monitoring, Recordkeeping and Compliance Frequencies
Table 5 to Subpart AA of Part 63—Calibration and Quality Control Requirements for Continuous Parameter Monitoring System (CPMS)
Appendix A to Subpart AA of Part 63—Applicability of General Provisions (40 CFR part 63, subpart A) to Subpart AA

§ 63.600 Applicability.

(a) Except as provided in paragraphs (c) and (d) of this section, you are subject to the requirements of this subpart if you own or operate a phosphoric acid manufacturing plant that is a major source as defined in § 63.2. You must comply with the emission limitations, work practice standards, and operating parameter requirements specified in this subpart at all times.

(b) The requirements of this subpart apply to emissions of hazardous air pollutants (HAP) emitted from the following affected sources at a phosphoric acid manufacturing plant:

(1) Each wet-process phosphoric acid process line.

(2) Each evaporative cooling tower.

(3) Each phosphate rock dryer.

(4) Each phosphate rock calciner.

(5) Each superphosphoric acid process line.

(6) Each purified phosphoric acid process line.

(7) Each gypsum dewatering stack.

(8) Each cooling pond.

(c) The requirements of this subpart do not apply to a phosphoric acid manufacturing plant that is an area source as defined in § 63.2.

(d) The provisions of this subpart do not apply to research and development facilities as defined in § 63.601.

§ 63.601 Definitions.

Terms used in this subpart are defined in § 63.2 of the Clean Air Act and in this section as follows:

Active gypsum dewatering stack means a gypsum dewatering stack that is currently receiving gypsum, received gypsum within the last year, or is part of the facility's water management system. A gypsum dewatering stack that is considered closed by a state authority is not considered an active gypsum dewatering stack.

Breakthrough means the point in time when the level of mercury detected at the outlet of an adsorber system is 90 percent of the highest concentration allowed to be discharged consistent with the applicable emission limit.

Cooling pond means a natural or artificial open reservoir that is primarily used to collect and cool water that comes into direct contact with raw materials, intermediate products, by-products, waste products, or finished products from a phosphoric acid manufacturing plant. The water in the cooling pond is often used at phosphoric acid manufacturing plants as filter wash water, absorber water for air pollution control absorbers, and/or to transport phosphogypsum as slurry to a gypsum dewatering stack(s).

Equivalent P_2O_5 feed means the quantity of phosphorus, expressed as phosphorus pentoxide (P_2O_5), fed to the process.

Evaporative cooling tower means an open-water, re-circulating device that uses fans or natural draft to draw or force ambient air through the device to remove heat from process water by direct contact.

Exceedance means a departure from an indicator range established for monitoring under this subpart, consistent with any averaging period specified for averaging the results of the monitoring.

Existing source depends on the date that construction or reconstruction of an affected source commenced. A wet-process phosphoric acid process line, superphosphoric acid process line, phosphate rock dryer, phosphate rock calciner, evaporative cooling tower, or purified acid process line is an existing source if construction or reconstruction of the affected source commenced on or before December 27, 1996. A gypsum dewatering stack or cooling pond is an existing source if it meets one of two criteria:

(1) It was constructed or reconstructed on or before August 19, 2015; or

(2) It was constructed or reconstructed after August 19, 2015 and it was not required to obtain a permit by a state authority for the construction or reconstruction.

Gypsum dewatering stack means any defined geographic area associated with a phosphoric acid manufacturing plant in which gypsum is disposed of or stored, other than within a fully enclosed building, container, or tank.

Gypsum dewatering stack system means the gypsum dewatering stack, together with all pumps, piping, ditches, drainage conveyances, water control structures, collection pools, cooling ponds, surge ponds, auxiliary holding ponds, regional holding ponds and any other collection or conveyance system associated with the transport of gypsum from the plant to the gypsum dewatering stack, its management at the gypsum dewatering stack, and the process wastewater return to the phosphoric acid production or other process.

HAP metals mean those metals and their compounds (in particulate or volatile form) that are included on the list of hazardous air pollutants in section 112 of the Clean Air Act. HAP metals include, but are not limited to: Antimony, arsenic, beryllium, cadmium, chromium, lead, manganese, nickel, and selenium expressed as particulate matter as measured by the methods and procedures in this subpart or an approved alternative method. For the purposes of this subpart, HAP metals (except mercury) are expressed as particulate matter as measured by Method 5 at 40 CFR part 60, appendix A–3.

New source depends on the date that construction or reconstruction of an affected source commences. A wet-process phosphoric acid process line, superphosphoric acid process line, phosphate rock dryer, phosphate rock calciner, evaporative cooling tower, or purified acid process line is a new source if construction or reconstruction of the affected source commenced after December 27, 1996. A gypsum dewatering stack or cooling pond is a new source if it meets two criteria:

(1) It was constructed or reconstructed after August 19, 2015; and

(2) It was required to obtain a permit by a state authority for the construction or reconstruction.

Oxidation reactor means any equipment or step that uses an oxidizing agent (*e.g.,* nitric acid, ammonium nitrate, or potassium permanganate) to treat superphosphoric acid.

Phosphate rock calciner means the equipment used to remove moisture and organic matter from phosphate rock through direct or indirect heating.

Phosphate rock dryer means the equipment used to reduce the moisture content of phosphate rock through direct or indirect heating.

Phosphate rock feed means all material entering any phosphate rock dryer or phosphate rock calciner including moisture and extraneous material as well as the following ore materials: Fluorapatite, hydroxylapatite, chlorapatite, and carbonateapatite.

Purified phosphoric acid process line means any process line that uses a HAP as a solvent in the separation of impurities from the product acid for the purposes of rendering that product suitable for industrial, manufacturing, or food grade uses. A purified phosphoric acid process line includes:

solvent extraction process equipment, solvent stripping and recovery equipment, seal tanks, carbon treatment equipment, cooling towers, storage tanks, pumps, and process piping.

Raffinate stream means the aqueous stream containing the impurities that are removed during the purification of wet-process phosphoric acid using solvent extraction.

Research and development facility means research or laboratory operations whose primary purpose is to conduct research and development into new processes and products, where the operations are under the close supervision of technically trained personnel, and where the facility is not engaged in the manufacture of products for commercial sale in commerce or other off-site distribution, except in a de minimis manner.

Rim ditch (cell) building technique means a gypsum dewatering stack construction technique that utilizes inner and outer dikes to direct gypsum slurry flow around the perimeter of the stack before directing the flow and allowing settling of finer materials into the settling compartment. For the purpose of this definition, the rim ditch (cell) building technique includes the compartment startup phase when gypsum is deposited directly into the settling compartment in preparation for ditch construction as well as the step-in or terminal phases when most solids must be directed to the settling compartment prior to stack closure. Decant return ditches are not rim ditches.

Shutdown commences when feed materials cease to be added to an affected source and ends when the affected source is deactivated, regardless of whether feed material is present in the affected source.

Startup commences when any feed material is first introduced into an affected source and ends when feed material is fully loaded into the affected source.

Superphosphoric acid process line means any process line that concentrates wet-process phosphoric acid to 66 percent or greater P_2O_5 content by weight. A superphosphoric acid process line includes: evaporators, hot wells, acid sumps, oxidation reactors, and cooling tanks.

Total fluorides means elemental fluorine and all fluoride compounds, including the HAP HF, as measured by reference methods specified in 40 CFR part 60, appendix A, Method 13 A or B, or by equivalent or alternative methods approved by the Administrator pursuant to § 63.7(f).

Wet-process phosphoric acid process line means any process line manufacturing phosphoric acid by reacting phosphate rock and acid. A wet-process phosphoric acid process line includes: reactors, filters, evaporators, and hot wells.

§ 63.602 Standards and compliance dates.

(a) On and after the dates specified in paragraphs (a)(1) through (6) of this section, for each wet-process phosphoric acid process line, superphosphoric acid process line, phosphate rock dryer, and phosphate rock calciner, you must comply with the emission limits as specified in paragraphs (a)(1) through (6) of this section. If a process line contains more than one emission point, you must sum the emissions from all emission points in a process line to determine compliance with the specified emission limits.

(1) For each existing wet-process phosphoric acid process line, superphosphoric acid process line, and phosphate rock dryer that commenced construction or reconstruction on or before December 27, 1996, you must comply with the emission limits specified in Table 1 to this subpart beginning on June 10, 2002.

(2) For each existing phosphate rock calciner that commenced construction or reconstruction on or before December 27, 1996, you must comply with the emission limits as specified in paragraphs (a)(2)(i) through (iii) of this section.

(i) You must comply with the total particulate emission limit specified in Table 1 to this subpart beginning on June 10, 2002.

(ii) You must comply with the mercury emission limit specified in Table 1 to this subpart beginning on August 19, 2015.

(iii) You must comply with the total fluorides emission limit specified in Table 1 to this subpart beginning on August 19, 2015.

(3) For each new wet-process phosphoric acid process line, superphosphoric acid process line, and phosphate rock dryer that commences construction or reconstruction after December 27, 1996 and on or before August 19, 2015, you must comply with the emission limits specified in Table 2 to this subpart beginning on June 10, 1999 or at startup, whichever is later.

(4) For each new wet-process phosphoric acid process line, superphosphoric acid process line, and phosphate rock dryer that commences construction or reconstruction after August 19, 2015, you must comply with the emission limits specified in Table 2 to this subpart immediately upon startup.

(5) For each new phosphate rock calciner that commences construction or reconstruction after December 27, 1996 and on or before August 19, 2015, you must comply with the emission limits as specified in paragraphs (a)(5)(i) through (iii) of this section.

(i) You must comply with the total particulate emission limit specified in Table 2 to this subpart beginning on June 10, 1999 or at startup, whichever is later.

(ii) You must comply with the mercury emission limit specified in Table 2 to this subpart beginning on August 19, 2015, or upon startup, whichever is later.

(iii) You must comply with the total fluorides emission limit specified in Table 2 to this subpart beginning on August 19, 2015, or upon startup, whichever is later.

(6) For each new phosphate rock calciner that commences construction or reconstruction after August 19, 2015, you must comply with the emission limits specified in Table 2 to this subpart immediately upon startup.

(b) For each existing purified phosphoric acid process line that commenced construction or reconstruction on or before December 27, 1996, you must comply with the provisions of subpart H of this part and paragraphs (b)(1) through (3) of this section beginning on June 10, 2002. For each new purified phosphoric acid process line that commences construction or reconstruction after December 27, 1996, you must comply with the provisions of subpart H of this part and paragraphs (b)(1) through (3) of this section beginning on June 10, 1999 or at startup, whichever is later.

(1) Maintain a 30-day rolling average of daily concentration measurements of methyl isobutyl ketone equal to or below 20 parts per million by weight (ppmw) for each product acid stream.

(2) Maintain a 30-day rolling average of daily concentration measurements of methyl isobutyl ketone equal to or below 30 ppmw for each raffinate stream.

(3) Maintain the daily average temperature of the exit gas stream from the chiller stack below 50 degrees Fahrenheit.

(c) Beginning on June 10, 2002, you must not introduce into an existing evaporative cooling tower that commenced construction or reconstruction on or before December 27, 1996, any liquid effluent from any absorber installed to control emissions from process equipment. Beginning on June 10, 1999 or at startup, whichever

is later, you must not introduce into a new evaporative cooling tower that commences construction or reconstruction after December 27, 1996, any liquid effluent from any absorber installed to control emissions from process equipment.

(d) For each gypsum dewatering stack system, you must prepare, and operate in accordance with, a gypsum dewatering stack and cooling pond management plan that contains the information specified in paragraph (e) of this section beginning on August 19, 2016.

(e) The gypsum dewatering stack and cooling pond management plan must include the information specified in paragraphs (e)(1) through (3) of this section. You must submit the gypsum dewatering stack and cooling pond management plan for approval to the Administrator as specified in paragraph (e)(4) of this section.

(1) Location (including latitude and longitude of centroid in decimal degrees to four decimal places) of each gypsum dewatering stack and each cooling pond in the gypsum dewatering stack system.

(2) Permitted maximum footprint acreage of each gypsum dewatering stack and each cooling pond in the gypsum dewatering stack system.

(3) Control measures that you use to minimize fugitive hydrogen fluoride emissions from the gypsum dewatering stack system. If you operate one or more active gypsum dewatering stacks or cooling ponds that are considered new sources as defined in § 63.601, then you must use, and include in the management plan, at least two of the control measures listed in paragraphs (e)(3)(i) through (vii) of this section for your gypsum dewatering stack system. If you only operate active gypsum dewatering stacks and cooling ponds that are considered existing sources as defined in § 63.601, then you must use, and include in the management plan, at least one of the control measures listed in paragraphs (e)(3)(i) through (vii) of this section for your gypsum dewatering stack system.

(i) For at least one cooling pond that is considered part of your gypsum dewatering stack system, you may choose to submerge the discharge pipe to a level below the surface of the cooling pond.

(ii) For at least one cooling pond that is considered part of your gypsum dewatering stack system, you may choose to use lime (or any other caustic substance) to raise the pH of the liquid (*e.g.,* the condensed vapors from the flash cooler and evaporators, and scrubbing liquid) discharged into the cooling pond. If you choose this control measure, then you must include in the plan the method used to raise the pH of the liquid discharged into the cooling pond, the target pH value (of the liquid discharged into the cooling pond) expected to be achieved by using the method, and the analyses used to determine and support the raise in pH.

(iii) For all cooling ponds that are considered part of your gypsum dewatering stack system, you may choose to reduce the total cooling pond surface area based on a facility specific evaluation plan. If you choose this control measure, then you must include in the facility specific evaluation plan certified by an independent licensed professional engineer or similarly qualified individual. You must also include in the plan the method used to reduce total cooling pond footprint, the analyses used to determine and support the reduction in the total cooling pond surface area, and the amount of total cooling pond surface area that was reduced due to the facility specific evaluation plan.

(iv) For at least one gypsum dewatering stack that is considered part of your gypsum dewatering stack system, you may choose to minimize the surface area of the gypsum pond associated with the active gypsum dewatering stack by using a rim ditch (cell) building technique or other building technique.

(v) For at least one gypsum dewatering stack that is considered part of your gypsum dewatering stack system, you may choose to apply slaked lime to the active gypsum dewatering stack surfaces. If you choose this control measure, then you must include in the plan the method used to determine the specific locations slaked lime is applied. The plan must also include the methods used to determine the quantity of, and when to apply, slaked lime (*e.g.,* slaked lime may be applied to achieve a state ambient air standard for fluorides, measured as hydrogen fluoride).

(vi) For at least one gypsum dewatering stack that is considered part of your gypsum dewatering stack system, you may choose to apply soil caps and vegetation, or a synthetic cover, to a portion of side slopes of the active gypsum dewatering stack. If you choose this control measure, then you must include in the plan the method used to determine the specific locations of soil caps and vegetation, or synthetic cover; and specify the acreage and locations where soil caps and vegetation, or synthetic cover, is applied. The plan must also include a schedule describing when soil caps and vegetation, or synthetic cover, is to be applied.

(vii) For all gypsum dewatering stacks that are considered part of your gypsum dewatering stack system, you may choose to establish closure requirements that at a minimum, contain requirements for the specified items in paragraphs (e)(3)(vii)(A) and (B) of this section.

(A) A specific trigger mechanism for when you must begin the closure process on the gypsum dewatering stack; and

(B) A requirement to install a final cover. For purposes of this paragraph, final cover means the materials used to cover the top and sides of a gypsum dewatering stack upon closure.

(4) You must submit your plan for approval to the Administrator at least 6 months prior to the compliance date specified in § 63.602(d), or with the permit application for modification, construction, or reconstruction. The plan must include details on how you will implement and show compliance with the control technique(s) that you have selected to use. The Administrator will approve or disapprove your plan within 90 days after receipt of the plan. To change any of the information submitted in the plan, you must submit a revised plan 60 days before the planned change is to be implemented in order to allow time for review and approval by the Administrator before the change is implemented.

(f) Beginning on August 19, 2015, during periods of startup and shutdown (as defined in § 63.601), you must comply with the work practice specified in this paragraph in lieu of the emission limits specified in paragraph (a) of this section. During periods of startup and shutdown, you must operate any control device(s) being used at the affected source, monitor the operating parameters specified in Table 3 of this subpart, and comply with the operating limits specified in Table 4 of this subpart.

§ 63.603 [Reserved]

§ 63.604 [Reserved]

§ 63.605 Operating and monitoring requirements.

(a) For each wet-process phosphoric acid process line or superphosphoric acid process line subject to the provisions of this subpart, you must comply with the monitoring requirements specified in paragraphs (a)(1) and (2) of this section.

(1) Install, calibrate, maintain, and operate a continuous monitoring system (CMS) according to your site-specific monitoring plan specified in § 63.608(c). The CMS must have an accuracy of ±5 percent over its operating range and

must determine and permanently record the mass flow of phosphorus-bearing material fed to the process.

(2) Maintain a daily record of equivalent P_2O_5 feed. Calculate the equivalent P_2O_5 feed by determining the total mass rate, in metric ton/hour of phosphorus bearing feed, using the monitoring system specified in paragraph (a)(1) of this section and the procedures specified in § 63.606(f)(3).

(b) For each phosphate rock dryer or phosphate rock calciner subject to the provisions of this subpart, you must comply with the monitoring requirements specified in paragraphs (b)(1) and (2) of this section.

(1) Install, calibrate, maintain, and operate a CMS according to your site-specific monitoring plan specified in § 63.608(c). The CMS must have an accuracy of ±5 percent over its operating range and must determine and permanently record either:

(i) The mass flow of phosphorus-bearing feed material to the phosphate rock dryer or calciner, or

(ii) The mass flow of product from the phosphate rock dryer or calciner.

(2) Maintain the records specified in paragraphs (b)(2)(i) and (ii) of this section.

(i) If you monitor the mass flow of phosphorus-bearing feed material to the phosphate rock dryer or calciner as specified in paragraph (b)(1)(i) of this section, maintain a daily record of phosphate rock feed by determining the total mass rate in metric tons/hour of phosphorus-bearing feed.

(ii) If you monitor the mass flow of product from the phosphate rock dryer or calciner as specified in paragraph (b)(1)(ii) of this section, maintain a daily record of product by determining the total mass rate in metric ton/hour of product.

(c) For each purified phosphoric acid process line, you must comply with the monitoring requirements specified in paragraphs (c)(1) and (2) of this section.

(1) Install, calibrate, maintain, and operate a CMS according to your site-specific monitoring plan specified in § 63.608(c). The CMS must continuously measure and permanently record the stack gas exit temperature for each chiller stack.

(2) Measure and record the concentration of methyl isobutyl ketone in each product acid stream and each raffinate stream once each day.

(d) If you use a control device(s) to comply with the emission limits specified in Table 1 or 2 of this subpart, you must install a continuous parameter monitoring system (CPMS) and comply with the requirements specified in paragraphs (d)(1) through (5) of this section.

(1) You must monitor the operating parameter(s) applicable to the control device that you use as specified in Table 3 to this subpart and establish the applicable limit or range for the operating parameter limit as specified in paragraphs (d)(1)(i) and (ii) of this section, as applicable.

(i) Except as specified in paragraph (d)(1)(ii) of this section, determine the value(s) as the arithmetic average of operating parameter measurements recorded during the three test runs conducted for the most recent performance test.

(ii) If you use an absorber or a wet electrostatic precipitator to comply with the emission limits in Table 1 or 2 to this subpart and you monitor pressure drop across the absorber or secondary voltage for a wet electrostatic precipitator, you must establish allowable ranges using the methodology specified in paragraphs (d)(1)(ii)(A) and (B) of this section.

(A) The allowable range for the daily averages of the pressure drop across an absorber, or secondary voltage for a wet electrostatic precipitator, is ±20 percent of the baseline average value determined in paragraph (d)(1)(i) of this section. The Administrator retains the right to reduce the ±20 percent adjustment to the baseline average values of operating ranges in those instances where performance test results indicate that a source's level of emissions is near the value of an applicable emissions standard. However, the adjustment must not be reduced to less than ±10 percent under any instance.

(B) As an alternative to paragraph (d)(1)(ii)(A) of this section, you may establish allowable ranges for the daily averages of the pressure drop across an absorber, or secondary voltage for an electrostatic precipitator, for the purpose of assuring compliance with this subpart using the procedures described in this paragraph. You must establish the allowable ranges based on the baseline average values recorded during previous performance tests, or the results of performance tests conducted specifically for the purposes of this paragraph. You must conduct all performance tests using the methods specified in § 63.606. You must certify that the control devices and processes have not been modified since the date of the performance test from which you obtained the data used to establish the allowable ranges. When a source using the methodology of this paragraph is retested, you must determine new allowable ranges of baseline average values unless the retest indicates no change in the operating parameters outside the previously established ranges.

(2) You must monitor, record, and demonstrate continuous compliance using the minimum frequencies specified in Table 4 to this subpart.

(3) You must comply with the calibration and quality control requirements that are applicable to the operating parameter(s) you monitor as specified in Table 5 to this subpart.

(4) If you use a non-regenerative adsorption system to achieve the mercury emission limits specified in Table 1 or 2 to this subpart, you must comply with the requirements specified in paragraph (e) of this section.

(5) If you use a sorbent injection system to achieve the mercury emission limits specified in Table 1 or 2 to this subpart and you use a fabric filter to collect the associated particulate matter, the system must meet the requirements for fabric filters specified in paragraph (f) of this section.

(e) If you use a non-regenerative adsorption system to achieve the mercury emission limits specified in Table 1 or 2 to this subpart, you must comply with the requirements specified in paragraphs (e)(1) through (3) of this section.

(1) Determine the adsorber bed life (*i.e.,* the expected life of the sorbent in the adsorption system) using the procedures specified in paragraphs (e)(1)(i) through (iv) of this section.

(i) If the adsorber bed is expected (designed) to have a life of less than 2 years, determine the outlet concentration of mercury on a quarterly basis until breakthrough occurs for the first three adsorber bed change-outs. The adsorber bed life shall equal the average length of time between each of the three change-outs.

(ii) If the adsorber bed is expected (designed) to have a life of 2 years or greater, determine the outlet concentration of mercury on a semi-annual basis until breakthrough occurs for the first two adsorber bed change-outs. The adsorber bed life must equal the average length of time between each of the two change-outs.

(iii) If more than one adsorber is operated in parallel, or there are several identical operating lines controlled by adsorbers, you may determine the adsorber bed life by measuring the outlet concentration of mercury from one of the adsorbers or adsorber systems rather than determining the bed life for each adsorber.

(iv) The adsorber or adsorber system you select for the adsorber bed life test must have the highest expected inlet gas

mercury concentration and the highest operating rate of any adsorber in operation at the affected source. During the test to determine adsorber bed life, you must use the fuel that contains the highest level of mercury in any fuel-burning unit associated with the adsorption system being tested.

(2) You must replace the sorbent in each adsorber on or before the end of the adsorbent bed life, calculated in paragraph (e)(1) of this section.

(3) You must re-establish the adsorber bed life if the sorbent is replaced with a different brand or type, or if any process changes are made that would lead to a shorter bed lifetime.

(f) Beginning August 19, 2016, if you use a fabric filter system to comply with the emission limits specified in Table 1 or 2 to this subpart, then the fabric filter must be equipped with a bag leak detection system that is installed, calibrated, maintained, and continuously operated according to the requirements in paragraphs (f)(1) through (10) of this section.

(1) Install a bag leak detection sensor(s) in a position(s) that will be representative of the relative or absolute particulate matter loadings for each exhaust stack, roof vent, or compartment (*e.g.,* for a positive-pressure fabric filter) of the fabric filter.

(2) Use a bag leak detection system certified by the manufacturer to be capable of detecting particulate matter emissions at concentrations of 1 milligram per actual cubic meter (0.00044 grains per actual cubic feet) or less.

(3) Use a bag leak detection system equipped with a device to continuously record the output signal from the system sensor.

(4) Use a bag leak detection system equipped with a system that will trigger an alarm when an increase in relative particulate matter emissions over a preset level is detected. The alarm must be located such that the alert is observed readily by plant operating personnel.

(5) Install a bag leak detection system in each compartment or cell for positive-pressure fabric filter systems that do not duct all compartments or cells to a common stack. Install a bag leak detector downstream of the fabric filter if a negative-pressure or induced-air filter system is used. If multiple bag leak detectors are required, the system's instrumentation and alarm may be shared among detectors.

(6) Calibration of the bag leak detection system must, at a minimum, consist of establishing the baseline output level by adjusting the range and the averaging period of the device and establishing the alarm set points and the alarm delay time.

(7) After initial adjustment, you must not adjust the sensitivity or range, averaging period, alarm set points, or alarm delay time except as established in your site-specific monitoring plan required in § 63.608(c). In no event may the sensitivity be increased more than 100 percent or decreased by more than 50 percent over a 365-day period unless such adjustment follows a complete inspection of the fabric filter system that demonstrates that the system is in good operating condition.

(8) Operate and maintain each fabric filter and bag leak detection system such that the alarm does not sound more than 5 percent of the operating time during a 6-month period. If the alarm sounds more than 5 percent of the operating time during a 6-month period, it is considered an operating parameter exceedance. Calculate the alarm time (*i.e.,* time that the alarm sounds) as specified in paragraphs (f)(8)(i) through (iii) of this section.

(i) If inspection of the fabric filter demonstrates that corrective action is not required, the alarm duration is not counted in the alarm time calculation.

(ii) If corrective action is required, each alarm time is counted as a minimum of 1 hour.

(iii) If it takes longer than 1 hour to initiate corrective action, each alarm time is counted as the actual amount of time taken to initiate corrective action.

(9) If the alarm on a bag leak detection system is triggered, you must initiate procedures within 1 hour of an alarm to identify the cause of the alarm and then initiate corrective action, as specified in § 63.608(d)(2), no later than 48 hours after an alarm. Failure to take these actions within the prescribed time periods is considered a violation.

(10) Retain records of any bag leak detection system alarm, including the date, time, duration, and the percent of the total operating time during each 6-month period that the alarm sounds, with a brief explanation of the cause of the alarm, the corrective action taken, and the schedule and duration of the corrective action.

(g) If you choose to directly monitor mercury emissions instead of using CPMS as specified in paragraph (d) of this section, then you must install and operate a mercury CEMS in accordance with Performance Specification 12A of appendix B to part 60 of this chapter, or a sorbent trap-based integrated monitoring system in accordance with Performance Specification 12B of appendix B to part 60 of this chapter. You must continuously monitor mercury emissions as specified in paragraphs (g)(1) through (4) of this section.

(1) The span value for any mercury CEMS must include the intended upper limit of the mercury concentration measurement range during normal operation, which may be exceeded during other short-term conditions lasting less than 24 consecutive operating hours. However, the span should be at least equivalent to approximately two times the emissions standard. You may round the span value to the nearest multiple of 10 micrograms per cubic meter of total mercury.

(2) You must operate and maintain each mercury CEMS or sorbent trap-based integrated monitoring system according to the quality assurance requirements specified in Procedure 5 of appendix F to part 60 of this chapter.

(3) You must conduct relative accuracy testing of mercury monitoring systems, as specified in Performance Specification 12A, Performance Specification 12B, or Procedure 5 of appendix B to part 60 of this chapter, at normal operating conditions.

(4) If you use a mercury CEMS, you must install, operate, calibrate, and maintain an instrument for continuously measuring and recording the exhaust gas flow rate to the atmosphere according to your site-specific monitoring plan specified in § 63.608(c).

§ 63.606 Performance tests and compliance provisions.

(a) You must conduct an initial performance test to demonstrate compliance with the applicable emission limits specified in Tables 1 and 2 to this subpart, within 180 days of the applicable compliance date specified in § 63.602.

(b) After you conduct the initial performance test specified in paragraph (a) of this section, you must conduct a performance test once per calendar year.

(c) For affected sources (as defined in § 63.600) that have not operated since the previous annual performance test was conducted and more than 1 year has passed since the previous performance test, you must conduct a performance test no later than 180 days after the re-start of the affected source according to the applicable provisions in § 63.7(a)(2).

(d)(1) You must conduct the performance tests specified in this section at representative (normal) conditions for the process. Representative (normal) conditions means those conditions that:

(i) Represent the range of combined process and control measure conditions under which the facility expects to

operate (regardless of the frequency of the conditions); and

(ii) Are likely to most challenge the emissions control measures of the facility with regard to meeting the applicable emission standards, but without creating an unsafe condition. Operations during startup, shutdown, and malfunction do not constitute representative (normal) operating conditions for purposes of conducting a performance test.

(2) You must record the process information that is necessary to document the operating conditions during the test and include in such record an explanation to support that such conditions represent representative (normal) conditions. Upon request, you must make available to the Administrator such records as may be necessary to determine the conditions of performance tests.

(e) In conducting all performance tests, you must use as reference methods and procedures the test methods in 40 CFR part 60, appendix A, or other methods and procedures as specified in this section, except as provided in § 63.7(f).

(f) You must determine compliance with the applicable total fluorides standards specified in Tables 1 and 2 to this subpart as specified in paragraphs (f)(1) through (3) of this section.

(1) Compute the emission rate (E) of total fluorides for each run using Equation AA–1:

$$E = \left(\sum_{i=1}^{N} C_i Q_i \right) / (PK) \qquad \text{(Eq. AA-1)}$$

Where:

E = Emission rate of total fluorides, gram/metric ton (pound/ton) of equivalent P_2O_5 feed.

C_i = Concentration of total fluorides from emission point ''i,'' milligram/dry standard cubic meter (milligram/dry standard cubic feet).

Q_i = Volumetric flow rate of effluent gas from emission point ''i,'' dry standard cubic meter/hour (dry standard cubic feet/hour).

N = Number of emission points associated with the affected facility.

P = Equivalent P_2O_5 feed rate, metric ton/hour (ton/hour).

K = Conversion factor, 1000 milligram/gram (453,600 milligram/pound).

(2) You must use Method 13A or 13B (40 CFR part 60, appendix A) to determine the total fluorides concentration (C_i) and the volumetric flow rate (Q_i) of the effluent gas at each emission point. The sampling time for each run at each emission point must be at least 60 minutes. The sampling volume for each run at each emission point must be at least 0.85 dscm (30 dscf). If Method 13B is used, the fusion of the filtered material described in Section 7.3.1.2 and the distillation of suitable aliquots of containers 1 and 2, described in section 7.3.3 and 7.3.4 in Method 13 A, may be omitted.

(3) Compute the equivalent P_2O_5 feed rate (P) using Equation AA–2:

$$P = M_p R_p \qquad \text{(Eq. AA-2)}$$

Where:

P = P_2O_5 feed rate, metric ton/hr (ton/hour).

M_p = Total mass flow rate of phosphorus-bearing feed, metric ton/hour (ton/hour).

R_p = P_2O_5 content, decimal fraction.

(i) Determine the mass flow rate (M_p) of the phosphorus-bearing feed using the measurement system described in § 63.605(a).

(ii) Determine the P_2O_5 content (R_p) of the feed using, as appropriate, the following methods specified in Methods Used and Adopted By The Association of Florida Phosphate Chemists (incorporated by reference, see § 63.14) where applicable:

(A) Section IX, Methods of Analysis for Phosphate Rock, No. 1 Preparation of Sample.

(B) Section IX, Methods of Analysis for Phosphate Rock, No. 3 Phosphorus-P_2O_5 or $Ca_3(PO_4)_2$, Method A—Volumetric Method.

(C) Section IX, Methods of Analysis for Phosphate Rock, No. 3 Phosphorus-P_2O_5 or $Ca_3(PO_4)_2$, Method B—Gravimetric Quimociac Method.

(D) Section IX, Methods of Analysis for Phosphate Rock, No. 3 Phosphorus-P_2O_5 or $Ca_3(PO_4)_2$, Method C—Spectrophotometric Method.

(E) Section XI, Methods of Analysis for Phosphoric Acid, Superphosphate, Triple Superphosphate, and Ammonium Phosphates, No. 3 Total Phosphorus-P_2O_5, Method A—Volumetric Method.

(F) Section XI, Methods of Analysis for Phosphoric Acid, Superphosphate, Triple Superphosphate, and Ammonium Phosphates, No. 3 Total Phosphorus-P_2O_5, Method B—Gravimetric Quimociac Method.

(G) Section XI, Methods of Analysis for Phosphoric Acid, Superphosphate, Triple Superphosphate, and Ammonium Phosphates, No. 3 Total Phosphorus-P_2O_5, Method C—Spectrophotometric Method.

(g) You must demonstrate compliance with the applicable particulate matter standards specified in Tables 1 and 2 to this subpart as specified in paragraphs (g)(1) through (3) of this section.

(1) Compute the emission rate (E) of particulate matter for each run using Equation AA–3:

$$E = (C\ Q)/(P\ K) \qquad \text{(Eq. AA-3)}$$

Where:

E = Emission rate of particulate matter, kilogram/megagram (pound/ton) of phosphate rock feed.

C = Concentration of particulate matter, gram/dry standard cubic meter (gram/dry standard cubic feet).

Q = Volumetric flow rate of effluent gas, dry standard cubic meter/hour (dry standard cubic feet/hour).

P = Phosphate rock feed rate, megagram/hour (ton/hour).

K = Conversion factor, 1000 grams/kilogram (453.6 grams/pound).

(2) Use Method 5 at 40 CFR part 60, appendix A–3 to determine the particulate matter concentration (C) and volumetric flow rate (Q) of the effluent gas. Except as specified in paragraph (h) of this section, the sampling time and

sample volume for each run must be at least 60 minutes and 0.85 dry standard cubic meter (30 dry standard cubic feet).

(3) Use the CMS described in § 63.605(b) to determine the phosphate rock feed rate (P) for each run.

(h) To demonstrate compliance with the particulate matter standards for phosphate rock calciners specified in Tables 1 and 2 to this subpart, you must use Method 5 at 40 CFR part 60, appendix A–3 to determine the particulate matter concentration. The sampling volume for each test run must be at least 1.70 dry standard cubic meter.

(i) To demonstrate compliance with the mercury emission standards for phosphate rock calciners specified in Tables 1 and 2 to this subpart, you must use Method 30B at 40 CFR part 60, appendix A–8 to determine the mercury concentration, unless you use a CEMS to demonstrate compliance. If you use a non-regenerative adsorber to control mercury emissions, you must use this test method to determine the expected bed life as specified in § 63.605(e)(1).

(j) If you choose to monitor the mass flow of product from the phosphate rock dryer or calciner as specified in § 63.605(b)(1)(ii), you must either:

(1) Simultaneously monitor the feed rate and output rate of the phosphate rock dryer or calciner during the performance test, or

(2) Monitor the output rate and the input and output moisture contents of the phosphate rock dryer or calciner during the performance test and calculate the corresponding phosphate rock dryer or calciner input rate.

(k) For sorbent injection systems, you must conduct the performance test at the outlet of the fabric filter used for sorbent collection. You must monitor and record operating parameter values for the fabric filter during the performance test. If the sorbent is replaced with a different brand or type of sorbent than was used during the performance test, you must conduct a new performance test.

(l) If you use a mercury CEMS as specified in § 63.605(g), or paragraph (i) of this section, you must demonstrate initial compliance based on the first 30 operating days during which you operate the affected source using a CEMS. You must obtain hourly mercury concentration and stack gas volumetric flow rate data.

(m) If you use a CMS, you must conduct a performance evaluation, as specified in § 63.8(e), in accordance with your site-specific monitoring plan in § 63.608(c). For fabric filters, you must conduct a performance evaluation of the bag leak detection system consistent with the guidance provided in Office Of Air Quality Planning And Standards (OAQPS), Fabric Filter Bag Leak Detection Guidance (incorporated by reference, see § 63.14). You must record the sensitivity of the bag leak detection system to detecting changes in particulate matter emissions, range, averaging period, and alarm set points during the performance test.

§ 63.607 Notification, recordkeeping, and reporting requirements.

(a) You must comply with the notification requirements specified in § 63.9. During the most recent performance test, if you demonstrate compliance with the emission limit while operating your control device outside the previously established operating limit, you must establish a new operating limit based on that most recent performance test and notify the Administrator that the operating limit changed based on data collected during the most recent performance test. When a source is retested and the performance test results are submitted to the Administrator pursuant to paragraph (b)(1) of this section, § 63.7(g)(1), or § 63.10(d)(2), you must indicate whether the operating limit is based on the new performance test or the previously established limit. Upon establishment of a new operating limit, you must thereafter operate under the new operating limit. If the Administrator determines that you did not conduct the compliance test in accordance with the applicable requirements or that the operating limit established during the performance test does not correspond to representative (normal) conditions, you must conduct a new performance test and establish a new operating limit.

(b) You must comply with the reporting and recordkeeping requirements in § 63.10 as specified in paragraphs (b)(1) through (5) of this section.

(1) You must comply with the general recordkeeping requirements in § 63.10(b)(1).

(2) As required by § 63.10(d), you must report the results of the initial and subsequent performance tests as part of the notification of compliance status required in § 63.9(h). You must verify in the performance test reports that the operating limits for each process have not changed or provide documentation of revised operating limits established according to § 63.605, as applicable. In the notification of compliance status, you must also:

(i) Certify to the Administrator annually that you have complied with the evaporative cooling tower requirements specified in § 63.602(c).

(ii) Submit analyses and supporting documentation demonstrating conformance with the Office Of Air Quality Planning And Standards (OAQPS), Fabric Filter Bag Leak Detection Guidance (incorporated by reference, see § 63.14) and specifications for bag leak detection systems as part of the notification of compliance status report.

(iii) Submit the gypsum dewatering stack and cooling pond management plan specified in § 63.602(e).

(iv) If you elect to demonstrate compliance by following the procedures in § 63.605(d)(1)(ii)(B), certify to the Administrator annually that the control devices and processes have not been modified since the date of the performance test from which you obtained the data used to establish the allowable ranges.

(v) Each time a gypsum dewatering stack is closed, certify to the Administrator within 90 days of closure, that the final cover of the closed gypsum dewatering stack is a drought resistant vegetative cover that includes a barrier soil layer that will sustain vegetation.

(3) As required by § 63.10(e)(3), you must submit an excess emissions report for any exceedance of an emission limit, work practice standard, or operating parameter limit if the total duration of the exceedances for the reporting period is 1 percent of the total operating time for the reporting period or greater. The report must contain the information specified in § 63.10 and paragraph (b)(4) of this section. When exceedances of an emission limit or operating parameter have not occurred, you must include such information in the report. You must submit the report semiannually and the report must be delivered or postmarked by the 30th day following the end of the calendar half. If you report exceedances, you must submit the excess emissions report quarterly until a request to reduce reporting frequency is approved as described in § 63.10(e)(3)(ii).

(4) In the event that an affected unit fails to meet an applicable standard, record and report the following information for each failure:

(i) The date, time and duration of the failure.

(ii) A list of the affected sources or equipment for which a failure occurred.

(iii) An estimate of the volume of each regulated pollutant emitted over any emission limit.

(iv) A description of the method used to estimate the emissions.

(v) A record of actions taken to minimize emissions in accordance with § 63.608(b), and any corrective actions

taken to return the affected unit to its normal or usual manner of operation.

(5) You must submit a summary report containing the information specified in § 63.10(e)(3)(vi). You must submit the summary report semiannually and the report must be delivered or postmarked by the 30th day following the end of the calendar half.

(c) Your records must be in a form suitable and readily available for expeditious review. You must keep each record for 5 years following the date of each recorded action. You must keep each record on site, or accessible from a central location by computer or other means that instantly provides access at the site, for at least 2 years after the date of each recorded action. You may keep the records off site for the remaining 3 years.

(d) In computing averages to determine compliance with this subpart, you must exclude the monitoring data specified in paragraphs (d)(1) and (2) of this section.

(1) Periods of non-operation of the process unit;

(2) Periods of no flow to a control device; and any monitoring data recorded during CEMS or continuous parameter monitoring system (CPMS) breakdowns, out-of-control periods, repairs, maintenance periods, instrument adjustments or checks to maintain precision and accuracy, calibration checks, and zero (low-level), mid-level (if applicable), and high-level adjustments.

(e) Within 60 days after the date of completing each performance test (as defined in § 63.2) required by this subpart, you must submit the results of the performance tests, including any associated fuel analyses, following the procedure specified in either paragraph (e)(1) or (2) of this section.

(1) For data collected using test methods supported by the EPA's Electronic Reporting Tool (ERT) as listed on the EPA's ERT Web site (*http://www.epa.gov/ttn/chief/ert/index.html*), you must submit the results of the performance test to the EPA via the Compliance and Emissions Data Reporting Interface (CEDRI). CEDRI can be accessed through the EPA's Central Data Exchange (CDX) (*http://cdx.epa.gov/epa_home.asp*). Performance test data must be submitted in a file format generated through the use of the EPA's ERT. Alternatively, you may submit performance test data in an electronic file format consistent with the extensible markup language (XML) schema listed on the EPA's ERT Web site once the XML schema is available. If you claim that some of the performance test information being submitted is confidential business information (CBI), you must submit a complete file generated through the use of the EPA's ERT or an alternate electronic file consistent with the XML schema listed on the EPA's ERT Web site, including information claimed to be CBI, on a compact disc, flash drive, or other commonly used electronic storage media to the EPA. The electronic media must be clearly marked as CBI and mailed to U.S. EPA/OAPQS/CORE CBI Office, Attention: Group Leader, Measurement Policy Group, MD C404–02, 4930 Old Page Rd., Durham, NC 27703. The same ERT or alternate file with the CBI omitted must be submitted to the EPA via the EPA's CDX as described earlier in this paragraph.

(2) For data collected using test methods that are not supported by the EPA's ERT as listed on the EPA's ERT Web site, you must submit the results of the performance test to the Administrator at the appropriate address listed in § 63.13.

(f) Within 60 days after the date of completing each continuous emissions monitoring system performance evaluation (as defined in § 63.2), you must submit the results of the performance evaluation following the procedure specified in either paragraph (f)(1) or (2) of this section.

(1) For performance evaluations of continuous monitoring systems measuring relative accuracy test audit (RATA) pollutants that are supported by the EPA's ERT as listed on the EPA's ERT Web site, you must submit the results of the performance evaluation to the EPA via the CEDRI. (CEDRI can be accessed through the EPA's CDX.) Performance evaluation data must be submitted in a file format generated through the use of the EPA's ERT. Alternatively, you may submit performance evaluation data in an electronic file format consistent with the XML schema listed on the EPA's ERT Web site once the XML schema is available. If you claim that some of the performance evaluation information being transmitted is CBI, you must submit a complete file generated through the use of the EPA's ERT or an alternate electronic file consistent with the XML schema listed on the EPA's ERT Web site, including information claimed to be CBI, on a compact disc, flash drive, or other commonly used electronic storage media to the EPA. The electronic storage media must be clearly marked as CBI and mailed to U.S. EPA/OAPQS/CORE CBI Office, Attention: Group Leader, Measurement Policy Group, MD C404–02, 4930 Old Page Rd., Durham, NC 27703. The same ERT or alternate file with the CBI omitted must be submitted to the EPA via the EPA's CDX as described earlier in this paragraph.

(2) For any performance evaluations of continuous monitoring systems measuring RATA pollutants that are not supported by the EPA's ERT as listed on the EPA's ERT Web site, you must submit the results of the performance evaluation to the Administrator at the appropriate address listed in § 63.13.

§ 63.608 General requirements and applicability of general provisions of this part.

(a) You must comply with the general provisions in subpart A of this part as specified in appendix A to this subpart.

(b) At all times, you must operate and maintain any affected source, including associated air pollution control equipment and monitoring equipment, in a manner consistent with safety and good air pollution control practices for minimizing emissions. The general duty to minimize emissions does not require you to make any further efforts to reduce emissions if levels required by this standard have been achieved. Determination by the Administrator of whether a source is operating in compliance with operation and maintenance requirements will be based on information available to the Administrator that may include, but is not limited to, monitoring results, review of operation and maintenance procedures, review of operation and maintenance records, and inspection of the source.

(c) For each CMS (including CEMS or CPMS) used to demonstrate compliance with any applicable emission limit or work practice, you must develop, and submit to the Administrator for approval upon request, a site-specific monitoring plan according to the requirements specified in paragraphs (c)(1) through (3) of this section. You must submit the site-specific monitoring plan, if requested by the Administrator, at least 60 days before the initial performance evaluation of the CMS. The requirements of this paragraph also apply if a petition is made to the Administrator for alternative monitoring parameters under § 63.8(f).

(1) You must include the information specified in paragraphs (c)(1)(i) through (vi) of this section in the site-specific monitoring plan.

(i) Location of the CMS sampling probe or other interface. You must include a justification demonstrating that the sampling probe or other interface is at a measurement location relative to each affected process unit such that the measurement is representative of control of the exhaust

emissions (*e.g.,* on or downstream of the last control device).

(ii) Performance and equipment specifications for the sample interface, the pollutant concentration or parametric signal analyzer, and the data collection and reduction systems.

(iii) Performance evaluation procedures and acceptance criteria (*e.g.,* calibrations).

(iv) Ongoing operation and maintenance procedures in accordance with the general requirements of § 63.8(c)(1)(ii), (c)(3), (c)(4)(ii), and Table 4 to this subpart.

(v) Ongoing data quality assurance procedures in accordance with the general requirements of § 63.8(d)(1) and (2) and Table 5 to this subpart.

(vi) Ongoing recordkeeping and reporting procedures in accordance with the general requirements of § 63.10(c), (e)(1), and (e)(2)(i).

(2) You must include a schedule for conducting initial and subsequent performance evaluations in the site-specific monitoring plan.

(3) You must keep the site-specific monitoring plan on site for the life of the affected source or until the affected source is no longer subject to the provisions of this part, to be made available for inspection, upon request, by the Administrator. If you revise the site-specific monitoring plan, you must keep previous (*i.e.,* superseded) versions of the plan on site to be made available for inspection, upon request, by the Administrator, for a period of 5 years after each revision to the plan. You must include the program of corrective action required under § 63.8(d)(2) in the plan.

(d) For each bag leak detection system installed to comply with the requirements specified in § 63.605(f), you must include the information specified in paragraphs (d)(1) and (2) of this section in the site-specific monitoring plan specified in paragraph (c) of this section.

(1) Performance evaluation procedures and acceptance criteria (*e.g.,* calibrations), including how the alarm set point will be established.

(2) A corrective action plan describing corrective actions to be taken and the timing of those actions when the bag leak detection alarm sounds. Corrective actions may include, but are not limited to, the actions specified in paragraphs (d)(2)(i) through (vi) of this section.

(i) Inspecting the fabric filter for air leaks, torn or broken bags or filter media, or any other conditions that may cause an increase in regulated material emissions.

(ii) Sealing off defective bags or filter media.

(iii) Replacing defective bags or filter media or otherwise repairing the control device.

(iv) Sealing off a defective fabric filter compartment.

(v) Cleaning the bag leak detection system probe or otherwise repairing the bag leak detection system.

(vi) Shutting down the process controlled by the fabric filter.

§ 63.609 [Reserved]

§ 63.610 Exemption from new source performance standards.

Any affected source subject to the provisions of this subpart is exempted from any otherwise applicable new source performance standard contained in 40 CFR part 60, subpart T, subpart U, or subpart NN. To be exempt, a source must have a current operating permit pursuant to title V of the Clean Air Act and the source must be in compliance with all requirements of this subpart. For each affected source, this exemption is effective upon the date that you demonstrate to the Administrator that the requirements of §§ 63.605 and 63.606 have been met.

§ 63.611 Implementation and enforcement.

(a) This subpart is implemented and enforced by the U.S. EPA, or a delegated authority such as the applicable state, local, or Tribal agency. If the U.S. EPA Administrator has delegated authority to a state, local, or Tribal agency, then that agency, in addition to the U.S. EPA, has the authority to implement and enforce this subpart. Contact the applicable U.S. EPA Regional Office to find out if implementation and enforcement of this subpart is delegated to a state, local, or Tribal agency.

(b) The authorities specified in paragraphs (b)(1) through (5) of this section are retained by the Administrator of U.S. EPA and cannot be delegated to State, local, or Tribal agencies.

(1) Approval of alternatives to the requirements in §§ 63.600, 63.602, 63.605, and 63.610.

(2) Approval of requests under §§ 63.7(e)(2)(ii) and 63.7 (f) for alternative requirements or major changes to the test methods specified in this subpart, as defined in § 63.90.

(3) Approval of requests under § 63.8(f) for alternative requirements or major changes to the monitoring requirements specified in this subpart, as defined in § 63.90.

(4) Waiver or approval of requests under § 63.10(f) for alternative requirements or major changes to the recordkeeping and reporting requirements specified in this subpart, as defined in § 63.90.

(5) Approval of an alternative to any electronic reporting to the EPA required by this subpart.

TABLE 1 TO SUBPART AA OF PART 63—EXISTING SOURCE EMISSION LIMITS [a] [b]

For the following existing sources . . .	You must meet the emission limits for the specified pollutant . . .		
	Total fluorides	Total particulate	Mercury
Wet-Process Phosphoric Acid Line	0.020 lb/ton of equivalent P_2O_5 feed.		
Superphosphoric Acid Process Line [c].	0.010 lb/ton of equivalent P_2O_5 feed.		
Superphosphoric Acid Submerged Line with a Submerged Combustion Process.	0.20 lb/ton of equivalent P_2O_5 feed.		
Phosphate Rock Dryer		0.2150 lb/ton of phosphate rock feed.	
Phosphate Rock Calciner	9.0E–04 lb/ton of rock feed [d]	0.181 g/dscm	0.14 mg/dscm corrected to 3 percent oxygen [d]

[a] The existing source compliance date is June 10, 2002, except as noted.

[b] During periods of startup and shutdown, for emission limits stated in terms of pounds of pollutant per ton of feed, you are subject to the work practice standards specified in § 63.602(f).

[c] Beginning on August 19, 2016, you must include oxidation reactors in superphosphoric acid process lines when determining compliance with the total fluorides limit.

[d] Compliance date is August 19, 2015.

TABLE 2 TO SUBPART AA OF PART 63—NEW SOURCE EMISSION LIMITS [a] [b]

For the following new sources . . .	You must meet the emissions limits for the specified pollutant . . .		
	Total fluorides	Total particulate	Mercury
Wet-Process Phosphoric Acid Line	0.0135 lb/ton of equivalent P_2O_5 feed.		
Superphosphoric Acid Process Line [c].	0.00870 lb/ton of equivalent P_2O_5 feed.		
Phosphate Rock Dryer		0.060 lb/ton of phosphate rock feed.	
Phosphate Rock Calciner	9.0E–04 lb/ton of rock feed	0.092 g/dscm	0.014 mg/dscm corrected to 3 percent oxygen

[a] The new source compliance dates are based on date of construction or reconstruction as specified in § 63.602(a).
[b] During periods of startup and shutdown, for emission limits stated in terms of pounds of pollutant per ton of feed, you are subject to the work practice standards specified in § 63.602(f).
[c] Beginning on August 19, 2016, you must include oxidation reactors in superphosphoric acid process lines when determining compliance with the total fluorides limit.

TABLE 3 TO SUBPART AA OF PART 63—MONITORING EQUIPMENT OPERATING PARAMETERS

You must . . .	If . . .	And you must monitor . . .	And . . .
Absorbers (Wet Scrubbers)			
Install a continuous parameter monitoring system (CPMS) for liquid flow at the inlet of the absorber.	Your absorber is designed and operated with pressure drops of 5 inches of water column or more; and you choose to monitor only the influent liquid flow, rather than the liquid-to-gas ratio.	Influent liquid flow.	
Install CPMS for liquid and gas flow at the inlet of the absorber.	Your absorber is designed and operated with pressure drops of 5 inches of water column or less; or. Your absorber is designed and operated with pressure drops of 5 inches of water column or more, and you choose to monitor the liquid-to-gas ratio, rather than only the influent liquid flow, and you want the ability to lower liquid flow with changes in gas flow.	Liquid-to-gas ratio as determined by dividing the influent liquid flow rate by the inlet gas flow rate. The units of measure must be consistent with those used to calculate this ratio during the performance test.	You must measure the gas stream by: Measuring the gas stream flow at the absorber inlet; or Using the design blower capacity, with appropriate adjustments for pressure drop.
Install CPMS for pressure at the gas stream inlet and outlet of the absorber.	Your absorber is designed and operated with pressure drops of 5 inches of water column or more.	Pressure drop through the absorber.	You may measure the pressure of the inlet gas using amperage on the blower if a correlation between pressure and amperage is established
Sorbent Injection			
Install a CPMS for flow rate		Sorbent injection rate.	
Install a CPMS for flow rate		Sorbent injection carrier gas flow rate.	
Wet Electrostatic Precipitators			
Install secondary voltage meter.	You control mercury or metal HAP (particulate matter) using an electrostatic precipitator.	Secondary voltage.	

TABLE 4 TO SUBPART AA OF PART 63—OPERATING PARAMETERS, OPERATING LIMITS AND DATA MONITORING, RECORDKEEPING AND COMPLIANCE FREQUENCIES

For the operating parameter applicable to you, as specified in Table 3 . . .	You must establish the following operating limit . . .	And you must monitor, record, and demonstrate continuous compliance using these minimum frequencies . . .		
		Data measurement	Data recording	Data averaging period for compliance
Absorbers (Wet Scrubbers)				
Influent liquid flow	Minimum inlet liquid flow	Continuous	Every 15 minutes.	Daily.
Influent liquid flow rate and gas stream flow rate.	Minimum influent liquid-to-gas ratio	Continuous	Every 15 minutes.	Daily.

TABLE 4 TO SUBPART AA OF PART 63—OPERATING PARAMETERS, OPERATING LIMITS AND DATA MONITORING, RECORDKEEPING AND COMPLIANCE FREQUENCIES—Continued

For the operating parameter applicable to you, as specified in Table 3 . . .	You must establish the following operating limit . . .	And you must monitor, record, and demonstrate continuous compliance using these minimum frequencies . . .		
		Data measurement	Data recording	Data averaging period for compliance
Pressure drop	Pressure drop range	Continuous	Every 15 minutes.	Daily.
Sorbent Injection				
Sorbent injection rate	Minimum injection rate	Continuous	Every 15 minutes.	Daily.
Sorbent injection carrier gas flow rate.	Minimum carrier gas flow rate	Continuous	Every 15 minutes.	Daily.
Fabric Filters				
Alarm time	Maximum alarm time is not established on a site-specific basis but is specified in § 63.605(f)(9).	Continuous	Each date and time of alarm start and stop.	Maximum alarm time specified in § 63.605(f)(9).
Wet Electrostatic Precipitator				
Secondary voltage	Secondary voltage range	Continuous	Every 15 minutes.	Daily.

TABLE 5 TO SUBPART AA OF PART 63—CALIBRATION AND QUALITY CONTROL REQUIREMENTS FOR CONTINUOUS PARAMETER MONITORING SYSTEM (CPMS)

If you monitor this parameter . . .	Your accuracy requirements are . . .	And your calibration requirements are . . .
Temperature	±1 percent over the normal range of temperature measured or 2.8 degrees Celsius (5 degrees Fahrenheit), whichever is greater, for non-cryogenic temperature ranges. ±2.5 percent over the normal range of temperature measured or 2.8 degrees Celsius (5 degrees Fahrenheit), whichever is greater, for cryogenic temperature ranges.	Performance evaluation annually and following any period of more than 24 hours throughout which the temperature exceeded the maximum rated temperature of the sensor, or the data recorder was off scale. Visual inspections and checks of CPMS operation every 3 months, unless the CPMS has a redundant temperature sensor. Selection of a representative measurement location.
Flow Rate	±5 percent over the normal range of flow measured or 1.9 liters per minute (0.5 gallons per minute), whichever is greater, for liquid flow rate. ±5 percent over the normal range of flow measured or 280 liters per minute (10 cubic feet per minute), whichever is greater, for gas flow rate. ±5 percent over the normal range measured for mass flow rate.	Performance evaluation annually and following any period of more than 24 hours throughout which the flow rate exceeded the maximum rated flow rate of the sensor, or the data recorder was off scale. Checks of all mechanical connections for leakage monthly. Visual inspections and checks of CPMS operation every 3 months, unless the CPMS has a redundant flow sensor. Selection of a representative measurement location where swirling flow or abnormal velocity distributions due to upstream and downstream disturbances at the point of measurement are minimized.
Pressure	±5 percent over the normal range measured or 0.12 kilopascals (0.5 inches of water column), whichever is greater.	Checks for obstructions (*e.g.,* pressure tap pluggage) at least once each process operating day. Performance evaluation annually and following any period of more than 24 hours throughout which the pressure exceeded the maximum rated pressure of the sensor, or the data recorder was off scale. Checks of all mechanical connections for leakage monthly. Visual inspection of all components for integrity, oxidation and galvanic corrosion every 3 months, unless the CPMS has a redundant pressure sensor. Selection of a representative measurement location that minimizes or eliminates pulsating pressure, vibration, and internal and external corrosion.

TABLE 5 TO SUBPART AA OF PART 63—CALIBRATION AND QUALITY CONTROL REQUIREMENTS FOR CONTINUOUS PARAMETER MONITORING SYSTEM (CPMS)—Continued

If you monitor this parameter . . .	Your accuracy requirements are . . .	And your calibration requirements are . . .
Sorbent Injection Rate	±5 percent over the normal range measured	Performance evaluation annually. Visual inspections and checks of CPMS operation every 3 months, unless the CPMS has a redundant sensor. Select a representative measurement location that provides measurement of total sorbent injection.
Secondary voltage	±1kV	

APPENDIX A TO SUBPART AA OF PART 63—APPLICABILITY OF GENERAL PROVISIONS (40 CFR PART 63, SUBPART A) TO SUBPART AA

40 CFR citation	Requirement	Applies to subpart AA	Comment
§ 63.1(a)(1) through (4)	General Applicability	Yes	None.
§ 63.1(a)(5)		No	[Reserved].
§ 63.1(a)(6)	Contact information	Yes	None.
§ 63.1(a)(7)–(9)		No	[Reserved].
§ 63.1(a)(10) through (12)	Time periods	Yes	None.
§ 63.1(b)	Initial Applicability Determination	Yes	None.
§ 63.1(c)(1)	Applicability After Standard Established	Yes	None.
§ 63.1(c)(2)	Permits	Yes	Some plants may be area sources.
§ 63.1(c)(3)–(4)		No	[Reserved].
§ 63.1(c)(5)	Area to Major source change	Yes	None.
§ 63.1(d)		No	[Reserved].
§ 63.1(e)	Applicability of Permit Program	Yes	None.
§ 63.2	Definitions	Yes	Additional definitions in § 63.601.
§ 63.3	Units and Abbreviations	Yes	None.
§ 63.4(a)(1) and (2)	Prohibited Activities	Yes	None.
§ 63.4(a)(3) through (5)		No	[Reserved].
§ 63.4(b) and (c)	Circumvention/Fragmentation	Yes	None.
§ 63.5(a)	Construction/Reconstruction Applicability.	Yes	None.
§ 63.5(b)(1)	Existing, New, Reconstructed Sources Requirements.	Yes	None.
§ 63.5(b)(2)		No	[Reserved].
§ 63.5(b)(3), (4), and (6)	Construction/Reconstruction approval and notification.	Yes	None.
§ 63.5(b)(5)		No	[Reserved].
§ 63.5(c)		No	[Reserved].
§ 63.5(d)	Application for Approval of Construction/Reconstruction.	Yes	None.
§ 63.5(e)	Approval of Construction/Reconstruction	Yes	None.
§ 63.5(f)	Approval of Construction/Reconstruction Based on State Review.	Yes	None.
§ 63.6(a)	Compliance with Standards and Maintenance Applicability.	Yes	None.
§ 63.6(b)(1) through (5)	New and Reconstructed Sources Dates	Yes	See also § 63.602.
§ 63.6(b)(6)		No	[Reserved].
§ 63.6(b)(7)	Area to major source change	Yes	None.
§ 63.6(c)(1)and (2)	Existing Sources Dates	Yes	§ 63.602 specifies dates.
§ 63.6(c)(3) and (4)		No	[Reserved].
§ 63.6(c)(5)	Area to major source change	Yes	None.
§ 63.6(d)		No	[Reserved].
§ 63.6(e)(1)(i) and (ii)	Operation & Maintenance Requirements	No	See § 63.608(b) for general duty requirement.
§ 63.6(e)(iii)		Yes	None.
§ 63.6(e)(2)		No	[Reserved].
§ 63.6(e)(3)	Startup, Shutdown, and Malfunction Plan.	No	None.
§ 63.6(f)	Compliance with Emission Standards	No	See general duty at § 63.608(b).
§ 63.6(g)	Alternative Standard	Yes	None.
§ 63.6(h)	Compliance with Opacity/VE Standards	No	Subpart AA does not include VE/opacity standards.
§ 63.6(i)(1) through (14)	Extension of Compliance	Yes	None.
§ 63.6(i)(15)		No	[Reserved].
§ 63.6(i)(16)		Yes	None.
§ 63.6(j)	Exemption from Compliance	Yes	None.
§ 63.7(a)	Performance Test Requirements Applicability.	Yes	None.

APPENDIX A TO SUBPART AA OF PART 63—APPLICABILITY OF GENERAL PROVISIONS (40 CFR PART 63, SUBPART A) TO SUBPART AA—Continued

40 CFR citation	Requirement	Applies to subpart AA	Comment
§ 63.7(b)	Notification	Yes	None.
§ 63.7(c)	Quality Assurance/Test Plan	Yes	None.
§ 63.7(d)	Testing Facilities	Yes	None.
§ 63.7(e)(1)	Conduct of Tests; startup, shutdown, and malfunction provisions.	No	§ 63.606 specifies additional requirements.
§ 63.7(e)(2) through (4)	Conduct of Tests	Yes	§ 63.606 specifies additional requirements.
§ 63.7(f)	Alternative Test Method	Yes	None.
§ 63.7(g)	Data Analysis	Yes	None.
§ 63.7(h)	Waiver of Tests	Yes	None.
§ 63.8(a)	Monitoring Requirements Applicability	Yes	None.
§ 63.8(b)	Conduct of Monitoring	Yes	None.
§ 63.8(c)(1)(i)	General duty to minimize emissions and CMS operation.	No	See 63.608(b) for general duty requirement.
§ 63.8(c)(1)(ii)		Yes	None.
§ 63.8(c)(1)(iii)	Requirement to develop SSM Plan for CMS.	No	None.
§ 63.8(c)(2) through (4)	CMS Operation/Maintenance	Yes	None.
§ 63.8(c)(5)	COMS Operation	No	Subpart AA does not require COMS.
§ 63.8(c)(6) through (8)	CMS requirements	Yes	None.
§ 63.8(d)(1) and (2)	Quality Control	Yes	None.
§ 63.8(d)(3)	Written procedure for CMS	No	See § 63.608 for requirement.
§ 63.8(e)	CMS Performance Evaluation	Yes	None.
§ 63.8(f)(1) through (5)	Alternative Monitoring Method	Yes	None.
§ 63.8(f)(6)	Alternative to RATA Test	Yes	None.
§ 63.8(g)(1)	Data Reduction	Yes	None.
§ 63.8(g)(2)		Yes	None.
§ 63.8(g)(3) through (5)		Yes	None.
§ 63.9(a)	Notification Requirements Applicability	Yes	None.
§ 63.9(b)	Initial Notifications	Yes	None.
§ 63.9(c)	Request for Compliance Extension	Yes	None.
§ 63.9(d)	New Source Notification for Special Compliance Requirements.	Yes	None.
§ 63.9(e)	Notification of Performance Test	Yes	None.
§ 63.9(f)	Notification of VE/Opacity Test	No	Subpart AA does not include VE/opacity standards.
§ 63.9(g)	Additional CMS Notifications	Yes	Subpart AA does not require CMS performance evaluation, COMS, or CEMS.
§ 63.9(h)(1) through (3)	Notification of Compliance Status	Yes	None.
§ 63.9(h)(4)		No	[Reserved].
§ 63.9(h)(5) and (6)		Yes	None.
§ 63.9(i)	Adjustment of Deadlines	Yes	None.
§ 63.9(j)	Change in Previous Information	Yes	None.
§ 63.10(a)	Recordkeeping/Reporting-Applicability	Yes	None.
§ 63.10(b)(1)	General Recordkeeping Requirements	Yes	None.
§ 63.10(b)(2)(i)	Startup or shutdown duration	No	None.
§ 63.10(b)(2)(ii)	Malfunction	No	See § 63.607 for recordkeeping and reporting requirement.
§ 63.10(b)(2)(iii)	Maintenance records	Yes	None.
§ 63.10(b)(2)(iv) and (v)	Startup, shutdown, malfunction actions	No	None.
§ 63.10(b)(2)(vi) through (xiv)	General Recordkeeping Requirements	Yes	None.
§ 63.10(b)(3)	General Recordkeeping Requirements	Yes	None.
§ 63.10(c)(1)	Additional CMS Recordkeeping	Yes	None.
§ 63.10(c)(2) through (4)		No	[Reserved].
§ 63.10(c)(5)		Yes	None.
§ 63.10(c)(6)		Yes	None.
§ 63.10(c)(7) and (8)		Yes	None.
§ 63.10(c)(9)		No	[Reserved].
§ 63.10(c)(10) through (13)		Yes	None.
§ 63.10(c)(14)		Yes	None.
§ 63.10(c)(15)	Startup Shutdown Malfunction Plan Provisions.	No	None.
§ 63.10(d)(1)	General Reporting Requirements	Yes	None.
§ 63.10(d)(2)	Performance Test Results	Yes	None.
§ 63.10(d)(3)	Opacity or VE Observations	No	Subpart AA does not include VE/opacity standards.
§ 63.10(d)(4)	Progress Reports	Yes	None.
§ 63.10(d)(5)	Startup, Shutdown, and Malfunction Reports.	No	See § 63.607 for reporting of excess emissions.

APPENDIX A TO SUBPART AA OF PART 63—APPLICABILITY OF GENERAL PROVISIONS (40 CFR PART 63, SUBPART A) TO SUBPART AA—Continued

40 CFR citation	Requirement	Applies to subpart AA	Comment
§ 63.10(e)(1) and (2)	Additional CMS Reports	Yes	None.
§ 63.10(e)(3)	Excess Emissions/CMS Performance Reports.	Yes	None.
§ 63.10(e)(4)	COMS Data Reports	No	Subpart AA does not require COMS.
§ 63.10(f)	Recordkeeping/Reporting Waiver	Yes	None.
§ 63.11	Control Device and Work Practice Requirements.	Yes	None.
§ 63.12	State Authority and Delegations	Yes	None.
§ 63.13	Addresses	Yes	None.
§ 63.14	Incorporation by Reference	Yes	None.
§ 63.15	Information Availability/Confidentiality	Yes	None.
§ 63.16	Performance Track Provisions	No	Terminated.

■ 21. Part 63 is amended by revising subpart BB to read as follows:

Subpart BB—National Emission Standards for Hazardous Air Pollutants from Phosphate Fertilizers Production Plants

Sec.
63.620 Applicability.
63.621 Definitions.
63.622 Standards and compliance dates.
63.623 [Reserved]
63.624 [Reserved]
63.625 Operating and monitoring requirements.
63.626 Performance tests and compliance provisions.
63.627 Notification, recordkeeping, and reporting requirements.
63.628 General requirements and applicability of general provisions of this part.
63.629 Miscellaneous requirements.
63.630 [Reserved]
63.631 Exemption from new source performance standards.
63.632 Implementation and enforcement.
Table 1 to Subpart BB of Part 63—Existing Source Emission Limits
Table 2 to Subpart BB of Part 63—New Source Emission Limits
Table 3 to Subpart BB of Part 63—Monitoring Equipment Operating Parameters
Table 4 to Subpart BB of Part 63—Operating Parameters, Operating Limits and Data Monitoring, Recordkeeping and Compliance Frequencies
Table 5 to Subpart BB of Part 63—Calibration and Quality Control Requirements for Continuous Parameter Monitoring Systems (CPMS)
Appendix A to Subpart BB of Part 63—Applicability of General Provisions (40 CFR part 63, subpart A) to Subpart BB

§ 63.620 Applicability.

(a) Except as provided in paragraphs (c) and (d) of this section, you are subject to the requirements of this subpart if you own or operate a phosphate fertilizer production plant that is a major source as defined in § 63.2. You must comply with the emission limitations, work practice standards, and operating parameter requirements specified in this subpart at all times.

(b) The requirements of this subpart apply to emissions of hazardous air pollutants (HAP) emitted from the following affected sources at a phosphate fertilizer production plant:

(1) Each phosphate fertilizer process line (*e.g.,* diammonium and/or monoammonium phosphate process line).

(2) Each granular triple superphosphate process line.

(3) Each granular triple superphosphate storage building.

(4) Evaporative cooling tower.

(c) The requirements of this subpart do not apply to a phosphate fertilizer production plant that is an area source as defined in § 63.2.

(d) The provisions of this subpart do not apply to research and development facilities as defined in § 63.621.

§ 63.621 Definitions.

Terms used in this subpart are defined in § 63.2 of the Clean Air Act and in this section as follows:

Diammonium and/or monoammonium phosphate process line means any process line manufacturing granular diammonium and/or monoammonium phosphate by reacting ammonia with phosphoric acid that has been derived from or manufactured by reacting phosphate rock and acid. A diammonium and/or monoammonium phosphate process line includes: Reactors, granulators, dryers, coolers, screens, and mills.

Equivalent P_2O_5 feed means the quantity of phosphorus, expressed as phosphorus pentoxide (P_2O_5), fed to the process.

Equivalent P_2O_5 stored means the quantity of phosphorus, expressed as phosphorus pentoxide, being cured or stored in the affected facility.

Evaporative cooling tower means an open-water, re-circulating device that uses fans or natural draft to draw or force ambient air through the device to remove heat from process water by direct contact.

Exceedance means a departure from an indicator range established for monitoring under this subpart, consistent with any averaging period specified for averaging the results of the monitoring.

Existing source depends on the date that construction or reconstruction of an affected source commenced. A phosphate fertilizer process line (*e.g.,* diammonium and/or monoammonium phosphate process line), granular triple superphosphate process line, or granular triple superphosphate storage is an existing source if construction or reconstruction of the affected source commenced on or before December 27, 1996.

Fresh granular triple superphosphate means granular triple superphosphate produced within the preceding 72 hours.

Granular triple superphosphate process line means any process line, not including storage buildings, that manufactures granular triple superphosphate by reacting phosphate rock with phosphoric acid. A granular triple superphosphate process line includes: mixers, curing belts (dens), reactors, granulators, dryers, coolers, screens, and mills.

Granular triple superphosphate storage building means any building curing or storing fresh granular triple superphosphate. A granular triple superphosphate storage building includes: storage or curing buildings, conveyors, elevators, screens, and mills.

New source depends on the date that construction or reconstruction of an affected source commences. A phosphate fertilizer process line (*e.g.,* diammonium and/or monoammonium

phosphate process line), granular triple superphosphate process line, or granular triple superphosphate storage is a new source if construction or reconstruction of the affected source commenced after December 27, 1996.

Phosphate fertilizer process line means any process line that manufactures a granular phosphate fertilizer by reacting phosphoric acid with ammonia. A phosphate fertilizer process line includes: reactors, granulators, dryers, coolers, screens, and mills.

Phosphate fertilizer production plant means any production plant that manufactures a granular phosphate fertilizer by reacting phosphoric acid with ammonia.

Research and development facility means research or laboratory operations whose primary purpose is to conduct research and development into new processes and products, where the operations are under the close supervision of technically trained personnel, and where the facility is not engaged in the manufacture of products for commercial sale in commerce or other off-site distribution, except in a de minimis manner.

Shutdown commences when feed materials cease to be added to an affected source and ends when the affected source is deactivated, regardless of whether feed material is present in the affected source.

Startup commences when any feed material is first introduced into an affected source and ends when feed material is fully loaded into the affected source.

Total fluorides means elemental fluorine and all fluoride compounds, including the HAP hydrogen fluoride, as measured by reference methods specified in 40 CFR part 60, appendix A, Method 13 A or B, or by equivalent or alternative methods approved by the Administrator pursuant to § 63.7(f).

§ 63.622 Standards and compliance dates.

(a) On and after the dates specified in paragraphs (a)(1) through (3) of this section, for each phosphate fertilizer process line (*e.g.,* diammonium and/or monoammonium phosphate process line), granular triple superphosphate process line, and granular triple superphosphate storage building, you must comply with the emission limits as specified in paragraphs (a)(1) through (3) of this section. If a process line contains more than one emission point, you must sum the emissions from all emission points in a process line to determine compliance with the specified emission limits.

(1) For each existing phosphate fertilizer process line (*e.g.,* diammonium and/or monoammonium phosphate process line), granular triple superphosphate process line, and granular triple superphosphate storage building that commenced construction or reconstruction on or before December 27, 1996, you must comply with the emission limits specified in Table 1 to this subpart beginning on June 10, 2002.

(2) For each new phosphate fertilizer process line (*e.g.,* diammonium and/or monoammonium phosphate process line), granular triple superphosphate process line, and granular triple superphosphate storage building that commences construction or reconstruction after December 27, 1996 and on or before August 19, 2015, you must comply with the emission limits specified in Table 2 to this subpart beginning on June 10, 1999 or at startup, whichever is later.

(3) For each new phosphate fertilizer process line (*e.g.,* diammonium and/or monoammonium phosphate process line), granular triple superphosphate process line, and granular triple superphosphate storage building that commences construction or reconstruction after August 19, 2015, you must comply with the emission limits specified in Table 2 to this subpart immediately upon startup.

(b) Beginning on June 10, 2002, you must not ship fresh granular triple superphosphate from your existing granular triple superphosphate storage building that commenced construction or reconstruction on or before December 27, 1996. Beginning on June 10, 1999 or at startup, whichever is later, you must not ship fresh granular triple superphosphate from your new granular triple superphosphate storage building that commences construction or reconstruction after December 27, 1996.

(c) Beginning on August 19, 2015, you must not introduce into any evaporative cooling tower any liquid effluent from any absorber installed to control emissions from process equipment.

(d) Beginning on August 19, 2015, during periods of startup and shutdown (as defined in § 63.621), you must comply with the work practice specified in this paragraph in lieu of the emission limits specified in paragraph (a) of this section. During periods of startup and shutdown, you must operate any control device(s) being used at the affected source, monitor the operating parameters specified in Table 3 of this subpart, and comply with the operating limits specified in Table 4 of this subpart.

§ 63.623 [Reserved]

§ 63.624 [Reserved]

§ 63.625 Operating and monitoring requirements.

(a) For each phosphate fertilizer process line (*e.g.,* diammonium and/or monoammonium phosphate process line), or granular triple superphosphate process line subject to the provisions of this subpart, you must comply with the monitoring requirements specified in paragraphs (a)(1) and (2) of this section.

(1) Install, calibrate, maintain, and operate a continuous monitoring system (CMS) according to your site-specific monitoring plan specified in § 63.628(c). The CMS must have an accuracy of ±5 percent over its operating range and must determine and permanently record the mass flow of phosphorus-bearing material fed to the process.

(2) Maintain a daily record of equivalent P_2O_5 feed. Calculate the equivalent P_2O_5 feed by determining the total mass rate in metric ton/hour of phosphorus bearing feed using the procedures specified in § 63.626(f)(3).

(b) For each granular triple superphosphate storage building subject to the provisions of this subpart, you must maintain an accurate record of the mass of granular triple superphosphate in storage to permit the determination of the amount of equivalent P_2O_5 stored.

(c) For each granular triple superphosphate storage building subject to the provisions of this subpart, you must comply with the requirements specified in paragraphs (c)(1) and (2) of this section.

(1) Maintain a daily record of total equivalent P_2O_5 stored by multiplying the percentage P_2O_5 content, as determined by § 63.626(f)(3)(ii), by the total mass of granular triple superphosphate stored as specified in paragraph (b) of this section.

(2) Develop for approval by the Administrator a site-specific methodology including sufficient recordkeeping for the purposes of demonstrating compliance with § 63.622(b).

(d) If you use a control device(s) to comply with the emission limits specified in Table 1 or 2 of this subpart, you must install a continuous parameter monitoring system (CPMS) and comply with the requirements specified in paragraphs (d)(1) through (4) of this section.

(1) You must monitor the operating parameter(s) applicable to the control device that you use as specified in Table 3 to this subpart and establish the applicable limit or range for the operating parameter limit as specified in

paragraphs (d)(1)(i) and (ii) of this section, as applicable.

(i) Except as specified in paragraph (d)(1)(ii) of this section, determine the value(s) as the arithmetic average of operating parameter measurements recorded during the three test runs conducted for the most recent performance test.

(ii) If you use an absorber to comply with the emission limits in Table 1 or 2 to this subpart and you monitor pressure drop across the absorber, you must establish allowable ranges using the methodology specified in paragraphs (d)(1)(ii)(A) and (B) of this section.

(A) The allowable range for the daily averages of the pressure drop across each absorber is ±20 percent of the baseline average value determined in paragraph (d)(1)(i) of this section. The Administrator retains the right to reduce the ±20 percent adjustment to the baseline average values of operating ranges in those instances where performance test results indicate that a source's level of emissions is near the value of an applicable emissions standard. However, the adjustment must not be reduced to less than ±10 percent under any instance.

(B) As an alternative to paragraph (d)(1)(ii)(A) of this section, you may establish allowable ranges for the daily averages of the pressure drop across an absorber for the purpose of assuring compliance with this subpart using the procedures described in this paragraph. You must establish the allowable ranges based on the baseline average values recorded during previous performance tests or the results of performance tests conducted specifically for the purposes of this paragraph. You must conduct all performance tests using the methods specified in § 63.626. You must certify that the control devices and processes have not been modified since the date of the performance test from which you obtained the data used to establish the allowable ranges. When a source using the methodology of this paragraph is retested, you must determine new allowable ranges of baseline average values unless the retest indicates no change in the operating parameters outside the previously established ranges.

(2) You must monitor, record, and demonstrate continuous compliance using the minimum frequencies specified in Table 4 to this subpart.

(3) You must comply with the calibration and quality control requirements that are applicable to the operating parameter(s) you monitor as specified in Table 5 to this subpart.

(4) If you use a fabric filter system to comply with the emission limits specified in Table 1 or 2 to this subpart, the system must meet the requirements for fabric filters specified in paragraph (e) of this section.

(e) Beginning August 19, 2016, if you use a fabric filter system to comply with the emission limits specified in Table 1 or 2 to this subpart, then the fabric filter must be equipped with a bag leak detection system that is installed, calibrated, maintained and continuously operated according to the requirements in paragraphs (e)(1) through (10) of this section.

(1) Install a bag leak detection sensor(s) in a position(s) that will be representative of the relative or absolute particulate matter loadings for each exhaust stack, roof vent, or compartment (*e.g.,* for a positive-pressure fabric filter) of the fabric filter.

(2) Use a bag leak detection system certified by the manufacturer to be capable of detecting particulate matter emissions at concentrations of 1 milligram per actual cubic meter (0.00044 grains per actual cubic feet) or less.

(3) Use a bag leak detection system equipped with a device to continuously record the output signal from the system sensor.

(4) Use a bag leak detection system equipped with a system that will trigger an alarm when an increase in relative particulate material emissions over a preset level is detected. The alarm must be located such that the alert is observed readily by plant operating personnel.

(5) Install a bag leak detection system in each compartment or cell for positive-pressure fabric filter systems that do not duct all compartments or cells to a common stack. Install a bag leak detector downstream of the fabric filter if a negative-pressure or induced-air filter is used. If multiple bag leak detectors are required, the system's instrumentation and alarm may be shared among detectors.

(6) Calibration of the bag leak detection system must, at a minimum, consist of establishing the baseline output level by adjusting the range and the averaging period of the device and establishing the alarm set points and the alarm delay time.

(7) After initial adjustment, you must not adjust the sensitivity or range, averaging period, alarm set points or alarm delay time, except as established in your site-specific monitoring plan required in § 63.628(c). In no event may the sensitivity be increased more than 100 percent or decreased by more than 50 percent over a 365-day period unless such adjustment follows a complete inspection of the fabric filter system that demonstrates that the system is in good operating condition.

(8) Operate and maintain each fabric filter and bag leak detection system such that the alarm does not sound more than 5 percent of the operating time during a 6-month period. If the alarm sounds more than 5 percent of the operating time during a 6-month period, it is considered an operating parameter exceedance. Calculate the alarm time (*i.e.,* time that the alarm sounds) as specified in paragraphs (e)(8)(i) through (iii) of this section.

(i) If inspection of the fabric filter demonstrates that corrective action is not required, the alarm duration is not counted in the alarm time calculation.

(ii) If corrective action is required, each alarm time is counted as a minimum of 1 hour.

(iii) If it takes longer than 1 hour to initiate corrective action, each alarm time (*i.e.,* time that the alarm sounds) is counted as the actual amount of time taken by you to initiate corrective action.

(9) If the alarm on a bag leak detection system is triggered, you must initiate procedures within 1 hour of an alarm to identify the cause of the alarm and then initiate corrective action, as specified in § 63.628(d)(2), no later than 48 hours after an alarm. Failure to take these actions within the prescribed time periods is considered a violation.

(10) Retain records of any bag leak detection system alarm, including the date, time, duration, and the percent of the total operating time during each 6-month period that the alarm triggers, with a brief explanation of the cause of the alarm, the corrective action taken, and the schedule and duration of the corrective action.

§ 63.626 Performance tests and compliance provisions.

(a) You must conduct an initial performance test to demonstrate compliance with the emission limits specified in Tables 1 and 2 to this subpart, within 180 days of the applicable compliance date specified in § 63.622.

(b) After you conduct the initial performance test specified in paragraph (a) of this section, you must conduct a performance test once per calendar year.

(c) For affected sources (as defined in § 63.620) that have not operated since the previous annual performance test was conducted and more than 1 year has passed since the previous performance test, you must conduct a performance test no later than 180 days after the re-start of the affected source

according to the applicable provisions in § 63.7(a)(2).

(d)(1) You must conduct the performance tests specified in this section at representative (normal) conditions for the process. Representative (normal) conditions means those conditions that:

(i) Represent the range of combined process and control measure conditions under which the facility expects to operate (regardless of the frequency of the conditions); and

(ii) Are likely to most challenge the emissions control measures of the facility with regard to meeting the applicable emission standards, but without creating an unsafe condition.

(2) Operations during startup, shutdown, and malfunction do not constitute representative (normal) operating conditions for purposes of conducting a performance test. You must record the process information that is necessary to document the operating conditions during the test and include in such record an explanation to support that such conditions represent representative (normal) conditions. Upon request, you must make available to the Administrator such records as may be necessary to determine the conditions of performance tests.

(e) In conducting all performance tests, you must use as reference methods and procedures the test methods in 40 CFR part 60, appendix A, or other methods and procedures as specified in this section, except as provided in § 63.7(f).

(f) For each phosphate fertilizer process line (*e.g.,* diammonium and/or monoammonium phosphate process line), and granular triple superphosphate process line, you must determine compliance with the applicable total fluorides standards specified in Tables 1 and 2 to this subpart as specified in paragraphs (f)(1) through (3) of this section.

(1) Compute the emission rate (E) of total fluorides for each run using Equation BB–1:

$$E = \left(\sum_{i=1}^{N} C_i Q_i \right) / (PK) \qquad \text{(Eq. BB-1)}$$

Where:

E = Emission rate of total fluorides, gram/metric ton (pound/ton) of equivalent P_2O_5 feed.

Ci = Concentration of total fluorides from emission point ''i,'' milligram/dry standard cubic meter (milligram/dry standard cubic feet).

Qi = Volumetric flow rate of effluent gas from emission point ''i,'' dry standard cubic meter/hour (dry standard cubic feet/hour).

N = Number of emission points associated with the affected facility.

P = Equivalent P_2O_5 feed rate, metric ton/hour (ton/hour).

K = Conversion factor, 1000 milligram/gram (453,600 milligram/pound).

(2) You must use Method 13A or 13B (40 CFR part 60, appendix A) to determine the total fluorides concentration (C_i) and the volumetric flow rate (Q_i) of the effluent gas at each emission point. The sampling time for each run at each emission point must be at least 60 minutes. The sampling volume for each run at each emission point must be at least 0.85 dscm (30 dscf). If Method 13B is used, the fusion of the filtered material described in Section 7.3.1.2 and the distillation of suitable aliquots of containers 1 and 2, described in section 7.3.3 and 7.3.4 in Method 13 A, may be omitted.

(3) Compute the equivalent P_2O_5 feed rate (P) using Equation BB–2:

$$P = M_p R_p \qquad \text{(Eq. BB-2)}$$

Where:

P = P_2O_5 feed rate, metric ton/hour (ton/hour).

M_p = Total mass flow rate of phosphorus-bearing feed, metric ton/hour (ton/hour).

R_p = P_2O_5 content, decimal fraction.

(i) Determine the mass flow rate (M_p) of the phosphorus-bearing feed using the measurement system described in § 63.625(a).

(ii) Determine the P_2O_5 content (R_p) of the feed using, as appropriate, the following methods specified in the Book of Methods Used and Adopted By The Association of Florida Phosphate Chemists (incorporated by reference, see § 63.14) where applicable:

(A) Section IX, Methods of Analysis for Phosphate Rock, No. 1 Preparation of Sample.

(B) Section IX, Methods of Analysis for Phosphate Rock, No. 3 Phosphorus-P_2O_5 or $Ca_3(PO_4)_2$, Method A—Volumetric Method.

(C) Section IX, Methods of Analysis for Phosphate Rock, No. 3 Phosphorus-P_2O_5 or $Ca_3(PO_4)_2$, Method B—Gravimetric Quimociac Method.

(D) Section IX, Methods of Analysis for Phosphate Rock, No. 3 Phosphorus-P_2O_5 or Ca3$(PO_4)_2$, Method C—Spectrophotometric Method.

(E) Section XI, Methods of Analysis for Phosphoric Acid, Superphosphate, Triple superphosphate, and Ammonium Phosphates, No. 3 Total Phosphorus-P_2O_5, Method A—Volumetric Method.

(F) Section XI, Methods of Analysis for Phosphoric Acid, Superphosphate, Triple Superphosphate, and Ammonium Phosphates, No. 3 Total Phosphorus-P_2O_5, Method B—Gravimetric Quimociac Method.

(G) Section XI, Methods of Analysis for Phosphoric Acid, Superphosphate, Triple Superphosphate, and Ammonium Phosphates, No. 3 Total Phosphorus-P_2O_5, Method C—Spectrophotometric Method.

(g) For each granular triple superphosphate storage building, you must determine compliance with the applicable total fluorides standards specified in Tables 1 and 2 to this subpart as specified in paragraphs (g)(1) through (7) of this section.

(1) You must conduct performance tests only when the following quantities of product are being cured or stored in the facility:

(i) Total granular triple superphosphate is at least 10 percent of the building capacity, and

(ii) Fresh granular triple superphosphate is at least six percent of the total amount of granular triple superphosphate, or

(iii) If the provision in paragraph (g)(1)(ii) of this section exceeds production capabilities for fresh granular triple superphosphate, the fresh granular triple superphosphate is equal to at least 5 days maximum production.

(2) Compute the emission rate (E) of total fluorides for each run using Equation BB–3:

$$E = \left(\sum_{i=1}^{N} C_i Q_i \right) / (PK) \qquad \text{(Eq. BB-3)}$$

Where:

E = Emission rate of total fluorides, gram/hour/metric ton (pound/hour/ton) of equivalent P_2O_5 stored.

C_i = Concentration of total fluorides from emission point ''i'', milligram/dry standard cubic meter (milligram/dry standard cubic feet).

Q_i = Volumetric flow rate of effluent gas from emission point ''i'', dry standard cubic meter/hour (dry standard cubic feet/hour).

N = Number of emission points in the affected facility.

P = Equivalent P_2O_5 stored, metric tons (tons).

K = Conversion factor, 1000 milligram/gram (453,600 milligram/pound).

(3) You must use Method 13A or 13B (40 CFR part 60, appendix A) to determine the total fluorides concentration (C_i) and the volumetric flow rate (Q_i) of the effluent gas at each emission point. The sampling time for each run at each emission point must be at least 60 minutes. The sampling volume for each run at each emission point must be at least 0.85 dscm (30 dscf). If Method 13B is used, the fusion of the filtered material described in Section 7.3.1.2 and the distillation of suitable aliquots of containers 1 and 2, described in section 7.3.3 and 7.3.4 in Method 13A, may be omitted.

(4) Compute the equivalent P_2O_5 stored (P) using Equation BB–4:

$$P = M_p R_p \qquad \text{(Eq. BB-4)}$$

Where:

P = P_2O_5 stored (ton).

M_p = Amount of product in storage, metric ton (ton).

R_p = P_2O_5 content of product in storage, weight fraction.

(5) Determine the amount of product (M_p) in storage using the measurement system described in § 63.625(b) and (c).

(6) Determine the P_2O_5 content (R_p) of the product stored using, as appropriate, the following methods specified in the Book of Methods Used and Adopted By The Association of Florida Phosphate Chemists (incorporated by reference, see § 63.14) where applicable:

(i) Section XI, Methods of Analysis For Phosphoric Acid, Superphosphate, Triple superphosphate, and Ammonium Phosphates, No. 3 Total Phosphorus-P_2O_5, Method A—Volumetric Method.

(ii) Section XI, Methods of Analysis For Phosphoric Acid, Superphosphate, Triple superphosphate, and Ammonium Phosphates, No. 3 Total Phosphorus-P_2O_5, Method B—Gravimetric Quimociac Method.

(iii) Section XI, Methods of Analysis For Phosphoric Acid, Superphosphate, Triple superphosphate, and Ammonium Phosphates, No. 3 Total Phosphorus-P_2O_5, Method C—Spectrophotometric Method, or,

(7) Determine the P_2O_5 content (R_p) of the product stored using, as appropriate, the following methods specified in the Official Methods of Analysis of AOAC International (incorporated by reference, see § 63.14) where applicable:

(i) AOAC Official Method 957.02 Phosphorus (Total) In Fertilizers, Preparation of Sample Solution.

(ii) AOAC Official Method 929.01 Sampling of Solid Fertilizers.

(iii) AOAC Official Method 929.02 Preparation of Fertilizer Sample.

(iv) AOAC Official Method 978.01 Phosphorus (Total) in Fertilizers, Automated Method.

(v) AOAC Official Method 969.02 Phosphorus (Total) in Fertilizers, Alkalimetric Quinolinium Molybdophosphate Method.

(vi) AOAC Official Method 962.02 Phosphorus (Total) in Fertilizers, Gravimetric Quinolinium Molybdophosphate Method.

(vii) AOAC Official Method 958.01 Phosphorus (Total) in Fertilizers, Spectrophotometric Molybdovanadophosphate Method.

(h) If you use a CMS, you must conduct a performance evaluation, as specified in § 63.8(e), in accordance with your site-specific monitoring plan in § 63.628(c). For fabric filters, you must conduct a performance evaluation of the bag leak detection system consistent with the guidance provided in Office Of Air Quality Planning And Standards (OAQPS), Fabric Filter Bag Leak Detection Guidance (incorporated by reference, see § 63.14). You must record the sensitivity of the bag leak detection system to detecting changes in particulate matter emissions, range, averaging period, and alarm set points during the performance test.

§ 63.627 Notification, recordkeeping, and reporting requirements.

(a) You must comply with the notification requirements specified in § 63.9. During the most recent performance test, if you demonstrate compliance with the emission limit while operating your control device outside the previously established operating limit, you must establish a new operating limit based on that most recent performance test and notify the Administrator that the operating limit changed based on data collected during the most recent performance test. When a source is retested and the performance test results are submitted to the Administrator pursuant to paragraph (b)(1) of this section, § 63.7(g)(1), or § 63.10(d)(2), you must indicate whether the operating limit is based on the new performance test or the previously established limit. Upon establishment of a new operating limit, you must thereafter operate under the new operating limit. If the Administrator determines that you did not conduct the compliance test in accordance with the applicable requirements or that the operating limit established during the performance test does not correspond to representative (normal) conditions, you must conduct a new performance test and establish a new operating limit.

(b) You must comply with the reporting and recordkeeping requirements in § 63.10 as specified in paragraphs (b)(1) through (5) of this section.

(1) You must comply with the general recordkeeping requirements in § 63.10(b)(1); and

(2) As required by § 63.10(d), you must report the results of the initial and subsequent performance tests as part of the notification of compliance status required in § 63.9(h). You must verify in the performance test reports that the operating limits for each process have not changed or provide documentation of revised operating limits established according to § 63.625, as applicable. In the notification of compliance status, you must also:

(i) Certify to the Administrator that you have not shipped fresh granular triple superphosphate from an affected facility.

(ii) Certify to the Administrator annually that you have complied with the evaporative cooling tower requirements specified in § 63.622(c).

(iii) Submit analyses and supporting documentation demonstrating conformance with the Office Of Air Quality Planning And Standards (OAQPS), Fabric Filter Bag Leak Detection Guidance (incorporated by reference, see § 63.14) and specifications for bag leak detection systems as part of the notification of compliance status report.

(iv) If you elect to demonstrate compliance by following the procedures in § 63.625(d)(1)(ii)(B), certify to the Administrator annually that the control devices and processes have not been modified since the date of the performance test from which you obtained the data used to establish the allowable ranges.

(3) As required by § 63.10(e)(1), you must submit an excess emissions report for any exceedance of an emission or operating parameter limit if the total duration of the exceedances for the reporting period is 1 percent of the total operating time for the reporting period or greater. The report must contain the information specified in § 63.10 and paragraph (b)(4) of this section. When exceedances of an emission limit or operating parameter have not occurred, you must include such information in the report. You must submit the report semiannually and the report must be delivered or postmarked by the 30th day following the end of the calendar half. If exceedances are reported, you must submit the excess emissions report quarterly until a request to reduce reporting frequency is approved as described in § 63.10(e)(3).

(4) In the event that an affected unit fails to meet an applicable standard, record and report the following information for each failure:

(i) The date, time and duration of the failure.

(ii) A list of the affected sources or equipment for which a failure occurred.

(iii) An estimate of the volume of each regulated pollutant emitted over any emission limit.

(iv) A description of the method used to estimate the emissions.

(v) A record of actions taken to minimize emissions in accordance with § 63.628(b), and any corrective actions taken to return the affected unit to its normal or usual manner of operation.

(5) You must submit a summary report containing the information specified in § 63.10(e)(3)(vi). You must submit the summary report semiannually and the report must be delivered or postmarked by the 30th day following the end of the calendar half.

(c) Your records must be in a form suitable and readily available for expeditious review. You must keep each record for 5 years following the date of each recorded action. You must keep each record on site, or accessible from a central location by computer or other means that instantly provide access at the site, for at least 2 years after the date of each recorded action. You may keep the records off site for the remaining 3 years.

(d) In computing averages to determine compliance with this subpart, you must exclude the monitoring data specified in paragraphs (d)(1) through (3) of this section.

(1) Periods of non-operation of the process unit;

(2) Periods of no flow to a control device; and

(3) Any monitoring data recorded during continuous parameter monitoring system (CPMS) breakdowns, out-of-control periods, repairs, maintenance periods, instrument adjustments or checks to maintain precision and accuracy, calibration checks, and zero (low-level), mid-level (if applicable), and high-level adjustments.

(e) Within 60 days after the date of completing each performance test (as defined in § 63.2) required by this subpart, you must submit the results of the performance tests, including any associated fuel analyses, following the procedure specified in either paragraph (e)(1) or (2) of this section.

(1) For data collected using test methods supported by the EPA's Electronic Reporting Tool (ERT) as listed on the EPA's ERT Web site (*http://www.epa.gov/ttn/chief/ert/index.html*), you must submit the results of the performance test to the EPA via the Compliance and Emissions Data Reporting Interface (CEDRI). CEDRI can be accessed through the EPA's Central Data Exchange (CDX) (*http://cdx.epa.gov/epa_home.asp*). Performance test data must be submitted in a file format generated through the use of the EPA's ERT. Alternatively, you may submit performance test data in an electronic file format consistent with the extensible markup language (XML) schema listed on the EPA's ERT Web site once the XML schema is available. If you claim that some of the performance test information being submitted is confidential business information (CBI), you must submit a complete file generated through the use of the EPA's ERT or an alternate electronic file consistent with the XML schema listed on the EPA's ERT Web site, including information claimed to be CBI, on a compact disc, flash drive, or other commonly used electronic storage media to the EPA. The electronic media must be clearly marked as CBI and mailed to U.S. EPA/OAPQS/CORE CBI Office, Attention: Group Leader, Measurement Policy Group, MD C404–02, 4930 Old Page Rd., Durham, NC 27703. The same ERT or alternate file with the CBI omitted must be submitted to the EPA via the EPA's CDX as described earlier in this paragraph.

(2) For data collected using test methods that are not supported by the EPA's ERT as listed on the EPA's ERT Web site, you must submit the results of the performance test to the Administrator at the appropriate address listed in § 63.13.

§ 63.628 General requirements and applicability of general provisions of this part.

(a) You must comply with the general provisions in subpart A of this part as specified in appendix A to this subpart.

(b) At all times, you must operate and maintain any affected source, including associated air pollution control equipment and monitoring equipment, in a manner consistent with safety and good air pollution control practices for minimizing emissions. The general duty to minimize emissions does not require you to make any further efforts to reduce emissions if levels required by this standard have been achieved. Determination by the Administrator of whether a source is operating in compliance with operation and maintenance requirements will be based on information available to the Administrator that may include, but is not limited to, monitoring results, review of operation and maintenance procedures, review of operation and maintenance records, and inspection of the source.

(c) For each CMS used to demonstrate compliance with any applicable emission limit, you must develop, and submit to the Administrator for approval upon request, a site-specific monitoring plan according to the requirements specified in paragraphs (c)(1) through (3) of this section. You must submit the site-specific monitoring plan, if requested by the Administrator, at least 60 days before the initial performance evaluation of the CMS. The requirements of this paragraph also apply if a petition is made to the Administrator for alternative monitoring parameters under § 63.8(f).

(1) You must include the information specified in paragraphs (c)(1)(i) through (vi) of this section in the site-specific monitoring plan.

(i) Location of the CMS sampling probe or other interface. You must include a justification demonstrating that the sampling probe or other interface is at a measurement location relative to each affected process unit such that the measurement is representative of control of the exhaust emissions (*e.g.,* on or downstream of the last control device).

(ii) Performance and equipment specifications for the sample interface, the pollutant concentration or parametric signal analyzer, and the data collection and reduction systems.

(iii) Performance evaluation procedures and acceptance criteria (*e.g.,* calibrations).

(iv) Ongoing operation and maintenance procedures in accordance with the general requirements of § 63.8(c)(1)(ii), (c)(3), (c)(4)(ii), and Table 4 to this subpart.

(v) Ongoing data quality assurance procedures in accordance with the general requirements of § 63.8(d)(1) and (2) and Table 5 to this subpart.

(vi) Ongoing recordkeeping and reporting procedures in accordance with the general requirements of § 63.10(c), (e)(1), (e)(2)(i).

(2) You must include a schedule for conducting initial and subsequent performance evaluations in the site-specific monitoring plan.

(3) You must keep the site-specific monitoring plan on site for the life of the affected source or until the affected source is no longer subject to the provisions of this part, to be made available for inspection, upon request, by the Administrator. If you revise the site-specific monitoring plan, you must keep previous (*i.e.,* superseded) versions of the plan on site to be made available for inspection, upon request, by the Administrator, for a period of 5 years after each revision to the plan. You must include the program of corrective action required under § 63.8(d)(2) in the plan.

(d) For each bag leak detection system installed to comply with the requirements specified in § 63.625(e), you must include the information specified in paragraphs (d)(1) and (2) of this section in the site-specific monitoring plan specified in paragraph (c) of this section.

(1) Performance evaluation procedures and acceptance criteria (*e.g.,* calibrations), including how the alarm set-point will be established.

(2) A corrective action plan describing corrective actions to be taken and the timing of those actions when the bag leak detection alarm sounds. Corrective actions may include, but are not limited to, the actions specified in paragraphs (d)(2)(i) through (vi) of this section.

(i) Inspecting the fabric filter for air leaks, torn or broken bags or filter media, or any other conditions that may cause an increase in regulated material emissions.

(ii) Sealing off defective bags or filter media.

(iii) Replacing defective bags or filter media or otherwise repairing the control device.

(iv) Sealing off a defective fabric filter compartment.

(v) Cleaning the bag leak detection system probe or otherwise repairing the bag leak detection system.

(vi) Shutting down the process controlled by the fabric filter.

§ 63.629 Miscellaneous requirements.

The Administrator retains the authority to approve site-specific test plans for uncontrolled granular triple superphosphate storage buildings developed pursuant to § 63.7(c)(2)(i).

§ 63.630 [Reserved]

§ 63.631 Exemption from new source performance standards.

Any affected source subject to the provisions of this subpart is exempted from any otherwise applicable new source performance standard contained in 40 CFR part 60, subpart V, subpart W, or subpart X. To be exempt, a source must have a current operating permit pursuant to title V of the Clean Air Act and the source must be in compliance with all requirements of this subpart. For each affected source, this exemption is effective upon the date that you demonstrate to the Administrator that the requirements of §§ 63.625 and 63.626 have been met.

§ 63.632 Implementation and enforcement.

(a) This subpart is implemented and enforced by the U.S. EPA, or a delegated authority such as the applicable state, local, or Tribal agency. If the U.S. EPA Administrator has delegated authority to a state, local, or Tribal agency, then that agency, in addition to the U.S. EPA, has the authority to implement and enforce this subpart. Contact the applicable U.S. EPA Regional Office to find out if implementation and enforcement of this subpart is delegated to a state, local, or Tribal agency.

(b) The authorities specified in paragraphs (b)(1) through (5) of this section are retained by the Administrator of U.S. EPA and cannot be delegated to State, local, or Tribal agencies.

(1) Approval of alternatives to the requirements in §§ 63.620, 63.622, 63.625, 63.629, and 63.631.

(2) Approval of requests under §§ 63.7(e)(2)(ii) and 63.7 (f) for alternative requirements or major changes to the test methods specified in this subpart, as defined in § 63.90.

(3) Approval of requests under § 63.8(f) for alternative requirements or major changes to the monitoring requirements specified in this subpart, as defined in § 63.90.

(4) Waiver or approval of requests under § 63.10(f) for alternative requirements or major changes to the recordkeeping and reporting requirements specified in this subpart, as defined in § 63.90.

(5) Approval of an alternative to any electronic reporting to the EPA required by this subpart.

TABLE 1 TO SUBPART BB OF PART 63—EXISTING SOURCE EMISSION LIMITS [a] [b]

For the following existing sources . . .	You must meet the emission limits for the specified pollutant . . .
	Total fluorides
Phosphate Fertilizer Process Line (*e.g.,* Diammonium and/or Monoammonium Phosphate Process Line).	0.060 lb/ton of equivalent P_2O_5 feed.
Granular Triple Superphosphate Process Line	0.150 lb/ton of equivalent P_2O_5 feed.
GTSP storage building	5.0×10^{-4} lb/hr/ton of equivalent P_2O_5 stored.

[a] The existing source compliance date is June 10, 2002.

[b] During periods of startup and shutdown, for emission limits stated in terms of pounds of pollutant per ton of feed, you are subject to the work practice standards specified in § 63.622(d).

TABLE 2 TO SUBPART BB OF PART 63—NEW SOURCE EMISSION LIMITS [a] [b]

For the following new sources . . .	You must meet the emission limits for the specified pollutant . . .
	Total fluorides
Phosphate Fertilizer Process Line (*e.g.,* Diammonium and/or Monoammonium Phosphate Process Line).	0.0580 lb/ton of equivalent P_2O_5 feed.
Granular Triple Superphosphate Process Line	0.1230 lb/ton of equivalent P_2O_5 feed.
GTSP storage building	5.0×10^{-4} lb/hr/ton of equivalent P_2O_5 stored.

[a] The new source compliance dates are based on date of construction or reconstruction as specified in § 63.622(a).
[b] During periods of startup and shutdown, for emission limits stated in terms of pounds of pollutant per ton of feed, you are subject to the work practice standards specified in § 63.622(d).

TABLE 3 TO SUBPART BB OF PART 63—MONITORING EQUIPMENT OPERATING PARAMETERS

You must . . .	If . . .	And you must monitor . . .	And . . .
Absorbers (Wet Scrubbers)			
Install a continuous parameter monitoring system (CPMS) for liquid flow at the inlet of the absorber..	Your absorber is designed and operated with pressure drops of 5 inches of water column or more; and you choose to monitor only the influent liquid flow, rather than the liquid-to-gas ratio.	Influent liquid flow.	
Install CPMS for liquid and gas flow at the inlet of the absorber.	Your absorber is designed and operated with pressure drops of 5 inches of water column or less; or. Your absorber is designed and operated with pressure drops of 5 inches of water column or more, and you choose to monitor the liquid-to-gas ratio, rather than only the influent liquid flow, and you want the ability to lower liquid flow with changes in gas flow.	Liquid-to-gas ratio as determined by dividing the influent liquid flow rate by the inlet gas flow rate. The units of measure must be consistent with those used to calculate this ratio during the performance test.	You must measure the gas stream by: Measuring the gas stream flow at the absorber inlet; or Using the design blower capacity, with appropriate adjustments for pressure drop.
Install CPMS for pressure at the gas stream inlet and outlet of the absorber.	Your absorber is designed and operated with pressure drops of 5 inches of water column or more.	Pressure drop through the absorber	You may measure the pressure of the inlet gas using amperage on the blower if a correlation between pressure and amperage is established.

TABLE 4 TO SUBPART BB OF PART 63—OPERATING PARAMETERS, OPERATING LIMITS AND DATA MONITORING, RECORDKEEPING AND COMPLIANCE FREQUENCIES

For the operating parameter applicable to you, as specified in Table 3 . . .	You must establish the following operating limit during your performance test . . .	And you must monitor, record, and demonstrate continuous compliance using these minimum frequencies	Data measurement	Data recording
Absorbers (Wet Scrubbers)				
Influent liquid flow	Minimum inlet liquid flow	Continuous	Every 15 minutes	Daily.
Influent liquid flow rate and gas stream flow rate.	Minimum influent liquid-to-gas ratio.	Continuous	Every 15 minutes	Daily.
Pressure drop	Pressure drop range	Continuous	Every 15 minutes	Daily.

TABLE 5 TO SUBPART BB OF PART 63—CALIBRATION AND QUALITY CONTROL REQUIREMENTS FOR CONTINUOUS PARAMETER MONITORING SYSTEMS (CPMS)

If you monitor this parameter . . .	Your accuracy requirements are . . .	And your calibration requirements are . . .
Flow Rate	± 5 percent over the normal range of flow measured or 1.9 liters per minute (0.5 gallons per minute), whichever is greater, for liquid flow rate.. ± 5 percent over the normal range of flow measured or 28 liters per minute (10 cubic feet per minute), whichever is greater, for gas flow rate.. ± 5 percent over the normal range measured for mass flow rate..	Performance evaluation annually and following any period of more than 24 hours throughout which the flow rate exceeded the maximum rated flow rate of the sensor, or the data recorder was off scale. Checks of all mechanical connections for leakage monthly. Visual inspections and checks of CPMS operation every 3 months, unless the CPMS has a redundant flow sensor. Selection of a representative measurement location where swirling flow or abnormal velocity distributions due to upstream and downstream disturbances at the point of measurement are minimized.
Pressure	± 5 percent over the normal range measured or 0.12 kilopascals (0.5 inches of water column), whichever is greater..	Checks for obstructions (*e.g.,* pressure tap pluggage) at least once each process operating day. Performance evaluation annually and following any period of more than 24 hours throughout which the pressure exceeded the maximum rated pressure of the sensor, or the data recorder was off scale. Checks of all mechanical connections for leakage monthly. Visual inspection of all components for integrity, oxidation and galvanic corrosion every 3 months, unless the CPMS has a redundant pressure sensor. Selection of a representative measurement location that minimizes or eliminates pulsating pressure, vibration, and internal and external corrosion.

Appendix A to Subpart BB of Part 63—Applicability of General Provisions (40 CFR Part 63, Subpart A) to Subpart BB

40 CFR citation	Requirement	Applies to subpart BB	Comment
§ 63.1(a)(1) through (4)	General Applicability	Yes	None.
§ 63.1(a)(5)		No	[Reserved].
§ 63.1(a)(6)	Contact information	Yes	None.
§ 63.1(a)(7) through (9)		No	[Reserved].
§ 63.1(a)(10) through (12)	Time periods	Yes	None.
§ 63.1(b)	Initial Applicability Determination	Yes	None.
§ 63.1(c)(1)	Applicability After Standard Established.	Yes	None.
§ 63.1(c)(2)	Permits	Yes	Some plants may be area sources.
§ 63.1(c)(3) through (4)		No	[Reserved].
§ 63.1(c)(5)	Area to Major source change	Yes	None.
§ 63.1(d)		No	[Reserved].
§ 63.1(e)	Applicability of Permit Program	Yes	None.
§ 63.2	Definitions	Yes	Additional definitions in § 63.621.
§ 63.3	Units and Abbreviations	Yes	None.
§ 63.4(a)(1) and (2)	Prohibited Activities	Yes	None.
§ 63.4(a)(3) through (5)		No	[Reserved].
§ 63.4(b) and (c)	Circumvention/Fragmentation	Yes	None.
§ 63.5(a)	Construction/Reconstruction Applicability.	Yes	None.
§ 63.5(b)(1)	Existing, New, Reconstructed Sources Requirements.	Yes	None.
§ 63.5(b)(2)		No	[Reserved].
§ 63.5(b)(3), (4), and (6)	Construction/Reconstruction approval and notification.	Yes	None.
§ 63.5(b)(5)		No	[Reserved].
§ 63.5(c)		No	[Reserved].
§ 63.5(d)	Application for Approval of Construction/Reconstruction.	Yes	None.
§ 63.5(e)	Approval of Construction/Reconstruction.	Yes	None.
§ 63.5(f)	Approval of Construction/Reconstruction Based on State Review.	Yes	None.
§ 63.6(a)	Compliance with Standards and Maintenance Applicability.	Yes	None.

40 CFR citation	Requirement	Applies to subpart BB	Comment
§ 63.6(b)(1) through (5)	New and Reconstructed Sources Dates.	Yes	See also § 63.622.
§ 63.6(b)(6)		No	[Reserved].
§ 63.6(b)(7)	Area to major source change	Yes	None.
§ 63.6(c)(1) and (2)	Existing Sources Dates	Yes	§ 63.622 specifies dates.
§ 63.6(c)(3) and (4)		No	[Reserved].
§ 63.6(c)(5)	Area to major source change	Yes	None.
§ 63.6(d)		No	[Reserved].
§ 63.6(e)(1)(i) and (ii)	Operation & Maintenance Requirements.	No	See § 63.628(b) for general duty requirement.
§ 63.6(e)(iii)		Yes	None.
§ 63.6(e)(2)		No	[Reserved].
§ 63.6(e)(3)	Startup, Shutdown, and Malfunction Plan.	No	None.
§ 63.6(f)	Compliance with Emission Standards	No	See general duty at § 63.628(b).
§ 63.6(g)	Alternative Standard	Yes	None.
§ 63.6(h)	Compliance with Opacity/VE Standards.	No	Subpart BB does not include VE/opacity standards.
§ 63.6(i)(1) through (14)	Extension of Compliance	Yes	None.
§ 63.6(i)(15)		No	[Reserved].
§ 63.6(i)(16)		Yes	None.
§ 63.6(j)	Exemption from Compliance	Yes	None.
§ 63.7(a)	Performance Test Requirements Applicability.	Yes	None.
§ 63.7(b)	Notification	Yes	None.
§ 63.7(c)	Quality Assurance/Test Plan	Yes	None.
§ 63.7(d)	Testing Facilities	Yes	None.
§ 63.7(e)(1)	Conduct of Tests; startup, shutdown and malfunction provisions.	No	§ 63.626 specifies additional requirements.
§ 63.7(e)(2) through (4)	Conduct of Tests	Yes	§ 63.626 specifies additional requirements.
§ 63.7(f)	Alternative Test Method	Yes	None.
§ 63.7(g)	Data Analysis	Yes	None.
§ 63.7(h)	Waiver of Tests	Yes	None.
§ 63.8(a)	Monitoring Requirements Applicability.	Yes	None.
§ 63.8(b)	Conduct of Monitoring	Yes	None.
§ 63.8(c)(1)(i)	General duty to minimize emissions and CMS operation.	No	See § 63.628(b) for general duty requirement.
§ 63.8(c)(1)(ii)		Yes	None.
§ 63.8(c)(1)(iii)	Requirement to develop SSM Plan for CMS.	No	None.
§ 63.8(c)(2) through (4)	CMS Operation/Maintenance	Yes	None.
§ 63.8(c)(5)	COMS Operation	No	Subpart BB does not require COMS.
§ 63.8(c)(6) through (8)	CMS requirements	Yes	None.
§ 63.8(d)(1) and (2)	Quality Control	Yes	None.
§ 63.8(d)(3)	Written procedure for CMS	No	See § 63.628 for requirement.
§ 63.8(e)	CMS Performance Evaluation	Yes	None.
§ 63.8(f)(1) through (5)	Alternative Monitoring Method	Yes	None.
§ 63.8(f)(6)	Alternative to RATA Test	No	Subpart BB does not require CEMS.
§ 63.8(g)(1)	Data Reduction	Yes	None.
§ 63.8(g)(2)		No	Subpart BB does not require COMS or CEMS.
§ 63.8(g)(3) through (5)		Yes	None.
§ 63.9(a)	Notification Requirements Applicability.	Yes	None.
§ 63.9(b)	Initial Notifications	Yes	None.
§ 63.9(c)	Request for Compliance Extension	Yes	None.
§ 63.9(d)	New Source Notification for Special Compliance Requirements.	Yes	None.
§ 63.9(e)	Notification of Performance Test	Yes	None.
§ 63.9(f)	Notification of VE/Opacity Test	No	Subpart BB does not include VE/opacity standards.
§ 63.9(g)	Additional CMS Notifications	Yes	None.
§ 63.9(h)(1) through (3)	Notification of Compliance Status	Yes	None.
§ 63.9(h)(4)		No	[Reserved].
§ 63.9(h)(5) and (6)		Yes	None.
§ 63.9(i)	Adjustment of Deadlines	Yes	None.
§ 63.9(j)	Change in Previous Information	Yes	None.
§ 63.10(a)	Recordkeeping/Reporting-Applicability.	Yes	None.
§ 63.10(b)(1)	General Recordkeeping Requirements.	Yes	None.
§ 63.10(b)(2)(i)	Startup or shutdown duration	No	None.

40 CFR citation	Requirement	Applies to subpart BB	Comment
§ 63.10(b)(2)(ii)	Malfunction	No	See § 63.627 for recordkeeping and reporting requirement.
§ 63.10(b)(2)(iii)	Maintenance records	Yes	None.
§ 63.10(b)(2)(iv) and (v)	Startup, shutdown, malfunction actions.	No	None.
§ 63.10(b)(2)(vi) through (xiv)	General Recordkeeping Requirements.	Yes	None.
§ 63.10(b)(3)	General Recordkeeping Requirements.	Yes	None.
§ 63.10(c)(1)	Additional CMS Recordkeeping	Yes	None.
§ 63.10(c)(2) through (4)		No	[Reserved].
§ 63.10(c)(5)		Yes	None.
§ 63.10(c)(6)		Yes	None.
§ 63.10(c)(7) and (8)		Yes	None.
§ 63.10(c)(9)		No	[Reserved].
§ 63.10(c)(10) through (13)		Yes	None.
§ 63.10(c)(14)		Yes	None.
§ 63.10(c)(15)	Startup Shutdown Malfunction Plan Provisions.	No	None.
§ 63.10(d)(1)	General Reporting Requirements	Yes	None.
§ 63.10(d)(2)	Performance Test Results	Yes	None.
§ 63.10(d)(3)	Opacity or VE Observations	No	Subpart BB does not include VE/opacity standards.
§ 63.10(d)(4)	Progress Reports	Yes	None.
§ 63.10(d)(5)	Startup, Shutdown, and Malfunction Reports.	No	See § 63.627 for reporting of excess emissions.
§ 63.10(e)(1) and (2)	Additional CMS Reports	Yes	None.
§ 63.10(e)(3)	Excess Emissions/CMS Performance Reports.	Yes	None.
§ 63.10(e)(4)	COMS Data Reports	No	Subpart BB does not require COMS.
§ 63.10(f)	Recordkeeping/Reporting Waiver	Yes	None.
§ 63.11	Control Device and Work Practice Requirements.	Yes	None.
§ 63.12	State Authority and Delegations	Yes	None.
§ 63.13	Addresses	Yes	None.
§ 63.14	Incorporation by Reference	Yes	None.
§ 63.15	Information Availability/Confidentiality	Yes	None.
§ 63.16	Performance Track Provisions	No	Terminated.

[FR Doc. 2015–19732 Filed 8–18–15; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL REGISTER

Vol. 80 Wednesday,

No. 160 August 19, 2015

Part III

Department of Energy

10 CFR Parts 429 and 431

Energy Conservation Program: Energy Conservation Standards for Refrigerated Bottled or Canned Beverage Vending Machines; Proposed Rule

DEPARTMENT OF ENERGY

10 CFR Parts 429 and 431

[Docket Number EERE–2013–BT–STD–0022]

RIN 1904–AD00

Energy Conservation Program: Energy Conservation Standards for Refrigerated Bottled or Canned Beverage Vending Machines

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

ACTION: Notice of proposed rulemaking (NOPR) and announcement of public meeting.

SUMMARY: The Energy Policy and Conservation Act of 1975 (EPCA), as amended, prescribes energy conservation standards for various consumer products and certain commercial and industrial equipment, including refrigerated bottled or canned beverage vending machines (beverage vending machine). EPCA also requires the U.S. Department of Energy (DOE) to periodically determine whether more-stringent, amended standards would be technologically feasible and economically justified, and would save a significant amount of energy. In this NOPR, DOE proposes amended energy conservation standards for Class A and Class B beverage vending machines. DOE is also proposing to amend the definition for Class A equipment to more clearly differentiate Class A and Class B equipment, as well as to amend the definition of combination vending machine. In addition, DOE proposes to establish definitions and new energy conservations standards for Combination A and Combination B classes of beverage vending machines. This NOPR also announces a public meeting to receive comment on these proposed standards and associated analyses and results, and announces the availability of the NOPR technical support document (TSD).

DATES: DOE will hold a public meeting on Tuesday, September 29, 2015, from 10 a.m. to 3 p.m., in Washington, DC. The meeting also will be broadcast as a webinar. See section VII of this NOPR, ''Public Participation,'' for webinar registration information, participant instructions, and information about the capabilities available to webinar participants.

DOE will accept comments, data, and information regarding this NOPR before and after the public meeting, but no later than October 19, 2015. See section VII of this NOPR, ''Public Participation,'' for details.

Comments regarding the likely competitive impact of the proposed standard should be sent to the Department of Justice contact listed in the **ADDRESSES** section before September 18, 2015.

ADDRESSES: The public meeting will be held at the U.S. Department of Energy, Forrestal Building, Room 8E–089, 1000 Independence Avenue SW., Washington, DC 20585.

Any comments submitted must identify the NOPR for Energy Conservation Standards for Beverage Vending Machines, and provide docket number EERE–2013–BT–STD–0022 and/or regulatory information number (RIN) number 1904–AD00. Comments may be submitted using any of the following methods:

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

2. *Email: BVM2013STD0022@ee.doe.gov.* Include the docket number and/or RIN in the subject line of the message.

3. *Postal Mail:* Ms. Brenda Edwards, U.S. Department of Energy, Building Technologies Office, Mailstop EE–5B, 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.

4. *Hand Delivery/Courier:* Ms. Brenda Edwards, U.S. Department of Energy, Building Technologies Program, 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.

Written comments regarding the burden-hour estimates or other aspects of the collection-of-information requirements contained in this proposed rule may be submitted to the Office of Energy Efficiency and Renewable Energy through the methods listed above and by email to *Chad_S._Whiteman@omb.eop.gov.*

For detailed instructions on submitting comments and additional information on the rulemaking process, see section VII of this NOPR (Public Participation).

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, such as those containing information that is exempt from public disclosure, may not be publicly available.

A link to the docket Web page can be found at: *http://www1.eere.energy.gov/buildings/appliance_standards/rulemaking.aspx/ruleid/73* . This Web page contains a link to the docket for this NOPR on the *www.regulations.gov* site. The *www.regulations.gov* Web page contains simple instructions on how to access all documents, including public comments, in the docket. See section VII of this NOPR, ''Public Participation,'' for further information on how to submit comments through *www.regulations.gov.*

EPCA requires the Attorney General to provide DOE a written determination of whether the proposed standard is likely to lessen competition. The U.S. Department of Justice Antitrust Division invites input from market participants and other interested persons with views on the likely competitive impact of the proposed standard. Interested persons may contact the Division at *energy.standards@atr.usdoj.gov* before September 18, 2015. Please indicate in the ''Subject'' line of your email the title and Docket Number of this rulemaking notice.

FOR FURTHER INFORMATION CONTACT:

Mr. John Cymbalsky, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Building Technologies Office, EE–2J, 1000 Independence Avenue SW., Washington, DC 20585–0121. Telephone: (202) 287–1692. Email: *refrigerated_beverage_vending_machines@ee.doe.gov.*

Ms. Sarah Butler, U.S. Department of Energy, Office of General Counsel, GC–33, 1000 Independence Avenue SW., Washington, DC 20585–0121, (202) 586–1777, Email: *Sarah.Butler@hq.doe.gov.*

For further information on how to submit a comment, review other public comments and the docket, or participate in the public meeting, contact Ms. Brenda Edwards at (202) 586–2945 or by email: *Brenda.Edwards@ee.doe.gov.*

SUPPLEMENTARY INFORMATION:

This notice of proposed rulemaking proposes to incorporate by reference into 10 CFR part 431 the testing methods contained in the following commercial standards:

(1) ASTM Standard E 1084–86 (Reapproved 2009), ''Standard Test Method for Solar Transmittance (Terrestrial) of Sheet Materials Using Sunlight,'' approved April 1, 2009.

Copies of ASTM standards may be purchased from ASTM International, 100 Barr Harbor Drive, PO Box C700, West Conshohocken, PA, 19428, (877) 909–2786, or at *www.astm.org.*

See IV.N for a further discussion of this standard.

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I. Synopsis of the Proposed Rule

Title III, Part A [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 refrigerated bottled or canned beverage vending machines (beverage vending machines or BVMs), the subject of this NOPR. (42 U.S.C. 6295(v)) [3]

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)) In accordance with these and other statutory provisions discussed in this NOPR, DOE proposes new and amended energy conservation standards for beverage vending machines. The proposed standards,

[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 Energy Efficiency Improvement Act of 2015 (EEIA 2015), Pub. L. 114–11 (April 30, 2015).

[3] Because Congress included beverage vending machines in Part A of Title III of EPCA, the consumer product provisions of Part A (not the industrial equipment provisions of Part A–1) apply to beverage vending machines. DOE placed the regulatory requirements specific to beverage vending machines in Title 10 of the Code of Federal Regulations (CFR), part 431, ''Energy Efficiency Program for Certain Commercial and Industrial Equipment'' as a matter of administrative convenience based on their type and will refer to beverage vending machines as ''equipment'' throughout this document because of their placement in 10 CFR part 431. Despite the placement of beverage vending machines in 10 CFR part 431, the relevant provisions of Title A of EPCA and 10 CFR part 430, which are applicable to all product types specified in Title A of EPCA, are applicable to beverage vending machines. See 74 FR 44914, 44917 (Aug. 31, 2009).

which are described in terms of the maximum daily energy consumption (MDEC) as a function of refrigerated volume, are shown in Table I.1. Specifically, DOE is proposing to amend the energy conservation standards established by the 2009 BVM final rule for Class A and Class B beverage vending machines. In addition, DOE is proposing to establish two new equipment classes at 10 CFR 431.292, Combination A and Combination B, as well as new energy conservation standards for those equipment classes. These proposed standards, if adopted, would apply to all equipment listed in Table I.1 and manufactured in, or imported into, the United States on or after the date 3 years after the publication of the final rule for this rulemaking.

TABLE I.1—PROPOSED ENERGY CONSERVATION STANDARDS FOR BEVERAGE VENDING MACHINES

Equipment class *	Proposed energy conservation standards ** Maximum daily energy consumption (MDEC) *kWh/day* †
A	0.041 × V + 1.92‡
B	0.033 × V + 1.42‡
Combination A	0.044 × V + 1.64‡
Combination B	0.044 × V + 1.36‡

* See section IV.A.1 of this NOPR for a discussion of equipment classes.

** "V" is the representative value of refrigerated volume (ft^3) of the BVM model, as measured in accordance with the method for determining refrigerated volume adopted in the recently amended DOE test procedure for beverage vending machines and appropriate sampling plan requirements at 10 CFR 429.52(a)(3). 80 FR 45758 (July 31, 2015). See section III.B and V.A for more details.

† kilowatt hours per day.

‡ Trial Standard Level (TSL) 4.

A. Benefits and Costs to Customers

Table I.2 and Table I.3 present DOE's evaluation of the economic impacts of the proposed energy conservation standards on customers, or purchasers, of beverage vending machines, as measured by the average life-cycle cost (LCC) savings and the simple payback period (PBP).[4] This analysis is based upon the use of two refrigerants, CO_2 (R–744) and propane (R–290). These refrigerants were selected for analysis based on the recent actions of the U.S. Environmental Protection Agency's (EPA's) Significant New Alternatives Policy (SNAP) program,[5] including the listing of propane as acceptable in BVM applications under Rule 19 (80 FR 19454, 19491; April 10, 2015) and the change of status of R–134a to unacceptable in BVM applications beginning January 1, 2019 under Rule 20. 80 FR 42870, 42917–42920 (July 20, 2015). The selected refrigerants on which this proposal is based was also guided by visible trends within the BVM marketplace and feedback from interested parties during public meetings, in written comments, and during manufacturer interviews.

The average LCC savings are positive for all equipment classes and refrigerants, and the PBP is less than the average lifetime of the equipment, which is estimated to be 13.5 years.

TABLE I.2—IMPACTS OF PROPOSED ENERGY CONSERVATION STANDARDS ON CUSTOMERS OF BEVERAGE VENDING MACHINES—CO_2 REFRIGERANT

Equipment class	Life-cycle cost savings *2014$*	Payback period *years*
Class A	173	3.6
Class B	534	2.3
Combination A	1,344	1.4
Combination B	1,098	0.6

TABLE I.3—IMPACTS OF PROPOSED ENERGY CONSERVATION STANDARDS ON CUSTOMERS OF BEVERAGE VENDING MACHINES—PROPANE REFRIGERANT

Equipment class	Life-cycle cost savings *2014$*	Payback period *years*
Class A	265	1.1
Class B	838	1.3
Combination A	1,405	1.1
Combination B	1,153	0.5

DOE's analysis of the impacts of the proposed standards on customers is described in section V of this NOPR.

B. Impact on Manufacturers

The industry net present value (INPV) is the sum of the discounted cash flows to the industry from the base year through the end of the analysis period (2015 to 2048). Using a real discount rate of 8.5 percent, DOE estimates that the INPV in the case without amended standards for manufacturers of beverage vending machines is $ 62.7 million.[6] Under the proposed standards, DOE expects that INPV may change by approximately −$3.5 million to −$0.2 million, which is −5.6 percent to −0.2 percent. DOE also expects industry conversion costs associated with amended standards compliance to total $2.8 million.

DOE's analysis of the impacts of the proposed standards on manufacturers is described in section V.B.2 of this NOPR.

C. National Benefits and Costs [7]

DOE's analyses indicate that the proposed energy conservation standards for beverage vending machines would save a significant amount of energy. The cumulative energy savings amount to 0.223 quadrillion Btus (quads) for beverage vending machines purchased in the 30-year period that begins in the year of compliance with new and amended standards for Class A, Class B, Combination A, and Combination B beverage vending machines (2019–2048),[8] relative to the case without

[4] The average LCC savings are measured relative to the efficiency distribution in the no-new-standards case, which depicts the market in the compliance year (see section IV.F.6 of this notice). The simple PBP, which is designed to compare specific efficiency levels, is measured relative to the baseline model (see section IV.C.1 of this notice). DOE acknowledges that not all BVM customers are also the entity that is responsible for the energy costs of operating the beverage vending machine in the field. However, there are many different contracting mechanisms for leasing and operating beverage vending machines, which are influenced by many factors, including the capital cost of the machine and the annual operating costs. As such, DOE believes that a simple "customer" LCC-model accurately demonstrates the cost-effectiveness of the potential energy efficiency improvements resulting from any new or amended standards, regardless of by whom the costs and benefits are borne.

[5] The Environmental Protection Agency's (EPA) Significant New Alternatives Policy (SNAP) program, which is the U.S. government regulatory program responsible for maintaining the list of alternatives to ozone-depleting substances allowed for use within specific applications in the United States, has taken two rulemaking actions that concern refrigerants for the U.S. refrigerated vending machine market. See section IV.C.2 for more details.

[6] All monetary values in section I.B of this notice are expressed in 2014 dollars; discounted values are discounted to 2014 unless explicitly stated otherwise.

[7] All monetary values in section I.C of this notice are expressed in 2014 dollars and are discounted to 2014.

[8] The standards analysis period for national benefits covers the 30-year period, plus the life of equipment purchased during the period. In the past DOE presented energy savings results for only the 30-year period that begins in the year of compliance. In the calculation of economic impacts, however, DOE considered operating cost savings measured over the entire lifetime of products purchased in the 30-year period. DOE has chosen to modify its presentation of national energy savings to be consistent with the approach used for its national economic analysis.

amended standards. This represents a savings of 39 percent relative to the energy use of this equipment in the case without amended standards (referred to as the ''no-new-standards case'').[9]

The cumulative net present value (NPV) of total customer costs and savings of the proposed standards for beverage vending machines range from $0.42 billion (at a 7-percent discount rate) to $1.10 billion (at a 3-percent discount rate [10]). This NPV expresses the estimated total value of future operating-cost savings minus the estimated increased product costs for beverage vending machines purchased in 2019–2048.

In addition, the proposed standards would have significant environmental benefits. The energy savings described above are estimated to result in cumulative emission reductions (for equipment purchased in 2019–2048) of 13 million metric tons (MMt) [11] of carbon dioxide (CO_2), 60 thousand tons of methane (CH_4), 11 thousand tons of sulfur dioxide (SO_2), 20 thousand tons of nitrogen oxides (NO_X), 0.2 thousand tons of nitrogen oxide (N_2O), and 0.03 tons of mercury (Hg).[12] The cumulative reduction in CO_2 emissions through 2030 amounts to 1.83 MMt, which is equivalent to the emissions resulting from the annual electricity use of about 250,000 homes.

The value of the CO_2 reductions is calculated using a range of values per metric ton of CO_2 (otherwise known as the social cost of carbon, or SCC) developed by a recent Federal interagency process.[13] The derivation of the SCC values is discussed in section IV.K of this NOPR. DOE estimates that the present monetary value of the CO_2 emissions reduction is between $0.1 and $1.2 billion, with a value of $0.4 billion using the central SCC case represented by $40.0 per metric ton in 2015. DOE also estimates the present monetary value of the NO_X emissions reduction is between $1.8 and $18.8 million at a 7-percent discount rate and between $4.4 and $45.1 million at a 3-percent discount rate.[14]

Table I.4 summarizes the national economic costs and benefits expected to result from these proposed standards for beverage vending machines.

TABLE I.4—SUMMARY OF NATIONAL ECONOMIC BENEFITS AND COSTS OF PROPOSED ENERGY CONSERVATION STANDARDS FOR BEVERAGE VENDING MACHINES*

Category	Present Value *million 2014$*	Discount Rate *%*
Benefits		
Customer Operating Cost Savings	520	7
	1,301	3
CO_2 Reduction Monetized Value ($12.2/metric ton case)**	85	5
CO_2 Reduction Monetized Value ($40.0/metric ton case)**	400	3
CO_2 Reduction Monetized Value ($62.3/metric ton case)**	638	2.5
CO_2 Reduction Monetized Value ($116.8/metric ton case)**	1,220	3
NO_X Reduction Monetized Value (at $2,723/ton)**	10	7
25	3	
Total Benefits †	930	7
	1,725	3
Costs		
Customer Incremental Installed Costs	103	7
201	3	
Net Benefits		
Including CO_2 and NO_X Reduction Monetized Value	837	7%
1,524	3	

* This table presents the costs and benefits associated with beverage vending machines shipped in 2019–2048. These results include benefits to customers that accrue after the last year of analyzed shipments (2048) from the equipment purchased during the 30-year analysis period. The costs account for the incremental variable and fixed costs incurred by manufacturers due to the standard, some of which may be incurred in preparation for the rule.

** The CO_2 values represent global monetized values of the SCC, in 2014$, in 2015 under several scenarios of the updated SCC values. The first three cases use the averages of SCC distributions calculated using 5 percent, 3 percent, and 2.5 percent discount rates, respectively. The fourth case represents the 95th percentile of the SCC distribution calculated using a 3-percent discount rate. The SCC time series used by DOE incorporates an escalation factor. The value for NO_X is the average of high and low values found in the literature.

† Total benefits for both the 3-percent and 7-percent cases are derived using the series corresponding to SCC value of $40.0/metric ton in 2015.

[9] The no-new-standards case represents a mix of efficiencies above the minimum efficiency level (EL 0). Please see section IV.F.6 for a more detail description of associated assumptions.

[10] These discount rates are used in accordance with the Office of Management and Budget (OMB) guidance to Federal agencies on the development of regulatory analysis (OMB Circular A–4, September 17, 2003), and section E, ''Identifying and Measuring Benefits and Costs,'' therein. Further details are provided in section IV.G of this notice.

[11] A metric ton is equivalent to 1.1 short tons. Results for CH_4, SO_2, NO_X, N_2O, and Hg are presented in short tons.

[12] DOE calculated emissions reductions relative to the *Annual Energy Outlook 2014* (*AEO2014*) reference case, which generally represents current legislation and environmental regulations for which implementing regulations were available as of October 31, 2013.

[13] *Technical Update of the Social Cost of Carbon for Regulatory Impact Analysis Under Executive Order 12866,* Interagency Working Group on Social Cost of Carbon, United States Government (May 2013; revised July 2015) (Available at *https://www.whitehouse.gov/sites/default/files/omb/inforeg/scc-tsd-final-july-2015.pdf).*

[14] DOE is currently investigating valuation of avoided Hg and SO_2 emissions.

The benefits and costs of these proposed standards for beverage vending machines sold in 2019–2048 can also be expressed in terms of annualized values. The monetary values for the total annualized net benefits are the sum of (1) the national economic value of the benefits in reduced operating costs, minus (2) the increases in equipment purchase and installation costs, plus (3) the value of the benefits of CO_2 and NO_X emission reductions, all annualized.[15]

Although DOE believes that the values of operating cost savings and CO_2 emission reductions are both important, two issues are relevant. First, the national operating savings are domestic U.S. customer monetary savings that occur as a result of market transactions, whereas the value of CO_2 reductions is based on a global value. Second, the assessments of operating cost savings and CO_2 savings are performed with different methods that use different time frames for analysis. The national operating cost savings is measured for the lifetime of beverage vending machines shipped in the 30-year analysis period beginning the year compliance is required with the new and amended standards. Because CO_2 emissions have a very long residence time in the atmosphere,[16] the SCC values in future years reflect future CO_2 emissions impacts resulting from the emission of one ton of CO_2 in each year. These impacts continue well beyond 2100.

Estimates of annualized benefits and costs of the proposed standards (over a 30-year period) are shown in Table I.5. The results under the primary estimate are as follows. Using a 7-percent discount rate for benefits and costs other than CO_2 reduction, for which DOE used a 3-percent discount rate along with the average SCC series that has a value of $40.0 per metric ton in 2015,[17] the cost of the standards proposed in this rule is $10.2 million per year in increased equipment costs, while the benefits are $51.3 million per year in reduced equipment operating costs, $22.3 million from CO_2 reductions, and $1.0 million in reduced NO_X emissions. In this case, the annualized net benefit amounts to $64 million per year. Using a 3-percent discount rate for all benefits and costs and the average SCC series that has a value of $40.0 per metric ton in 2015, the cost of the standards proposed in this rule is $11.2 million per year in increased equipment costs, while the benefits are $72.5 million per year in reduced operating costs, $22.3 million from CO_2 reductions, and $1.4 million in reduced NO_X emissions. In this case, the net benefit amounts to $85 million per year.

DOE also calculated the low net benefits and high net benefits estimates by calculating the operating cost savings and shipments at the *AEO2014* low economic growth case and high economic growth case scenarios, respectively. The low and high benefits for incremental installed costs were derived using the low and high price learning scenarios. In addition, the low and high benefits estimates reflect low and high shipments scenarios (see section IV.G.1.c of this NOPR). The net benefits and costs for low and high net benefits estimates were calculated in the same manner as the primary estimate by using the corresponding values of operating cost savings and incremental installed costs.

TABLE I.5—ANNUALIZED BENEFITS AND COSTS OF PROPOSED ENERGY CONSERVATION STANDARDS FOR BEVERAGE VENDING MACHINES

	Discount rate	Primary estimate *	Low net benefits estimate *	High net benefits estimate *
				million 2014$/year
Benefits				
Operating Cost Savings	7%	51	48	80
	3%	73	65	106
CO_2 Reduction Monetized Value ($12.2/metric ton case) **.	5%	6	6	9
CO_2 Reduction Monetized Value ($40.0/metric ton case) **.	3%	22	21	31
CO_2 Reduction Monetized Value ($62.3/metric ton case) **.	2.5%	33	30	45
CO_2 Reduction Monetized Value ($116.8/metric ton case) **.	3%	68	63	94
NO_X Reduction Monetized Value (at $2,723/ton) **	7%	1.02	0.99	1.56
	3%	1.38	1.29	1.97
Total Benefits†	7% plus CO_2 range	59 to 120	55 to 112	91 to 176
	7%	75	69	112
	3% plus CO_2 range	80 to 142	72 to 131	117 to 206
	3%	96	86	139
Costs				
Incremental Equipment Costs	7%	10.20	15.24	9.90
	3%	11.18	15.57	10.46
Net Benefits				
Total †	7% plus CO_2 range	49 to 110	40 to 96	81 to 166

[15] DOE used a two-step calculation process to convert the time-series of costs and benefits into annualized values. First, DOE calculated a present value in 2015, the year used for discounting the NPV of total customer costs and savings, for the time-series of costs and benefits using discount rates of 3 and 7 percent for all costs and benefits except for the value of CO_2 reductions. For the latter, DOE used a range of discount rates, as shown in Table I.4. From the present value, DOE then calculated the fixed annual payment over a 30-year period (2019 through 2048) that yields the same present value. The fixed annual payment is the annualized value. Although DOE calculated annualized values, this does not imply that the time-series of cost and benefits from which the annualized values were determined is a steady stream of payments.

[16] The atmospheric lifetime of CO_2 is estimated of the order of 30–95 years. Jacobson, MZ (2005). ''Correction to ''Control of fossil-fuel particulate black carbon and organic matter, possibly the most effective method of slowing global warming.'' *J. Geophys. Res.* 110. pp. D14105.

[17] DOE used a 3-percent discount rate because the SCC values for the series used in the calculation were derived using a 3-percent discount rate (see section IV.K).

TABLE I.5—ANNUALIZED BENEFITS AND COSTS OF PROPOSED ENERGY CONSERVATION STANDARDS FOR BEVERAGE VENDING MACHINES—Continued

	Discount rate	Primary estimate *	Low net benefits estimate *	High net benefits estimate *
				million 2014$/year
	7%	64	54	103
	3% plus CO_X range	69 to 131	56 to 113	107 to 192
	3%	85	71	129

* This table presents the annualized costs and benefits associated with beverage vending machines shipped in 2019–2048. These results include benefits to customers that accrue after the last year of analyzed shipments (2048) from the equipment purchased in during the 30-year analysis period. The results account for the incremental variable and fixed costs incurred by manufacturers due to the standard, some of which may be incurred in preparation for the rule. The primary, low benefits, and high benefits estimates utilize projections of energy prices from the *AEO2014* reference case, low estimate, and high estimate, respectively, as well as the default shipments scenario along with the low and high shipments scenarios. In addition, incremental equipment costs reflect a medium decline rate for projected equipment price trends in the primary estimate, a low decline rate for projected equipment price trends in the low benefits estimate, and a high decline rate for projected equipment price trends in the high benefits estimate. The methods used to derive projected price trends are explained in technical support document.

** The CO_2 values represent global monetized SCC values, in 2014$, in 2015 under several scenarios. The first three cases use the averages of SCC distributions calculated using 5-percent, 3-percent, and 2.5-percent discount rates, respectively. The fourth case represents the 95th percentile of the SCC distribution calculated using a 3-percent discount rate. The SCC time series incorporates an escalation factor. The value for NO_X (in 2014$) is an average of high and low values found in the literature.

† Total benefits for both the 3-percent and 7-percent cases are derived using the series corresponding to the average SCC with a 3-percent discount rate ($40.0/metric ton case). In the rows labeled "7% plus CO_2 range" and "3% plus CO_2 range," the operating cost and NO_X benefits are calculated using the labeled discount rate, and those values are added to the full range of CO_2 values.

DOE's analysis of the national impacts of the proposed standards is described in section V.B.3 of this NOPR.

D. Conclusion

DOE has tentatively concluded that the proposed standards for beverage vending machines represent the maximum improvement in energy efficiency that is technologically feasible and economically justified, and would result in the significant conservation of energy. DOE further notes that equipment achieving these standard levels is already commercially available for all equipment classes covered by this proposal. DOE acknowledges that equipment using the SNAP-approved refrigerants (*i.e.,* CO_2 and propane) meeting the current or proposed standard levels is not available for all equipment classes, due to the limited use of CO_2 as a refrigerant to date and the fact that propane has only recently been approved for use in BVM applications. 80 FR 19454, 19491 (April 10, 2015). However, DOE notes that Class B beverage vending machines using CO_2 and that meet the proposed standard levels are already available. In addition, DOE believes that the existing industry experience in improving the efficiency of R–134a- and CO_2-based equipment is applicable and transferable to equipment using propane as a refrigerant. DOE has addressed the technical feasibility and economic implications of meeting the proposed standard levels utilizing CO_2 and propane refrigerants in the analyses presented in this NOPR and, based on these analyses, DOE has tentatively concluded that the benefits of the proposed standards to the nation (energy savings, positive NPV of customer benefits, customer LCC savings, and emission reductions) would outweigh the burdens (loss of INPV for manufacturers).

DOE also considered more-stringent energy efficiency levels as potential standards, and is considering them in this rulemaking. However, DOE has tentatively concluded that the potential burdens of the more-stringent energy efficiency levels would outweigh the projected benefits. Based on consideration of the public comments DOE receives in response to this NOPR and related information collected and analyzed during the course of this rulemaking effort, DOE may adopt energy efficiency levels presented in this NOPR that are either higher or lower than the proposed standards, or some combination of levels that incorporate the proposed standards in part.

II. Introduction

The following section briefly discusses the statutory authority underlying this proposal, as well as some of the relevant historical background related to the establishment of standards for beverage vending machines.

A. Authority

Title III, Part B of the Energy Policy and Conservation Act of 1975, as amended, (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, a program covering most major household appliances (collectively referred to as ''covered products''), which includes the beverage vending machine. (42 U.S.C. 6291(40)) As part of this program, EPCA directed DOE to prescribe energy conservation standards for beverage vending machines. (42 U.S.C. 6295(v)) In addition, under 42 U.S.C. 6295(m), DOE must periodically review its already established energy conservation standards for a covered product. DOE is undertaking this rulemaking to meet this EPCA requirement.

Pursuant to EPCA, DOE's energy conservation program for covered products consists essentially of four parts: (1) Testing, (2) labeling, (3) the establishment of Federal energy conservation standards, and (4) certification and enforcement procedures. The Secretary or the Federal Trade Commission, as appropriate, may prescribe labeling requirements for beverage vending machines. (42 U.S.C. 6294(a)(5)(A)) Subject to certain criteria and conditions, DOE is required to develop test procedures to measure the energy efficiency, energy use, or estimated annual operating cost of each covered product. (42 U.S.C. 6293) Manufacturers of covered equipment must use the prescribed DOE test procedure as the basis for certifying to DOE that their equipment complies with the applicable energy conservation standards adopted under EPCA and when making representations to the public regarding the energy use or efficiency of that equipment. (42 U.S.C. 6293(c) and 6295(s)) Similarly, DOE must use these test procedures to determine whether the products comply with standards adopted pursuant to EPCA. *Id.*

DOE recently updated its test procedure for beverage vending machines in a final rule published July 31, 2015. 80 FR 45758 (July 31, 2015). In that final rule, DOE adopted several amendments and clarifications to the DOE test procedure in the new appendix A and B of subpart Q of 10 CFR part 431. As specified in the BVM test procedure final rule, manufacturers of beverage vending machines would be required to use appendix B to demonstrate compliance with any new and amended energy conservation standards adopted as a result of this rulemaking.

DOE must follow specific statutory criteria for prescribing new or amended standards for covered equipment. As indicated previously, 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)) Moreover, DOE may not prescribe a standard: (1) For certain products, including beverage vending machines, if no test procedure has been established for the product; or (2) if DOE determines, by rule, that the standard is not technologically feasible or economically justified. (42 U.S.C. 6295(o)(3)(A)–(B))

DOE, in deciding whether a standard is economically justified, must determine, after receiving comments on the proposed standard, whether the benefits of the standard exceed its burdens by considering, to the maximum extent practicable, the following seven factors:

1. The economic impact of the standard on manufacturers and customers of products subject to the standard;
2. The savings in operating costs throughout the estimated average life of the covered products in the type (or class) compared to any increase in the price, initial charges, or maintenance expenses for the covered products that are likely to result from the standard;
3. The total projected amount of energy savings likely to result directly from the standard;
4. Any lessening of the utility or the performance of the covered products likely to result from 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 standard;
6. The need for national energy conservation; and
7. Other factors the Secretary of Energy considers relevant. (42 U.S.C. 6295(o)(2)(B)(i))

Further, EPCA, as codified, establishes a rebuttable presumption that a standard is economically justified if the Secretary finds that the additional cost to the customer of purchasing a product complying with an energy conservation standard level will be less than three times the value of the energy (and, as applicable, water) savings during the first year that the customer will receive as a result of the standard, as calculated under the applicable test procedure. (42 U.S.C. 6295(o)(2)(B)(iii))

EPCA, as codified, also contains what is known as an ''anti-backsliding'' provision, which prevents the Secretary from prescribing any amended standard that either increases the maximum allowable energy use or decreases the minimum required energy efficiency of a covered product. (42 U.S.C. 6295(o)(1)) Also, the Secretary may not prescribe an amended or new standard if interested persons have established by a preponderance of the evidence that the standard is likely to result in the unavailability in the United States of any covered product type (or class) of performance characteristics (including reliability), features, sizes, capacities, and volumes that are substantially the same as those generally available in the United States. (42 U.S.C. 6295(o)(4))

Additionally, EPCA specifies requirements when promulgating a standard for a type or class of covered product that has two or more subcategories. DOE must specify a different standard level than that which applies generally to such type or class of products for any group of covered products that have the same function or intended use if DOE determines that products within such group: (A) Consume a different kind of energy from that consumed by other covered products within such type (or class); or (B) have a capacity or other performance-related feature which other products within such type (or class) do not have and which justifies a higher or lower standard. (42 U.S.C. 6294(q)(1)). In determining whether a performance-related feature justifies a different standard for a group of products, DOE generally considers such factors as the utility to the customer of the feature and other factors DOE deems appropriate. *Id.* In a rule prescribing such a standard, DOE includes an explanation of the basis on which such a higher or lower level was established. (42 U.S.C. 6295(q)(2)) DOE followed a similar process in the context of this rulemaking.

Federal energy conservation requirements generally supersede State laws or regulations concerning energy conservation testing, labeling, and standards. (42 U.S.C. 6297(a) through (c)) DOE may, however, grant waivers of Federal preemption for particular State laws or regulations, in accordance with the procedures and other provisions set forth under 42 U.S.C. 6297(d)).

Finally, pursuant to EPCA any final rule for new or amended energy conservation standards promulgated after July 1, 2010 must address standby mode and off mode energy use. (42 U.S.C. 6295(gg)(3)) Specifically, when DOE adopts a standard for covered equipment after that date, it must, if justified by the criteria for adoption of standards under EPCA (42 U.S.C. 6295(o)), incorporate standby mode and off mode energy use into the standard, or, if that is not feasible, adopt a separate standard for such energy use for that product. (42 U.S.C. 6295(gg)(3)(A) and (B)) DOE reviewed the operating modes available for beverage vending machines and determined that this equipment does not have operating modes that meet the definition of standby mode or off mode, as established at 42 U.S.C. 6295(gg)(3). Specifically, beverage vending machines are typically always providing at least one main function—refrigeration. (42 U.S.C. 6295(gg)(1)(A)) DOE recognizes that in a unique equipment design, the low power mode includes disabling the refrigeration system, while for other equipment the low power mode controls only elevate the thermostat set point. Because low power modes still include some amount of refrigeration for most equipment for the vast majority of equipment, DOE believes that such a mode does not constitute a ''standby mode,'' as defined by EPCA, for beverage vending machines. Therefore, DOE believes that beverage vending machines do not operate under standby and off mode conditions as defined in EPCA, and that the energy use of a beverage vending machine would be captured in any standard established for active mode energy use. As such, the new and amended energy conservation standards proposed in this NOPR do not specifically address standby and off mode energy consumption for the equipment.

DOE also reviewed this regulation pursuant to Executive Order 13563. 76 FR 3821, (January 21, 2011). Executive Order 13563 is supplemental to and explicitly reaffirms the principles, structures, and definitions governing regulatory review established in Executive Order 12866. To the extent permitted by law, agencies are required

by Executive Order 13563 to: (1) Propose or adopt a regulation only upon a reasoned determination that its benefits justify its costs (recognizing that some benefits and costs are difficult to quantify); (2) tailor regulations to impose the least burden on society, consistent with obtaining regulatory objectives, taking into account, among other things, and to the extent practicable, the costs of cumulative regulations; (3) select, in choosing among alternative regulatory approaches, those approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity); (4) to the extent feasible, specify performance objectives, rather than specifying the behavior or manner of compliance that regulated entities must adopt; and (5) identify and assess available alternatives to direct regulation, including providing economic incentives to encourage the desired behavior, such as user fees or marketable permits, or providing information upon which choices can be made by the public.

DOE emphasizes as well that Executive Order 13563 requires agencies to use the best available techniques to quantify anticipated present and future benefits and costs as accurately as possible. In its guidance, the Office of Information and Regulatory Affairs has emphasized that such techniques may include identifying changing future compliance costs that might result from technological innovation or anticipated behavioral changes. For the reasons stated in the preamble, DOE believes that this NOPR is consistent with these principles, including the requirement that, to the extent permitted by law, benefits justify costs and that net benefits are maximized. Consistent with Executive Order 13563, and the range of impacts analyzed in this rulemaking, the energy efficiency standards proposed herein by DOE achieve maximum net benefits.

B. Background

1. Current Standards

In a final rule published on August 31, 2009 (henceforth referred to as the 2009 BVM final rule), DOE prescribed the current energy conservation standards for beverage vending machines. 74 FR 44914 (August 31, 2009). The 2009 BVM final rule established energy conservation standards for Class A and Class B beverage vending machines, with a compliance date of August 31, 2012, as shown in Table II.1. DOE also established a class of combination machines, but did not set standards for combination machines, instead reserving a place for possible development of future standards for that equipment.

TABLE II.1—ENERGY CONSERVATION STANDARDS FOR BEVERAGE VENDING MACHINES, PRESCRIBED BY THE 2009 BVM FINAL RULE—COMPLIANCE DATE AUGUST 31, 2012

Class	Definition	Maximum daily energy consumption
A	Class A means a refrigerated bottled or canned beverage vending machine that is fully cooled, and is not a combination vending machine.	$0.055 \times V + 2.56$
B	Class B means any refrigerated bottled or canned beverage vending machine not considered to be Class A, and is not a combination vending machine.	$0.073 \times V + 3.16$
Combination	Combination means a refrigerated bottled or canned beverage vending machine that also has non-refrigerated volumes for the purpose of vending other, non-''sealed beverage'' merchandise.	[reserved]

The 2009 BVM final rule document is currently available at *http://www.regulations.gov/#!documentDetail;D=EERE-2006-STD-0125-0005.*

2. History of Standards Rulemaking for Beverage Vending Machines

EPCA directed the Secretary to issue, by rule, no later than August 8, 2009, energy conservation standards for beverage vending machines. (42 U.S.C. 6295(v)) On August 31, 2009, DOE issued a final rule establishing performance standards for beverage vending machines to complete the first required rulemaking cycle. 74 FR 44914.

DOE is conducting the current energy conservation standards rulemaking pursuant to 42 U.S.C. 6295(m), which requires that within 6 years of issuing any final rule establishing or amending a standard, DOE shall publish either a notice of determination that amended standards are not needed or a NOPR proposing amended standards.

In initiating this rulemaking, DOE prepared a framework document, ''Energy Conservation Standards Rulemaking Framework Document for Refrigerated Beverage Vending Machines'' (framework document), which describes the procedural and analytical approaches DOE anticipates using to evaluate energy conservation standards for beverage vending machines. DOE published a notice that announced both the availability of the framework document and a public meeting to discuss the proposed analytical framework for the rulemaking. That notice also invited written comments from the public. 78 FR 33262 (June 4, 2013). This document is available at *http://www.regulations.gov/#!docketDetail;D=EERE-2013-BT-STD-0022*

DOE held the framework public meeting on June 20, 2013, at which it (1) presented the contents of the framework document; (2) described the various analyses DOE planned to conduct during the rulemaking; (3) sought comments from interested parties on these subjects; and (4) in general, sought to inform interested parties about, and facilitate their involvement in, the rulemaking. Major issues discussed at the public meeting included: (1) Equipment classes; (2) analytical approaches and methods used in the rulemaking; (3) impact of standards and burden on manufacturers; (4) technology options; (5) distribution channels and shipments; (6) impacts of outside regulations; and (7) environmental issues. At the meeting and during the comment period on the framework document, DOE received many comments that helped it identify and resolve issues pertaining to beverage vending machines relevant to this rulemaking.

DOE then gathered additional information and performed preliminary analyses to help review standards for this equipment. This process culminated in DOE publishing a notice to announce the availability of the preliminary analysis TSD and a public meeting to discuss the preliminary analysis results. 79 FR 46379 (August 8, 2014). In the preliminary analysis, DOE discussed and requested comment on

the tools and methods DOE used in performing its preliminary analysis, as well as analyses results. DOE also sought comments concerning other relevant issues that could affect potential amended standards for beverage vending machines. *Id.*

The preliminary analysis provided an overview of DOE's technical and economic analyses supporting new and amended standards for beverage vending machines, discussed the comments DOE received in response to the framework document, and addressed issues raised by those comments. The preliminary analysis TSD also described the analytical framework that DOE used (and continues to use) in considering new and amended standards for beverage vending machines, including a description of the methodology, the analytical tools, and the relationships between the various analyses that are part of this rulemaking. Additionally, the preliminary analysis TSD presented in detail each analysis that DOE had performed for this equipment up to that point, including descriptions of inputs, data sources, methodologies, and results. These analyses included: (1) The market and technology assessment; (2) the screening analysis; (3) the engineering analysis; (4) the energy use analysis; (5) the markups analysis; (6) the LCC analysis; (7) the PBP analysis; (8) the shipments analysis; (9) the national impact analysis (NIA); and (10) a preliminary manufacturer impact analysis (MIA).

The preliminary TSD that presents the methodology and results of each of these analyses is available at: *http://www.regulations.gov/#!docketDetail;D=EERE-2013-BT-STD-0022.* In this NOPR, DOE is presenting additional and revised analysis in all of these areas.

The public meeting to review the preliminary analysis took place on September 16, 2014 (preliminary analysis public meeting). At the preliminary analysis public meeting, DOE presented the methodologies and results of the analyses prescribed in the preliminary analysis TSD. Comments received in response to the preliminary analysis have helped DOE identify and resolve issues related to the preliminary analyses and have helped refine the analyses presented in this NOPR. DOE discusses and responds to the comments received in response to the preliminary analysis in section IV of this NOPR.

III. General Discussion

DOE is proposing amended standards for Class A and Class B beverage vending machines. DOE is also proposing to amend the definition for Class A equipment to more unambiguously differentiate Class A and Class B beverage vending machines. In addition, DOE is proposing to amend the definition of combination beverage machine, expand the combination vending machine equipment category into Combination A and Combination B beverage vending machine classes, and promulgate new standards for those classes. In the subsequent sections, DOE discusses the scope of coverage, test procedure, compliance dates, technical feasibility, energy savings, and economic justification of the proposed standards.

A. Equipment Classes and Scope of Coverage

EPCA defines a beverage vending machine as ''a commercial refrigerator [18] that cools bottled or canned beverages and dispenses the bottled or canned beverages on payment.'' (42 U.S.C. 6291(40))

When evaluating and establishing energy conservation standards, DOE divides covered equipment into equipment classes by the type of energy used or by capacity or other performance-related features that justifies a different standard. In making a determination whether a performance-related feature justify differing standards, DOE must consider such factors as the utility to the customer of the feature and other factors DOE determines are appropriate. (42 U.S.C. 6295(q))

In the 2009 BVM final rule, DOE determined that unique energy conservation standards were warranted for Class A and Class B beverage vending machines and added the following definitions to 10 CFR 431.292 to differentiate such equipment:

Class A means a beverage vending machine that is fully cooled, and is not a combination vending machine.

Class B means any beverage vending machine not considered to be Class A, and is not a combination vending machine.

74 FR 44914,44967 (August 31, 2009).

DOE differentiated Class A and Class B beverage vending machines based on whether the refrigerated volume (V) of equipment was fully cooled, as DOE determined that this was the most significant criteria affecting energy consumption. *Id.* at 44924.

The 2009 BVM final rule also established a definition for combination vending machine at 10 CFR 431.292.

Combination vending machine means a beverage vending machine that also has non-refrigerated volumes for the purpose of vending other, non-''sealed beverage'' merchandise.

74 FR 44914, 44967 (August 31, 2009).

DOE considered the definition of beverage vending machine broad enough to include any vending machine that cools at least one bottled or canned beverage and dispenses it upon payment. DOE elected to establish combination machines as a separate equipment class because such machines may be challenged by component availability and such machines have a distinct utility that limits their energy efficiency improvement potential compared to Class A and B beverage vending machines. However, DOE did not establish standards for combination machines in the 2009 BVM final rule. *Id.* at 44920.

While DOE's existing definitions of Class A and Class B equipment distinguish equipment based on whether or not the refrigerated volume is ''fully cooled,'' DOE regulations have never defined the term ''fully cooled.'' In the framework document, DOE suggested a definition for ''fully cooled'' and further refined that definition in the BVM test procedure NOPR DOE published on August 11, 2014 (2014 BVM test procedure NOPR). 79 FR 46908, 46934. In response to comments received on both the framework document and 2014 BVM test procedure NOPR, DOE is proposing in this NOPR, to modify the definition of Class A to more unambiguously differentiate Class A and Class B equipment. Specifically, DOE proposes to use the presence of a transparent front on Class A beverage vending machines as a key distinguishing characteristic between Class A and Class B equipment and proposes to adopt that distinction as part of the Class A equipment class definition.

In this NOPR, DOE is also proposing to amend the definition of combination vending machine to better align with industry definitions and provide more clarity regarding the physical characteristics of the ''refrigerated'' and ''non-refrigerated'' volumes, or compartments. In addition, DOE is proposing to expand the class of combination vending machines established in the 2009 BVM final rule to differentiate Combination A and Combination B beverage vending machines based on similar criteria used to distinguish Class A and Class B beverage vending machines (*i.e.,* the presence of a transparent front). See section IV.A.1 of this NOPR for more discussion on the equipment classes addressed in this NOPR.

[18] EPCA defines commercial refrigerator, freezer, and refrigerator-freezer at 42 U.S.C. 6311(9)(A).

B. Test Procedure

The estimates of energy use and energy saving potential considered in the NOPR analysis are based on the performance of beverage vending machines when tested in accordance with appendix B of the recently amended DOE BVM test procedure located at 10 CFR 431.294. (See sections IV.B, IV.C, and IV.E of this NOPR for more discussion.) On July 31, 2015, DOE published an amended test procedure for beverage vending machines, referred to as the 2015 BVM test procedure final rule in the **Federal Register**. 80 FR 45758 (July 31, 2015). In the 2015 BVM test procedure final rule, DOE adopted several minor amendments to clarify DOE's test procedure for beverage vending machines and also adopted several amendments related to the impact of low power modes on the measured daily energy consumption of BVM models. 80 FR 45758 (July 31, 2015). DOE also reorganized the DOE test procedure into two new appendices, appendix A and appendix B to subpart Q to part 431 of Title 10 of the *Code of Federal Regulations* and adopted a minor change to the certification and reporting requirements for beverage vending machines at 10 CFR 429.52(b)(2) and 10 CFR 431.296.

In general, the DOE BVM test procedure, as amended, incorporates by reference American National Standards Institute (ANSI)/American Society of Heating, Refrigerating and Air-Conditioning Engineers (ASHRAE) Standard 32.1–2010 to describe the measurement equipment, test conditions, and test protocol applicable to testing beverage vending machines. DOE's test procedure also specifies that the measurement of ''refrigerated volume'' of beverage vending machines must be in accordance with the methodology specified in Appendix C of ANSI/ASHRAE Standard 32.1–2010.

In the 2015 BVM test procedure final rule, DOE also adopted several new clarifying amendments including:

(1) Eliminating testing at the 90 °F ambient test condition;

(2) clarifying the test procedure for combination vending machines;

(3) clarifying the requirements for loading BVM models under the DOE test procedure;

(4) clarifying the specifications of the test package;

(5) clarifying the next-to-vend beverage temperature test condition;

(6) specifying placement of thermocouples during the DOE test procedure;

(7) establishing testing provisions at the lowest application product temperature;

(8) clarifying certification and reporting requirements; and

(9) clarifying the treatment of certain accessories when conducting the DOE test procedure.

These test procedure amendments are all reflected in DOE's new appendix A, which became effective August 31, 2015 and must be used by manufacturers for representations and to demonstrate compliance with the energy conservation standards beginning January 27, 2016. 80 FR 45758 (July 31, 2015).

In addition to the amendments proposed in appendix A, appendix B includes provisions for testing low power modes. The test procedure found in appendix B is to be used in conjunction with any amended standards established as a result of this rulemaking. As such, manufacturers are not required to use appendix B until the compliance date of any new or amended standards. *Id.*

C. Compliance Dates

The new and amended standards proposed in this NOPR, if adopted, would apply to equipment manufactured beginning on the date 3 years after the publication date of any final rule in the **Federal Register**. DOE anticipates that any final rule would be published in 2016, resulting in a compliance date in 2019. In its analysis, DOE used a 30-year analysis period of 2019–2048.

D. Technological Feasibility

1. General

In each energy conservation standards rulemaking, DOE conducts a screening analysis based on information gathered on all current technology options and prototype designs that could improve the efficiency of the products or equipment that are the subject of the rulemaking. As the first step in such an analysis, DOE develops a list of technology options for consideration in consultation with manufacturers, design engineers, and other interested parties. DOE then determines which of those means for improving efficiency are technologically feasible. DOE considers technologies incorporated in commercially available products or in working prototypes to be technologically feasible. 10 CFR part 430, subpart C, appendix A, section 4(a)(4)(i)

After DOE determined that particular technology options are technologically feasible, it further evaluates each technology option in light of the following additional screening criteria: (1) Practicability to manufacture, install, and service; (2) adverse impacts on product utility or availability; and (3) adverse impacts on health or safety. 10 CFR part 430, subpart C, appendix A, section 4(a)(4)(ii)–(iv) Section IV.B of this NOPR discusses the results of the screening analysis for beverage vending machines, particularly the designs DOE considered, those it screened out, and those that are the basis for the TSLs in this rulemaking. For further details on the screening analysis for this rulemaking, see chapter 4 of the NOPR TSD.

2. Maximum Technologically Feasible Levels

When DOE proposes to adopt an amended standard for a type or class of covered product, it must determine the maximum improvement in energy efficiency or maximum reduction in energy use that is technologically feasible for such product. (42 U.S.C. 6295(p)(1)) Accordingly, in the engineering analysis, DOE determined the maximum technologically feasible (''max-tech'') improvements in energy efficiency for beverage vending machines, using the design parameters for the most efficient equipment available on the market or in working prototypes. The max-tech levels that DOE determined for this rulemaking are described in section IV.C.3 of this NOPR and in chapter 5 of the NOPR TSD.

E. Energy Savings

1. Determination of Savings

For each trial standard level (TSL), DOE projected energy savings from application of the TSL to equipment purchased in the 30-year period that begins in the year of compliance with new and amended standards for beverage vending machines (2019–2048).[19] The savings are measured over the entire lifetime of equipment purchased in the 30-year analysis period. DOE quantified the energy savings attributable to each TSL as the difference in energy consumption between each standards case and the no-new-standards case. The no-new-standards case represents a projection of energy consumption that reflects how the market for a product would likely evolve in the absence of new and

[19] Each TSL is composed of specific efficiency levels for each product class. The TSLs considered for this NOPR are described in section V.A. DOE also conducted a sensitivity analysis that considers impacts for products shipped in a 9-year period.

amended mandatory energy conservation standards.

DOE used its NIA spreadsheet models to estimate energy savings from new and amended standards. The NIA spreadsheet model (described in section IV.G of this NOPR) calculates savings in site energy, which is the energy directly consumed by products at the locations where they are used. Based on the site energy, DOE calculates national energy savings (NES) in terms of primary energy savings at the site or at power plants, and also in terms of full-fuel-cycle (FFC) energy savings. The FFC metric includes the energy consumed in extracting, processing, and transporting primary fuels (*i.e.,* coal, natural gas, petroleum fuels), and thus presents a more complete picture of the impacts of energy conservation standards.[20] DOE's approach is based on the calculation of an FFC multiplier for each of the energy types used by covered products or equipment. For more information on FFC energy savings, see section IV.G.3.a of this notice.

2. Significance of Savings

To adopt standards for a covered product, DOE must determine that such action would result in ''significant'' energy savings. (42 U.S.C. 6295(o)(3)(B)) Although the term ''significant'' is not defined in the Act, the U.S. Court of Appeals for the District of Columbia Circuit, in *Natural Resources Defense Council* v. *Herrington,* 768 F.2d 1355, 1373 (D.C. Cir. 1985), indicated that Congress intended ''significant'' energy savings in the context of EPCA to be savings that were not ''genuinely trivial.'' The energy savings for the proposed standards (presented in section V.C of this NOPR) are nontrivial; therefore, DOE considers them ''significant'' within the meaning of section 325 of EPCA.

F. Economic Justification

1. Specific Criteria

As noted previously, EPCA provides seven factors to be evaluated in determining whether a potential energy conservation standard is economically justified. (42 U.S.C. 6295(o)(2)(B)(i)) The following sections discuss how DOE addressed each of those seven factors in this rulemaking.

a. Economic Impact on Manufacturers and Customers

In determining the impacts of a potential amended standard on manufacturers, DOE conducts an MIA, as discussed in section IV.I.3 of this NOPR, DOE first uses an annual cash-flow approach to determine the quantitative impacts. This step incorporates both a short-term assessment—based on the cost and capital requirements during the period between when a regulation is issued and when entities must comply with the regulation—and a long-term assessment over a 30-year period. The industry-wide impacts analyzed include: (1) INPV, which values the industry on the basis of expected future cash flows; (2) cash flows by year; (3) changes in revenue and income; and (4) other measures of impact, as appropriate. Second, DOE analyzes and reports the impacts on different types of manufacturers, such as impacts on small manufacturers. Third, DOE considers the impact of standards on domestic manufacturer employment and manufacturing capacity, as well as the potential for standards to result in plant closures and loss of capital investment, as discussed in section IV.I of this NOPR. Finally, DOE takes into account cumulative impacts of various DOE regulations and other regulatory requirements on manufacturers.

For individual customers, measures of economic impact include the changes in LCC and PBP associated with new or amended standards. These measures are discussed further in the following section. For customers in the aggregate, DOE also calculates the national NPV of the economic impacts applicable to a particular rulemaking. DOE also evaluates the LCC impacts of potential standards on identifiable subgroups of customers that may be affected disproportionately by a national standard.

b. Savings in Operating Costs Compared To Increase in Price (Life-Cycle Costs)

EPCA requires DOE to consider the savings in operating costs throughout the estimated average life of the covered product compared to any increase in the price of the covered product that are likely to result from the imposition of a standard. (42 U.S.C. 6295(o)(2)(B)(i)(II)) DOE conducts this comparison in its LCC and PBP analysis.

The LCC is the sum of the purchase price of a piece of equipment (including its installation) and the operating expense (including energy, maintenance, and repair expenditures) discounted over the lifetime of the equipment. The LCC analysis requires a variety of inputs such as equipment prices, equipment energy consumption, energy prices, maintenance and repair costs, equipment lifetime, and customer discount rates. To account for uncertainty and variability in specific inputs, such as equipment lifetime and discount rate, DOE uses a distribution of values, with probabilities attached to each value. For its analysis, DOE assumes that customers will purchase the covered equipment in the first year of compliance with amended standards.

The PBP is the estimated amount of time (in years) it takes consumers to recover the increased purchase cost (including installation) of a more-efficient product through lower operating costs. DOE calculates the PBP by dividing the change in purchase cost due to a more-stringent standard by the change in annual operating cost for the year that standards are assumed to take effect.

The LCC savings and PBP analysis for the considered efficiency levels are calculated relative to the case that reflects projected market trends in the absence of amended standards. DOE identifies the percentage of customers estimated to receive LCC savings or experience an LCC increase, in addition to the average LCC savings associated with a particular standard level. DOE's LCC analysis is discussed in further detail in section IV.F of this NOPR.

c. Energy Savings

Although significant conservation of energy is a separate statutory requirement for adopting an energy conservation standard, EPCA requires DOE, in determining the economic justification of a standard, to consider the total projected energy savings that are expected to result directly from the standard. (42 U.S.C. 6295(o)(2)(B)(i)(III)) As discussed in more detail in section IV.G.3 of this NOPR, DOE uses spreadsheet models to project national energy savings.

d. Lessening of Utility or Performance of Equipment

In establishing classes of products, and in evaluating design options and the impact of potential standard levels, DOE evaluates potential standards that would not lessen the utility or performance of the considered equipment. (42 U.S.C. 6295(o)(2)(B)(i)(IV)) Based on data available to DOE, DOE determined that the standards proposed in this NOPR would not reduce the utility or performance of the products under consideration in this rulemaking.

e. Impact of Any Lessening of Competition

EPCA directs DOE to consider the impact of any lessening of competition, as determined in writing by the

[20] The FFC metric is discussed in DOE's statement of policy and notice of policy amendment. 76 FR 51282 (Aug. 18, 2011), as amended at 77 FR 49701 (Aug. 17, 2012).

Attorney General, that is likely to result from a proposed standard. (42 U.S.C. 6295(o)(2)(B)(i)(V)) It also directs the Attorney General of the United States (Attorney General) to determine the impact, if any, of any lessening of competition likely to result from a proposed standard and to transmit such determination to the Secretary within 60 days of the publication of a proposed rule, together with an analysis of the nature and extent of the impact. (42 U.S.C. 6295(o)(2) (B)(ii)) DOE will transmit a copy of this proposed rule to the Attorney General with a request that the Department of Justice (DOJ) provide its determination on this issue. DOE will publish and respond to the Attorney General's determination in the final rule.

DOE considers any lessening of competition that is likely to result from amended standards. The Attorney General determines the impact, if any, of any lessening of competition likely to result from a proposed standard, and transmits such determination to the Secretary, together with an analysis of the nature and extent of such impact.

To assist the Attorney General in making such determination, DOE will provide DOJ with copies of this NOPR and the TSD for review. DOE will consider DOJ's comments on the proposed rule in preparing the final rule, and DOE will publish and respond to DOJ's comments in that document. DOE invites comment from the public regarding the competitive impacts that are likely to result from this proposed rule. In addition, stakeholders may also provide comments separately to DOJ regarding these potential impacts. See **ADDRESSES** section for information to send comments to DOJ.

f. Need for National Energy Conservation

DOE also considers the need for national energy conservation in determining whether a new or amended standard is economically justified. (42 U.S.C. 6295(o)(2)(B)(i)(VI)) In evaluating the need for national energy conservation, DOE expects that the energy savings from the proposed new and amended standards are likely to provide improvements to the security and reliability of the nation's energy system. (42 U.S.C. 6295(o)(2)(B)(i)(VI)) Reductions in the demand for electricity also may result in reduced costs for maintaining the reliability of the nation's electricity system. DOE conducts a utility impact analysis to estimate how standards may affect the nation's needed power generation capacity, as discussed in section IV.L of this NOPR.

The proposed new and amended standards are also likely to result in environmental benefits in the form of reduced emissions of air pollutants and greenhouse gases associated with energy production and use. DOE conducts an emissions analysis to estimate how standards may affect these emissions, as discussed in section IV.J of this NOPR. DOE reports the emissions impacts from each TSL it considered in section V.A of this NOPR. DOE also estimates the economic value of emissions reductions resulting from the considered TSLs, as discussed in section IV.K of this NOPR.

g. Other Factors

EPCA allows the Secretary of Energy, in determining whether a standard is economically justified, to consider any other factors that the Secretary deems to be relevant. (42 U.S.C. 6295(o)(2)(B)(i)(VII)) To the extent interested parties submit any relevant information regarding economic justification that does not fit into the other categories described above, DOE could consider such information under ''other factors.''

2. Rebuttable Presumption

EPCA sets forth a rebuttable presumption that an energy conservation standard is economically justified if the additional cost to the consumer of a product that meets the standard is less than three times the value of the first year's energy savings resulting from the standard, as calculated under the applicable DOE test procedure. (42 U.S.C. 6295(o)(2)(B)(iii)) DOE's LCC and PBP analysis generate values used to calculate the effects that proposed energy conservation standards would have on the payback period for customers. These analyses include, but are not limited to, the 3-year payback period contemplated under the rebuttable-presumption test.

In addition, DOE routinely conducts an economic analysis that considers the full range of impacts to customers, manufacturers, the nation, and the environment. (42 U.S.C. 6295(o)(2)(B)(i)) The results of this analysis serve as the basis for DOE's evaluation of the economic justification for a potential standard level (thereby supporting or rebutting the results of any preliminary determination of economic justification). The rebuttable presumption payback calculation is discussed in section V.B.1.c of this NOPR.

IV. Methodology and Discussion of Related Comments

This section addresses the analyses DOE performed for this rulemaking. In the subsections, DOE discusses each component of the analysis and summarizes and responds to comments received in response to the preliminary analysis pertaining to each of the analyses DOE conducts.

A. Market and Technology Assessment

DOE develops information in the market and technology assessment that provides an overall picture of the market for the equipment considered, including the nature of the equipment, the industry structure, and market characteristics for the equipment. This activity consists of both quantitative and qualitative efforts based primarily on publicly available information.

DOE reviewed relevant literature and interviewed manufacturers to develop an overall picture of the BVM market in the United States. Industry publications, trade journals, government agencies, and trade organizations provided the bulk of the information, including (1) manufacturers and their market shares, (2) shipments by equipment type, (3) detailed equipment information, (4) industry trends, and (5) existing regulatory and non-regulatory equipment efficiency improvement initiatives. The analysis developed as part of the market and technology assessment is described in chapter 3 of the NOPR TSD.

1. Equipment Classes

In this NOPR, DOE is proposing to amend the energy conservation standards established by the 2009 BVM final rule for the Class A and Class B beverage vending machines. DOE believes that Class A and Class B equipment classes continue to provide different utility to customers and have different energy profiles and applicable design options, as described below. As such, DOE believes it is appropriate to separately analyze and regulate Class A and Class B equipment. In addition, as noted previously, DOE is proposing to amend the definition for Class A equipment to more clearly and unambiguously describe the equipment characteristics that make up that class and differentiate it from Class B equipment, as well as to amend the definition of combination vending machine to better align with industry definitions and provide more clarity regarding the physical characteristics of the ''refrigerated'' and ''non-

refrigerated'' volumes, or compartments.[21]

DOE is also proposing to define two new equipment classes at 10 CFR 431.292, Combination A and Combination B, as well as establish new energy conservation standards for those equipment classes. In the 2009 BVM final rule, DOE also established a definition for combination vending machines but elected not to set standards for them at that time. 74 FR 44914, 44920 (August 31, 2009). In considering standards for combination vending machines as part of this rulemaking, similar to Class A and Class B, DOE determined that the method of cooling and presence of a transparent front are important differentiating features for combination equipment.

Table IV.1 summarizes the new and amended definitions for the four equipment classes analyzed in this NOPR. The definitions, as well as the general characteristics and differentiating features, of the four equipment classes proposed in this NOPR are described in the following subsections.

TABLE IV.1—EQUIPMENT CLASSES FOR BEVERAGE VENDING MACHINES

Class	Definition
A	A refrigerated bottled or canned beverage vending machine that is not a combination beverage vending machine and in which 25 percent or more of the surface area on the front side of the beverage vending machine is transparent
B	Any refrigerated bottled or canned beverage vending machine that is not considered to be Class A and is not a combination vending machine
Combination A.	A combination vending machine where 25 percent or more of the surface area on the front side of the beverage vending machine is transparent
Combination B.	A combination vending machine that is not considered to be Combination A

[21] The definition of combination vending machine established by DOE in the 2009 BVM final rule referenced the presence of ''non-refrigerated volumes'' to differentiate combination vending machines from other styles of refrigerated bottled or canned beverage vending machines. In the amended definition for combination vending machine DOE is proposing in this NOPR, DOE is referring instead to ''compartments,'' which DOE believes captures the same intent as the term ''volumes'' in the previous definition, but better indicates that the ''volumes'' are to be physically separate.

a. Class A and Class B Beverage Vending Machines

Class A and Class B equipment are currently differentiated based on the cooling mechanism employed by the different equipment. The distinguishing criterion between these two equipment classes is whether the equipment is fully cooled. 10 CFR 431.292.

At the time the definitions of Class A and Class B were established, DOE did not define the term ''fully cooled.'' In the framework document, DOE suggested defining ''fully cooled'' to mean a beverage vending machine within which each item in the beverage vending machine is brought to and stored at temperatures that fall within ±2 °F of the average beverage temperature, which is the average of the temperatures of all the items in the next-to-vend position for each selection.

In response to the framework document, DOE received many comments from interested parties regarding the definition of ''fully cooled.'' DOE proposed an alternative definition of ''fully cooled'' in the BVM test procedure NOPR that described ''fully cooled'' as ''a condition in which the refrigeration system of a beverage vending machine cools product throughout the entire refrigerated volume of a machine instead of being directed at a fraction (or zone) of the refrigerated volume as measured by the average temperature of the standard test packages in the furthest from the next-to-vend positions being no more than 10 °F above the integrated average temperature of the standard test packages.'' 79 FR 46908, 46934 (August 11, 2014). To accompany DOE's proposed definition of ''fully cooled,'' the 2014 BVM test procedure NOPR also proposed to adopt an optional test method that could be used to quantitatively differentiate between Class A and Class B equipment. 79 FR at 46917.

In response to the definition of ''fully cooled'' proposed in the BVM test procedure NOPR, several interested parties recommended that DOE consider an alternative differentiation between equipment types to better capture differences in energy consumption. Interested parties also suggested that the presence of a transparent or opaque front and/or the arrangement of products within the machine could be potential differentiating criteria that are more appropriate and consistent with the differentiation between equipment configurations applied in industry. Specifically, the California investor-owned utilities (CA IOUs), including Pacific Gas & Electric, Southern California Gas Company, Southern California Edison, and San Diego Gas and Electric, recommended that DOE consider an alternate differentiation between equipment types to better capture differences in energy consumption, and they suggested the consideration of the presence of a glass or opaque front and the arrangement of products within the machine. (Docket No. EERE–2013–BT–TP–0045, CA IOUs, No. 0005 at p. 1) Similarly, Sanden Vendo America Inc. (SVA) recommended that the product configuration would be more appropriate and consistent with the differentiation between equipment configurations applied in industry. (Docket No. EERE–2013–BT–TP–0045, SVA, Public Meeting Transcript, No. 0004 at p. 52).

Many interested parties also commented on the difficulty of establishing a quantitative temperature threshold to differentiate fully cooled equipment from non-fully cooled equipment that would be applicable across all BVM models. Specifically, Automated Merchandising Systems, Inc. (AMS) commented that a 10 °F temperature differential lacks empirical data. (Docket No. EERE–2013–BT–TP–0045, AMS, Public Meeting Transcript, No. 0004 at p. 54) The Coca-Cola Company (Coca-Cola) stated that they believe an 8 °F temperature threshold was acceptable to differentiate Class A, and they added that Class B machines sometimes vary by as much as 18 °F, depending on products vended and the dimensions of the machine. (Docket No. EERE–2013–BT–TP–0045, Coca-Cola, No. 0010 at p. 4) Coca-Cola also stated that the DOE expectation for all product temperatures to be maintained within a 2 °F window for fully-cooled beverage vending machine was unrealistic. (Docket No. EERE–2013–BT–TP–0045, Coca-Cola, No. 0010 at p. 4) SVA commented that 10 °F may be acceptable but stated that using physical differentiating characteristics, such as ''shelf'' versus ''stack'' style machines, may be more straightforward. (Docket No. EERE–2013–BT–TP–0045, SVA, No. 0008 at p. 2) The Northwest Energy Efficiency Alliance (NEEA) stated that many Class B vending machines typically had a temperature difference of much less than 10 °F, and urged DOE to conduct further investigation. (Docket No. EERE–2013–BT–TP–0045, NEEA, No. 0009 at p. 1)

Regarding the additional fully cooled verification test procedure, SVA stated that additional testing to confirm a model was fully cooled created additional burden. (Docket No. EERE–2013–BT–TP–0045, SVA, No. 0008 at p.

2) SVA and Coca-Cola also both noted that the introduction of additional thermocouples and the need to run additional thermocouple wire may introduce additional points of air leakage, interfere with proper airflow, and thereby affect the results of the test. (Docket No. EERE–2013–BT–TP–0045, SVA, No. 0008 at p. 2; Docket No. EERE–2013–BT–TP–0045, Coca-Cola, No. 0010 at p. 4)

In light of the extent and scope of the comments received in response to the amendments proposed in the 2014 BVM test procedure NOPR regarding the proposed definition of fully cooled, alternative criteria for differentiating Class A and Class B equipment, and the optional fully cooled verification test protocol, DOE wished to further consider potential classification options and criteria suggested by interested parties, as well as provide interested parties an additional opportunity to provide feedback on any proposals to amend the equipment class definitions. As such, DOE is responding to the comments presented by interested parties in response to the 2014 BVM test procedure NOPR and proposing an alternative approach to differentiate Class A and Class B equipment in this BVM energy conservation standard NOPR.

In considering the definition of ''fully cooled'' and the best way to clarify the differentiation of Class A and Class B equipment, DOE considered all the comments submitted by interested parties, as well as the manner in which equipment is currently categorized by DOE and industry. In general, DOE agrees with the comments from interested parties in that, in practice, the cooling method is often correlated with the product configuration and presence of a transparent front. Specifically, beverage vending machines with horizontal product rows are typically fully cooled and have a transparent front, while beverage vending machines with vertical product stacks are typically zone cooled and are fully opaque. This correlation occurs due to the inherent utility of a fully cooled beverage vending machine, which was acknowledged in DOE's proposed definition of ''fully cooled'' (79 FR 46915–46917 (August 11, 2014)) and in the 2009 BVM final rule (74 FR 44914, 44924 (August 31, 2009)). Moreover, DOE is not aware of any instances of BVM models that are not fully cooled but which have a transparent front and/or horizontal product configuration or BVM models that are fully cooled but which have and opaque front and/or vertical stacks. Thus DOE believes that, based on current equipment designs, using criteria of: (a) Whether the equipment is fully cooled, (b) whether the equipment has a transparent front; or (c) whether the vertical or horizontal product arrangement is horizontal or vertical, would result in virtually identical equipment categorization.

DOE also notes that, since DOE's engineering analysis represents typical, representative equipment designs for each equipment class (see section IV.C), the cooling method, the presence of a transparent or opaque front, and product arrangement are correlated in DOE's engineering analysis, as shown in Table IV.2.

TABLE IV.2—EQUIPMENT CLASSES DESIGN PARAMETERS FOR BEVERAGE VENDING MACHINES MODELED IN THE ENGINEERING ANALYSIS

Class	Cooling method	Transparent or opaque front	Vendible product orientation
A	Fully cooled	Transparent front	Horizontal product rows.
B	Zone cooled	Opaque front	Vertical product stacks.
Combination A	Fully cooled	Transparent front	Horizontal product rows.
Combination B	Zone cooled	Opaque front	Vertical product stacks.

DOE agrees with CA IOU and SVA's comments that alternative criteria, such as the presence of glass or the product configuration, may offer a more clear and unambiguous approach to differentiate Class A and Class B equipment than the cooling method, while continuing to preserve the same utility in each class of equipment. Specifically, DOE believes that the presence of a transparent front that allows a customer to view and select from all of the various next-to-vend product selections, which are all maintained at the appropriate vending temperature, is inherently related to the functionality of a beverage vending machine being ''fully cooled.'' DOE also notes that, theoretically, the presence of glass has a larger impact on the energy consumption of a given beverage vending machine than whether the equipment is fully cooled or whether the equipment has vertical or horizontal product arrangement. DOE believes that defining equipment classes based on a feature that is related to the unique utility and which has the largest impact on the energy use of the equipment is the most appropriate criterion to use to ensure that the utility provided by Class A equipment is maintained in the marketplace. In addition, since DOE believes that the cooling method and the presence of a glass or solid front is correlated in practice. As such, DOE believes that clarifying DOE's equipment class definitions using such an unambiguous product characteristic would not result in any changes to the classification of BVM models that are currently available on the market. 74 FR 44914, 44924 (August 31, 2009).

In light of this, DOE is proposing to amend the definition of Class A beverage vending machines to read as follows:

Class A means a refrigerated bottled or canned beverage vending machine that is not a combination beverage vending machine and in which 25 percent or more of the surface area on the front side of the beverage vending machine is transparent.

In this BVM energy conservation standard NOPR, DOE is not proposing to substantively modify the definition of Class B, since Class B is defined as the mutually exclusive converse of Class A. However, DOE is proposing to make a minor editorial change to include the term ''that'' to improve readability of the definition. That is, a Class B beverage vending machine would be defined as a refrigerated bottled or canned beverage vending machine that: (1) Is not considered to be Class A; and (2) is not a combination vending machine.

DOE notes that the proposed definition of Class A is similar to and consistent with DOE's classification and definition of ''closed transparent'' and ''closed solid'' commercial refrigeration equipment. 10 CFR 431.62.

In addition to the amended definition for Class A beverage vending machines, which DOE is proposing based on comments from interested parties, DOE notes that a quantitative criteria is necessary to clearly determine whether a given BVM model ''has a transparent front.'' As such, DOE is also proposing to specify the procedures DOE will use in enforcement testing to clearly and

unambiguously classify Class A and Class B beverage vending machines based on percentage of transparent surface area on the front side of the beverage vending machine. Specifically, DOE is proposing language to clarify the procedure by which DOE will: (1) Determine the surface area of beverage vending machines; and (2) determine whether such surface area is transparent. However, similar to DOE's proposal for a fully cooled verification test in the 2014 BVM test procedure NOPR, these procedures would not be required for rating and certification of specific BVM models. 79 FR 46908, 46917 (August 11, 2014). Under the proposal, manufacturers would continue to be able to certify equipment as Class A or Class B based knowledge of the specific equipment dimensions and characteristics. However, DOE will use these procedures in enforcement testing to verify the appropriate equipment classification for all cases. As such, where the appropriate equipment classification is not abundantly clear, manufacturers may elect to perform the test to ensure they are categorizing their equipment properly; however, DOE reiterates that such testing is not required. To clarify that such procedures are only optional for manufacturers, DOE is proposing to add such procedures to the product-specific enforcement provisions at 10 CFR 429.134.

To determine the surface area, DOE is proposing that the total surface area of the front side of the beverage vending machine, from edge to edge, be determined as the total length multiplied by the total height of a beverage vending machine. DOE is also proposing to specify that the transparent surface area consists of all areas composed of transparent material on the front side of a beverage vending machine, and that the non-transparent surface area consists of all areas composed of material that is not transparent on the front side of a beverage vending machine. The sum of the transparent and non-transparent surface areas should equal the total surface area of the front side of a beverage vending machine, as shown in Figure IV.1.

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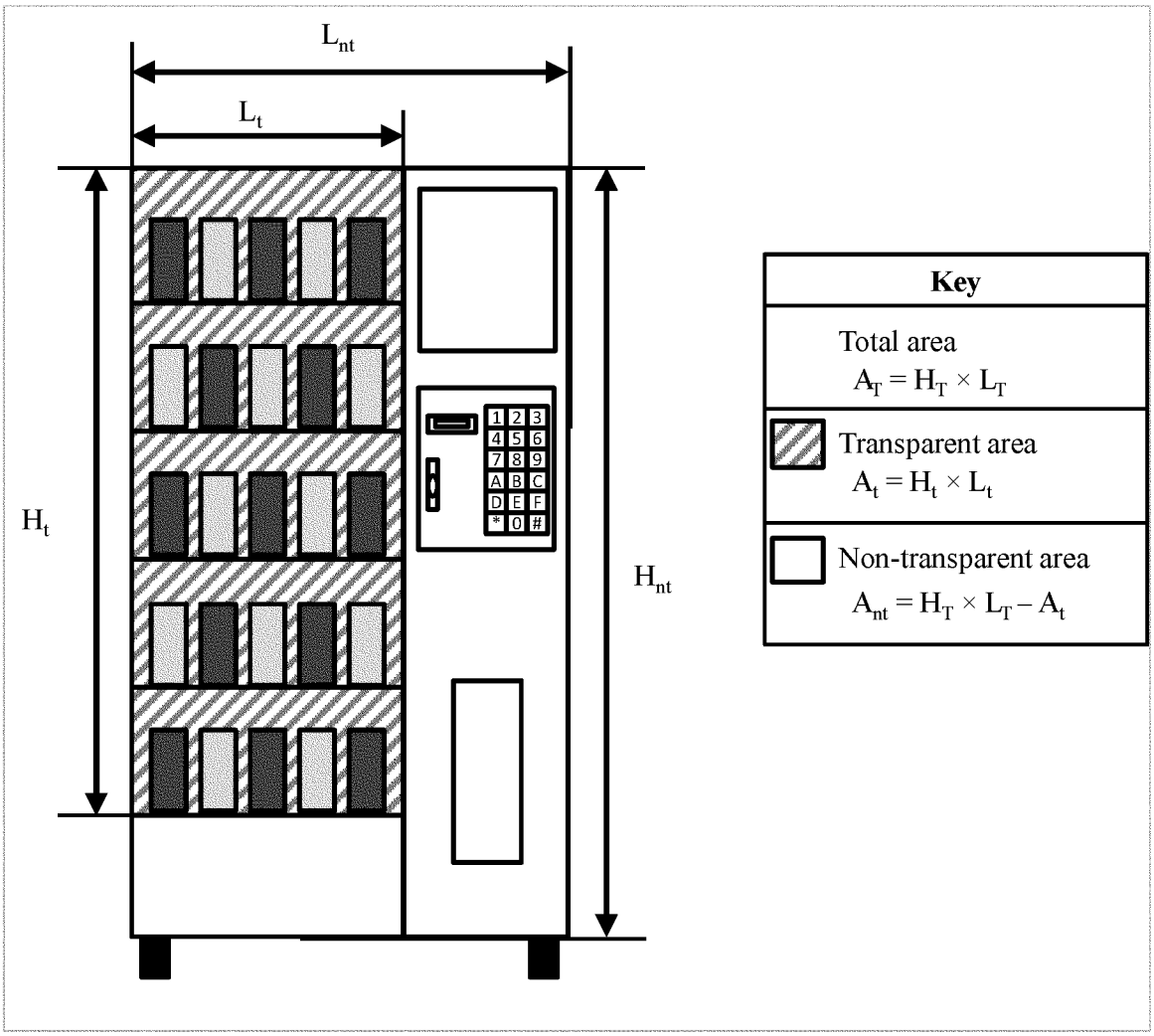

Figure IV.1 Determination of Transparent and Non-Transparent Area for Beverage Vending Machines

To determine whether a material is transparent, DOE is proposing to adopt the definition of transparent that is applicable to commercial refrigeration equipment, as adopted in the 2014 commercial refrigeration equipment test procedure final rule. 10 CFR 431.62; 79 FR 22277, 22286–87, and 22308 (April 21, 2014). Under this definition, the term ''transparent'' applies to any material with greater than or equal to 45 percent light transmittance, as determined in accordance with the ASTM Standard E 1084–86 (Reapproved 2009), ''Standard Test Method for Solar Transmittance (Terrestrial) of Sheet Materials Using Sunlight,'' at normal incidence and in the intended direction of viewing. In the commercial refrigeration equipment test procedure NOPR, DOE had originally proposed that a transparent material was any material with greater than or equal to 65 percent light transmittance, consistent with the definition of total display area in the Air-Conditioning, Heating, and Refrigeration Institute (AHRI) Standard 1200 (I–P)-2010 (AHRI 1200–2010), ''Performance Rating of Commercial Refrigerated Display Merchandisers and Storage Cabinets.'' 78 FR 64295, 64301–02 (October 28, 2013). However, DOE adopted a threshold of 45 percent in the final rule based on comments from interested parties regarding the characteristics of low-emissivity and high performance glass. 79 FR 22277, 22287 (April 21, 2014). DOE believes that the threshold of 45 percent light transmittance to determine transparency is equally applicable to materials that are typically used to manufacture both commercial refrigeration equipment and beverage vending machines.

Therefore, to determine whether a given material is transparent or not, DOE proposes that such material be tested in accordance with ASTM Standard E 1084–86 (Reapproved 2009) and, if the visible transmittance is greater than or equal to 45 percent, that material would be deemed to be transparent and considered in the transparent area of the beverage vending machine. When determining material properties, DOE notes that the utility of the transparent material is only applicable if the viewer can clearly see the refrigerated products contained within the refrigerated volume of the beverage vending machine. As such, DOE believes that the transparency of the beverage vending machine cabinet materials should be determined with consideration of all the materials used to construct the wall segment(s). That is, transparency should be determined for all the materials between the refrigerated volume and the ambient environment; only if the aggregate performance of all those materials yields a light transmittance of greater than or equal to 45 percent would that area be treated as transparent. For example, if a beverage vending machine wall segment was composed of sheet metal, insulation, and an opaque plastic covering, with light transmittance of 0, 0, and 0.5, respectively, the aggregate light transmittance of the side wall would be 0 and the area of that side wall would not be treated as transparent.

In accordance with the proposed, amended definition for Class A, any given BVM model would be classified as Class A or Class B based on the relative transparent and non-transparent areas on the front side of the beverage vending machine. If at least 25 percent of the surface area on the front side of the beverage vending machine is transparent, and the beverage vending machine is not a combination vending machine, then the beverage vending machine would be considered to be Class A. Conversely, if greater than 75 percent of the surface area on the front side of the beverage vending machine is not transparent, and the beverage vending machine is not a combination vending machine, than the beverage vending machine would be considered to be Class B. DOE's proposed Class A definition only considers transparent area on the front side of beverage vending machine when determining the appropriate equipment class for beverage vending machines.

DOE reiterates that this test method would be optional and would not be required for equipment certification or testing by manufacturers. Specifically, the determination of the light transmittance of a transparent material based on testing in accordance with ASTM Standard E 1084–86 (Reapproved 2009) would not be required in all cases to classify a BVM basic model as Class A or Class B, and manufacturers would continue to be able to specify the appropriate equipment class without utilizing this test method. However, the determination of the light transmittance of a transparent material would still be determined in accordance with ASTM Standard E 1084–86 (Reapproved 2009) and DOE proposes to use this test method to determine equipment classification in enforcement testing. Thus, incorporation of a quantitative test procedure is not anticipated to add to the complexity or burden of conducting the DOE test procedure for most models of beverage vending machines.

Regarding the proposed definition of ''fully cooled,'' DOE notes that many interested parties expressed concern about DOE's temperature differential of 10 °F between the average next-to-vend temperature and the average temperature of standard test packages placed in the furthest from next-to-vend position during the test period. Many interested parties questioned the supporting data underlying DOE's proposed temperature threshold and encouraged DOE to collect additional data. In response to these comments, DOE notes that the originally proposed 10 °F temperature differential was proposed based on the best information available to DOE. Specifically, DOE based the proposed temperature threshold on input from manufacturers provided in response to the framework document. (AMS, No. 0017 at p. 6) [22] However, DOE acknowledges that AMS also noted that the number they suggested at the framework document public meeting was not based on empirical data. (Docket No. EERE–2013–BT–TP–0045, AMS, Public Meeting Transcript, No. 0004 at p. 54)

To better inform the appropriate temperature threshold for classification of Class A and Class B beverage vending machines, and in response to comments received on the 2014 BVM test procedure NOPR, DOE analyzed additional data from 28 BVM units (11 Class A and 17 Class B). For these 28 units, DOE included standard test packages in the next-to-vend and furthest from next-to-vend beverage locations, as proposed in the 2014 BVM test procedure NOPR. 79 FR 46908, 46917 (August 11, 2014). DOE compared the integrated average temperature of the next-to-vend standard test packages to the average of all the furthest from next-to-vend standard test package measurements collected throughout the test (*i.e.,* a spatial and temporal average over the entire test period). Based on the collected data, DOE determined that, consistent with comments from interested parties, the proposed 10 °F temperature differential may be too stringent a criterion and may inadvertently classify some BVM models that have opaque fronts and products oriented in vertical stacks as ''fully cooled'' equipment, even though

[22] A notation in this form provides a reference for information that is in the docket of DOE's rulemaking to develop energy conservation standards for beverage vending machines (Docket No. EERE–2011–BT–STD–0022, which is maintained at *www.regulations.gov*). This particular notation refers to a comment: submitted by Automated Merchandising Systems, Inc. (AMS); appearing in document number 0017 of the docket; and appearing on page 6 of that document. Comments submitted on other dockets will use a similar format but will include the docket number at the beginning of the citation.

the refrigerated volume is not designed or intended to be fully cooled. For example, for equipment with a small or very well insulated refrigerated volume, passive convention will act to cool more of the refrigerated volume than just the ''intentionally refrigerated'' next-to-vend beverage selections.

In light of this additional analysis, DOE agrees with the comments of interested parties stating that it is difficult to establish a strict range that will be universally applicable to all types of Class A and Class B beverage vending machines. Specifically, DOE's data suggests that Class B equipment may have temperature differences of less than 2 °F between the next-to-vend and furthest from next-to-vend beverage locations. Conversely, as Coca-Cola points out, Class A machines can also have temperature differentials of up to 7 °F. (Docket No. EERE–2013–BT–TP–0045, Coca-Cola, No. 0010 at p. 4)

DOE believes that modifying the definitions of Class A and Class B to rely on the presence of a transparent front allows for clear and unambiguous differentiation of equipment classes, while continuing to reflect the intent and utility of fully cooled versus non-fully cooled equipment. Further, DOE believes referencing the presence of a transparent front to identify Class A equipment aligns with DOE's and industry's interpretation of fully cooled, Class A machines to date. Therefore, DOE does not believe the proposed amendment of the Class A definition and associated optional test protocols would change the equipment class or energy conservation standard level for any equipment that is currently covered under existing standards. As such, DOE is proposing that the amended Class A and Class B definitions be effective 30 days after the publication in the **Federal Register** of any final rule establishing such a definition.

Regarding Coca-Cola's comment that 2 °F is too stringent a tolerance for all the standard test packages in the machine, DOE notes that DOE did not propose such a requirement and agrees with Coca-Cola that maintaining all the standard test packages in the next-to-vend positions within 2 °F of the specified average beverage temperature may not be feasible for all fully cooled equipment designs.

In response to SVA and Coca-Cola's concerns regarding testing burden of the proposed fully cooled verification test procedure and the potential for increased air infiltration, DOE notes that, based on the amendments being proposed in this NOPR, the fully cooled verification test procedure would not be required. However, DOE is proposing to adopt optional specifications and criteria to determine surface area and transparency to allow for clear and unambiguous verification of the appropriate equipment class for any covered BVM models where the appropriate equipment class is not clear based on the physical equipment characteristics. Because the test methods to determine surface area and transparency would not be required for certification testing and is not proposed to be part of the BVM test procedure at 10 CFR 431.296, manufacturers would not be required to take any additional temperature measurements beyond what is currently specified in ANSI/ASHRAE Standard 32.1–2010, DOE believes that the proposed optional test method would not increase the burden associated with conducting the DOE BVM test procedure.

DOE requests comment on the proposed amendment to the Class A equipment class definition. Specifically, DOE requests comment on whether the presence of a transparent front is always correlated with fully cooled equipment (section VII.E of this NOPR).

DOE requests comment on the proposed optional test protocol to determine transparent and non-transparent surface areas and whether Class A equipment typically has at least 25 percent of the surface area on the front side of the unit that is transparent or if another quantitative threshold would be more appropriate (section VII.E of this NOPR).

DOE requests comment on the proposed definition of transparent. Specifically, whether 45 percent light transmittance is an acceptable value for the glass or other transparent materials that are typically used to construct the front panel on Class A equipment (section VII.E of this NOPR).

b. Combination Vending Machines

In the 2009 BVM final rule, DOE established a definition for combination vending machines (74 FR 44914, 44920; August 31, 2009). That definition describes a combination beverage vending machine as a refrigerated bottled or canned beverage machine that also has non-refrigerated volumes for the purpose of vending other, non-''sealed beverage'' merchandise. 10 CFR 431.292. However, the 2009 BVM final rule did not consider or differentiate equipment within the combination vending machine equipment category or address any specific criteria that could be used to differentiate ''refrigerated'' and ''non-refrigerated.''

In its recent test procedure rulemaking, culminating in the 2015 BVM test procedure final rule, DOE considered the applicability of the combination vending machine definition to equipment designs it has encountered on the market, and considered stakeholder comments on the definition of ''combination vending machine.'' 80 FR 45758 (July 31, 2015). In the 2015 BVM test procedure final rule, DOE clarified the test procedure for combination vending machines and noted that such equipment must include compartments that are physically separated, while acknowledging that some combination equipment designs may employ a common product delivery chute between the refrigerated and non-refrigerated compartments for the purposes of delivering vendible merchandise to the customer. DOE also gave notice that it would seek to further clarify the definition of ''combination vending machine'' in this BVM energy conservation standard NOPR. *Id* at 45765–67.

As such, in consideration of the input of various interested parties throughout both the test procedure and energy conservation standards rulemaking processes, as well as of the range of equipment designs that DOE has observed for sale on the market, DOE is proposing, in this NOPR, an amended definition of ''combination vending machine.'' Specifically, DOE proposes to amend the definition of ''combination vending machine'' to more clearly and unambiguously establish the distinction between ''refrigerated'' and ''non-refrigerated'' compartments contained in a combination beverage vending machine. Specifically, DOE proposes that the determination of whether a compartment is refrigerated or non-refrigerated is based on whether a compartment is designed to be refrigerated, as demonstrated by the presence of temperature controls. The proposed definition is as follows:

Combination vending machine means a bottled or canned beverage vending machine containing two or more compartments separated by a solid partition, that may or may not share a product delivery chute, in which at least one compartment is designed to be refrigerated, as demonstrated by the presence of temperature controls, and at least one compartment is not.

DOE requests comment on the proposed amendment to the definition of ''combination vending machine'' (section VII.E of this NOPR).

DOE also believes that, similar to Class A and Class B equipment classes, the transparency of the front side of the vending machine can differentiate certain styles of combination vending machines that provide a unique utility in the marketplace because their

specific design attributes allow the equipment to be stocked with a wider variety of product selections that can be viewed directly through the equipment's transparent front. As such, in this NOPR, DOE is also proposing to define two new equipment classes at 10 CFR 431.292, Combination A and Combination B, and proposes to define those equipment classes as follows:

Combination A means a combination vending machine where 25 percent or more of the surface area on the front side of the beverage vending machine is transparent.

Combination B means a combination vending machine that is not considered to be Combination A.

DOE proposes that the same definition of transparent and same optional test protocol to determine the transparency of materials and the relative surface areas of transparent and non-transparent surfaces would be applicable to combination vending machines except that, the external surface areas surrounding the non-refrigerated compartment(s) would not be considered. That is, all the surfaces that surround and enclose the compartment designed to be refrigerated (as demonstrated by the presence of temperature controls), as well as any surfaces that do not enclose any product-containing compartments (*e.g.,* surfaces surrounding any mechanical equipment or containing the product selection and delivery apparatus) should be considered in the calculation of transparent and non-transparent surface area for a beverage vending machine, as shown in Figure IV.2. Therefore, the transparent area would be determined as a sum of the transparent areas on the front side of a combination vending machine that are not surrounding compartments not designed to be refrigerated (*i.e.,* transparent areas surrounding compartments designed to be refrigerated and associated areas for product selection and delivery). The total area for a combination beverage vending machine would also be determined disregarding the surface area surrounding the compartment(s) not designed to be refrigerated. That is, the total area of the front side of the combination vending machine would be calculated as the total height multiplied by the total width from edge to edge minus the surface area surrounding any compartment(s) not designed to be refrigerated. This ''total area'' also represents a summation of the transparent and non-transparent areas not surrounding compartments not designed to be refrigerated, as shown in Figure IV.2. The relative transparent area on the front side of combination vending machines would be determined as the transparent area over the total area, similar to the calculation for Class A and B beverage vending machines, as discussed in section IV.A.1.a.

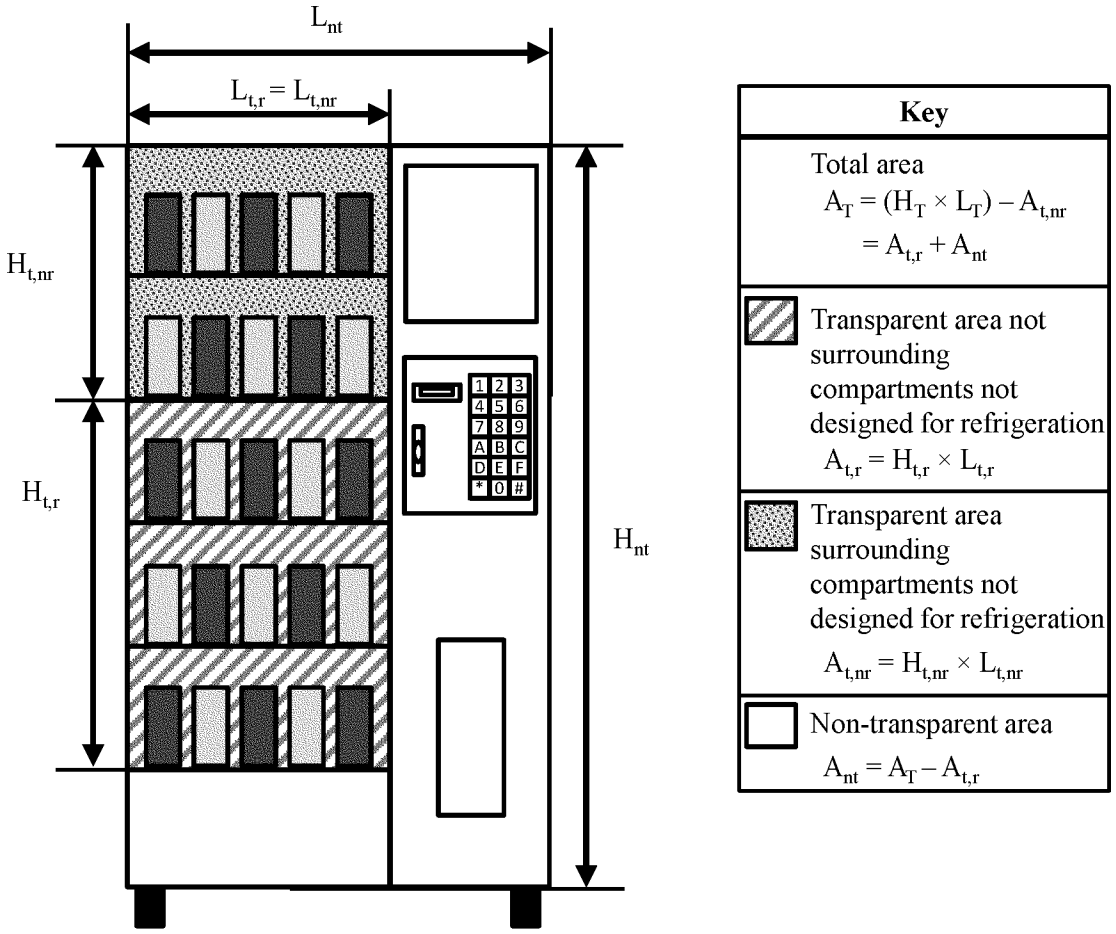

Figure IV.2 Determination of Transparent and Non-Transparent Area for a Combination Vending Machine with Products Arranged Horizontally

DOE requests comment on the proposed definition for Combination A and Combination B (section VII.E of this NOPR).

DOE also requests comment on DOE's proposal to apply the optional test protocol for determining the surface area and transparency of materials to combination vending machines, except that the surface areas surrounding the refrigerated compartments that are not designed to be refrigerated would be excluded (section VII.E of this NOPR).

In response to the framework document and preliminary analysis, DOE received input from interested parties regarding the design, construction, and sales volume of combination machines. In preparing the analyses presented in this NOPR, DOE used additional data from publicly available literature, as well as interviews with manufacturers, as the basis for its analysis of combination vending machine equipment classes. In considering setting standards for Combination A and Combination B beverage vending machines, as proposed, DOE is also interested in information regarding the design, market prevalence, and energy performance of such combination vending machines.

AMS commented that DOE and manufacturers have expended and will continue to expend large amounts of effort and expense to improve combination machines even though they compose a small amount of the market. (AMS, No. 29 at p. 6)

In response to AMS's comment regarding the small market share of combination vending machines, DOE notes that it revised the market share of combination vending machines based on input received during the manufacturer interview process (see section IV.I.3 of this NOPR). In the analysis for this NOPR, DOE found that combination vending machines represent 18 percent of the market, as opposed to 1 percent that was found in the preliminary analysis. Thus, DOE believes new energy conservation standards for combination machines represent a potential for national energy savings. In addition, since DOE is proposing standards for combination vending machines for the first time, the baseline efficiency for such equipment is much lower than for similar Class A or Class B equipment. Therefore, larger potential savings are available for combination vending machines than for Class A and Class B equipment on a per model basis. As such, DOE continues to analyze and propose standards for this equipment in this NOPR.

DOE requests comment on its updated estimate of market share for combination vending machines (section VII.E of this NOPR).

As noted in the 2015 BVM test procedure final rule, DOE believes that both appendix A and appendix B of the amended BVM test procedure are applicable to combination vending machines. 80 FR 45758 (July 31, 2015). To clarify the applicability of certain test procedure provisions and requirements to combination vending machines, DOE adopted several clarifications to the 2015 BVM test procedure to make the treatment of combination vending machines more specific and precise. These clarifications include explicitly stating the applicability of the BVM test procedure to combination vending machines and clarifying that only the refrigerated compartment of a combination vending machine is to be evaluated in the refrigerated volume calculation and loaded with standard test packages and standard product. *Id.* at 45765–67. However, any lighting or other energy-consuming features in the non-refrigerated compartment would be fully energized during the test procedure and operated in the same manner as any lighting or features in the refrigerated compartment.

Appendix A of the BVM test procedure is applicable to combination vending machines for the purposes of making any representations regarding the energy consumption of such equipment beginning January 27, 2016. 80 FR 45758 (July 31, 2015). Beginning on the compliance date of any energy conservation standards established for combination vending machines as a result of this rulemaking, manufacturers would be required to use appendix B of the BVM test procedure for the purposes of demonstrating compliance with any such energy conservation standards and when making representations regarding the energy consumption of covered equipment.

2. Machines Vending Perishable Goods

DOE notes that there are beverage vending machines that are capable of vending certain perishable products and, as such, may require more strict temperature control than beverage vending machines that only vend non-perishable products, such as bottled or canned soda, juice, or water. DOE notes such perishable products may or may not be sealed beverages but that, if a vending machine is refrigerated and is capable of or can be configured to vend sealed beverages for at least one of the product selections, then the vending machine meets DOE's definition of beverage vending machine and must comply with DOE's regulations for this equipment.

Based on input from interested parties provided in response to the framework document and as stated in chapter 2 of the preliminary analysis TSD, DOE believes that machines capable of vending perishable goods are generally not materially different from other beverage vending machines, and that the necessary levels of temperature maintenance needed to preserve perishables are achieved through the application of control settings rather than through design changes. In addition, such equipment can be tested using DOE's existing method of testing and does not have significantly different energy consumption profiles from other beverage vending machines when tested using DOE's methodology. Therefore, DOE does not believe separate equipment classes and standard levels are warranted for beverage vending machines that are capable of vending perishable goods, and DOE is not proposing a separate class for such equipment in this NOPR. As such, equipment that vends perishable products along with at least one sealed beverage must be tested in accordance with the DOE test procedure and must meet applicable energy conservation standards. Vending machines that are not capable of vending sealed beverages or are not refrigerated do not meet DOE's definition of beverage vending machine and, as such, are not subject to standards, test procedures, and certification and reporting requirements for beverage vending machines.

DOE requests comment on its position that machines capable of vending perishable goods do not warrant separate classes due to their physical similarity to refrigerated beverage vending machines used to vend non-perishable products (section VII.E of this NOPR).

3. Technology Assessment

As part of the technology assessment, DOE developed a list of technologies to consider for improving the efficiency of beverage vending machines. DOE considers as design options all technologies that meet the screening criteria and that produce quantifiable results under the DOE test procedure.

DOE typically uses information about existing and past technology options and prototype designs to help determine which technologies manufacturers use to attain higher energy performance levels. In consultation with interested parties, DOE develops a list of technologies for consideration in its screening and engineering analyses.

Initially, these technologies encompass all those that DOE believes are technologically feasible. Since many options for improving equipment efficiency are available in existing equipment, equipment literature and direct examination of BVM units currently on the market provided much of the information underlying this analysis. While DOE notes that the majority of equipment use R–134a as a refrigerant, which will no longer be available for BVM applications at the time compliance would be required with any amended standards established as part of this final rule (80 FR 42870, 42917–42920; July 20, 2015), DOE believes that the majority of technology options considered in DOE's analysis and presented in the following list are applicable to all beverage vending machines, regardless of the refrigerant utilized. Specifically, DOE considered the following technologies in this NOPR analyses:

- higher-efficiency lighting
- higher-efficiency evaporator fan motors
- higher-efficiency evaporator fan blades
- improved evaporator design
- evaporator fan motor controllers
- low-pressure-differential evaporators
- insulation improvements (including foam insulation thickness increase and use of improved materials such as vacuum insulated panels)
- improved Glass Pack (for Class A and Combination A equipment)
- higher-efficiency compressors
- variable speed compressors
- increased condenser performance
- higher-efficiency condenser fan motors
- higher-efficiency condenser fan blades
- microchannel heat exchangers
- higher efficiency expansion valves
- improved anti-sweat heaters
- lighting controls (including timers and/or sensors)
- refrigeration low-power modes

Chapter 3 of the TSD includes the detailed description of all technology options DOE identified for consideration in this rulemaking.

B. Screening Analysis

The purpose of the screening analysis is to evaluate the technologies identified in the technology assessment to determine which technologies to consider further and which technologies to screen out. DOE consulted with industry, technical experts, and other interested parties in developing a list of energy-saving technologies for the technology assessment. DOE then applied the screening criteria to determine which technologies were unsuitable for further consideration in this rulemaking. Chapter 4 of the NOPR TSD contains details about DOE's screening criteria.

DOE uses the following four screening criteria to determine which technology options are unsuitable for further consideration in an energy conservation standards rulemaking:

1. *Technological feasibility.* DOE will consider technologies incorporated in commercial products or in working prototypes to be technologically feasible.

2. *Practicability to manufacture, install, and service.* If mass production and reliable installation and servicing of a technology in commercial equipment could be achieved on the scale necessary to serve the relevant market at the time the standard comes into effect, then DOE will consider that technology practicable to manufacture, install, and service.

3. *Adverse impacts on product utility or product availability.* If DOE determines that a technology would have a significant adverse impact on the utility of the product to significant subgroups of customers, or would result in the unavailability of any covered product type with performance characteristics (including reliability), features, sizes, capacities, and volumes that are substantially the same as products generally available in the United States at the time, it will not consider this technology further.

4. *Adverse impacts on health or safety.* If DOE determines that a technology will have significant adverse impacts on health or safety, it will not consider this technology further.

10 CFR Part 430, Subpart C, Appendix A, 4(a)(4) and 5(b)

These four screening criteria do not include the propriety status of design options. As noted previously, DOE will only consider efficiency levels achieved through the use of proprietary designs in the engineering analysis if they are not part of a unique path to achieve that efficiency level. DOE does not believe that any of the technologies identified in the technology assessment are proprietary, and thus, did not eliminate any technologies for that reason. Through a review of each technology, DOE found that the following technologies identified met all four screening criteria to be examined further in the analysis and decrease daily energy consumption (DEC) as measured by the BVM test procedure:

- Higher efficiency lighting
- higher efficiency evaporator fan motors
- higher efficiency evaporator fan blades
- evaporator fan motor controllers
- improved evaporator design
- low-pressure differential evaporators
- improvements to anti-sweat heaters
- improved or thicker insulation
- defrost mechanism
- higher efficiency compressors
- variable speed compressors
- microchannel heat exchangers
- improved condenser design
- higher efficiency condenser fan motors
- higher efficiency condenser fan blades
- improved glass pack design (for Class A and Combination A machines)
- lighting controls
- refrigeration low-power modes

C. Engineering Analysis

The engineering analysis establishes the relationship between an increase in energy efficiency of the equipment and the corresponding increase in manufacturer selling price (MSP) associated with that efficiency level. This relationship serves as the basis for cost-benefit calculations for individual customers, manufacturers, and the nation. DOE typically structures its engineering analysis using one of three approaches: (1) the design-option approach, (2) the efficiency-level approach, or (3) the cost-assessment (reverse engineering) approach. The next paragraphs provide overviews of these three approaches.

A design-option approach identifies individual technology options (from the market and technology assessment) that can be used alone or in combination with other technology options to increase the energy efficiency of a given BVM unit. Under this approach, cost estimates of the baseline equipment and more-efficient equipment that incorporates design options are based on manufacturer or component supplier data or engineering computer simulation models. Individual design options, or combinations of design options, are added to the baseline model in descending order of cost-effectiveness.

An efficiency-level approach establishes the relationship between manufacturer cost and increased efficiency at predetermined efficiency levels above the baseline. Under this approach, DOE typically assesses increases in manufacturer cost for incremental increases in efficiency, without identifying the technology or design options that would be used to achieve such increases.

A reverse-engineering, or cost-assessment, approach involves disassembling representative units of beverage vending machines, and estimating the manufacturing costs based on a ''bottom-up'' manufacturing cost assessment; such assessments use detailed data to estimate the costs for parts and materials, labor, shipping/packaging, and investment for models that operate at particular efficiency levels.

As discussed in the framework document and preliminary analysis, DOE employed the design-option approach to develop the relationship between energy use of a beverage vending machine and MSP. The decision to use this approach was made due to several factors, including the lack of numerous discrete levels of equipment efficiency currently available on the market and the prevalence of relatively easily implementable energy-saving technologies applicable to this equipment. More specifically, DOE identified design options for analysis and used a combination of industry research and teardown-based cost modeling to determine manufacturing costs, then employed numerical modeling to determine the energy consumption of each combination of design options employed in increasing equipment efficiency. The resulting range of equipment efficiency levels and associated manufacturer production costs (MPCs) were converted to MSPs using information regarding typical manufacturer markups. Typical manufacturer markups are presented in chapter 5 of the NOPR TSD.

DOE requests feedback on the manufacturer markup values used to convert MPC to MSP (section VII.E of this NOPR).

DOE revised the engineering analysis presented in the preliminary analysis based on the feedback of stakeholders, information obtained through interviews with manufacturers, additional industry research, and recent regulatory changes implemented by EPA's SNAP program. 80 FR 19454, 19491 (April 10, 2015) and 80 FR 42870, 42917–42920 (July 20, 2015). In particular, DOE conducted analyses for equipment using propane (R–290) refrigerant, in addition to CO_2 (R–744) and did not consider R–134a further in downstream analysis after 2019. In addition, DOE adjusted baseline assumptions for combination vending machines, included more representative costs for several design options, and revised lighting assumptions.

1. Baseline Equipment and Representative Sizes

For each of the two classes of equipment with current standards (Class A and Class B), DOE developed baseline configurations containing design options consistent with units designed to perform at a level that approximates the existing 2009 BVM standard. DOE based its representative size assumptions for Class A and Class B equipment on the representative sizes assumed in the 2009 BVM rulemaking and input from manufacturers during the framework and preliminary analysis phases of this rulemaking, as well as data gathered from supplemental sources. DOE believes that these representative sizes continue to reflect the design and features of current baseline equipment for Class A and Class B equipment.

For Combination A and Combination B equipment, DOE set its baseline efficiency level differently than for Class A and Class B equipment, since there are no current regulatory standards for this equipment. Specifically, DOE modeled the baseline level of efficiency for the Combination A and Combination B equipment as representing the least-efficient technology generally found in the BVM market currently for each design option analyzed. That is, the baseline efficiency level for Combination A and Combination B equipment represented the least-efficient combination of technologies available, which in some cases a baseline efficiency level with higher energy consumption than any physical combination BVM unit DOE analyzed.

Representative sizes for Combination A and Combination B were established in the preliminary analysis based on equipment available in the current market and have been maintained for this NOPR. Specific details of the representative sizes chosen for analysis and design options representing each of the baseline equipment definitions for Class A, Class B, Combination A, and Combination B beverage vending machines are described in more detail in appendix 5A of the NOPR TSD.

In response to the preliminary analysis, DOE received several comments regarding the methodology it used for setting baseline levels in the engineering analysis. SVA questioned DOE's assumption about the baseline not including low-power states and asserted that most manufacturers turn off lights prior to testing energy consumption, which is representative of low power mode. (SVA, No. 33 at p. 49) [23] Crane recommended that technologies like lighting controls in low power mode and electronically commutated motors (ECMs) are already being utilized and should not be design options to improve efficiency. (Crane Merchandising System, Inc., No. 33 at pp. 53–54). SVA stated that they did not know of additional technologies to reduce energy consumption and that manufacturers are already almost at their maximum efficiencies. (SVA, No. 30 at p.1 and No. 33 at p. 99) AMS added that it has implemented most of the listed technologies and the increased cost associated with these has been significant but the energy impacts are unknown. (AMS, No. 29 at p. 2)

In the engineering analysis for Class A and Class B equipment, DOE used the current standard level as the baseline energy consumption level. The current DOE standards are available at 10 CFR 431.296. All impacts of design options that DOE examined to improve efficiency are calculated from that level. Based on its analysis of the DOE BVM certification database as well as the list of ENERGY STAR® qualified beverage vending machines, DOE agrees with Crane and SVA that much of the equipment currently available on the market exceeds the minimum energy performance required by the current DOE standards. DOE further agrees with AMS and SVA that equipment that exceeds the current standards does so through the use of efficiency improvements beyond the baseline design, including design options that DOE uses in its analysis supporting this NOPR.

Most of the design options analyzed in this NOPR were observed by DOE in some portion of the equipment currently on the market. The presence of these design options in equipment that exceeds the current standard level serves as validation of the energy performance improvements over the baseline level that are possible with these design options. However, DOE also realizes that no two manufacturers may necessarily use the same design option pathways to improve energy performance. As such, DOE notes that its engineering analyses represent just one potential pathway to achieve the efficiency levels modeled in downstream analyses.

[23] A notation in this form provides a reference for information that is in the docket of DOE's rulemaking to develop test procedures for beverage vending machines (Docket No. EERE–2013–BT–STD–0022, which is maintained at *www.regulations.gov*). This particular notation refers to a comment: (1) Submitted by Royal Vendors, Inc.; (2) appearing in document number 11 of the docket; and (3) appearing on page 3 of that document.

In response to SVA and Crane's comments regarding current manufacturer use of lighting controls, energy management systems, and low power modes to meet or exceed current energy conservation standards, DOE acknowledges that energy management systems that cannot be altered by the operator are allowed to be enabled during testing according to the current DOE test procedure. However, the engineering analysis supporting the 2009 BVM final rule did not assume the use of any such energy management system in any of the design options analyzed or in the pathway to the adopted standard level (Chapter 5 of the 2009 BVM final rule TSD; Docket No. EERE–2006–STD–0125, No. 79). While manufacturers may elect to employ whatever mix of technology options they see fit, DOE's analyses from the 2009 rulemaking did not indicate that the use of energy management systems or low power modes would be required to meet the standard levels set forth in the 2009 BVM final rule. Similarly, in this NOPR, the baseline equipment performance assumes that all lighting and accessories are on for the duration of the test and no low power modes or energy management systems are enabled. As such, DOE believes that the baseline energy performance level is achievable without the use of any energy management systems and, thus, has included them as a design option for improving the efficiency of BVM equipment.

Additionally, AMS expressed concern that the MDEC requirement for Class B machines is easier to attain than the MDEC for Class A machines. (AMS, No. 29 at p. 2–3) DOE understands that Class A units experience different heat transfer profiles than comparably sized and equipped Class B units. However, DOE is directed to independently establish energy conservation standards that are technologically feasible and economically justified for each class of covered equipment. In the 2009 BVM final rule, DOE established standards for Class A and Class B equipment based on full and independent engineering and economic analyses of the baseline equipment configurations and design options available for each equipment class. In light of inputs obtained during that rulemaking and to date in the current rulemaking, DOE intends to preserve Class A and Class B as distinct classes with separate, independently determined standard levels.

DOE requests comment on whether equipment is tested with all lighting and accessories on for the duration of the test and no low power modes or energy management systems enabled (section VII.E of this NOPR).

DOE requests information on whether the current standard level for Class A and Class B machines is achievable without the use of any energy management systems (section VII.E of this NOPR).

2. Refrigerants

At the time of this analysis, hydrofluorocarbon (HFC) refrigerants, and specifically R–134a, are used in most beverage vending machines on the market currently in the United States. In addition, based on equipment certification reports received by DOE, public statements from major end users of beverage vending machines such as Coca-Cola,[24] and information DOE obtained through confidential manufacturer interviews (see section IV.I.3), DOE has come to understand that CO_2 refrigerant is used in a small but growing portion of the BVM market.

As discussed earlier, the refrigerants that are available for use in the U.S. refrigerated vending machine market are changing as a result of two recent rulemaking actions by EPA's SNAP. First, EPA published proposed Rule 19 (Docket No. EPA–HQ–OAR–2014–0198) on July 9, 2014, that proposed, among other things, to list several hydrocarbons—isobutane and propane—and the hydrocarbon blend R–441A as acceptable alternatives under SNAP in the BVM application, subject to certain use conditions. 79 FR 38811. A final rule adopting these proposals became effective on May 11, 2015, and was published in the **Federal Register** on April 10, 2015. 80 FR 19454, 19491. EPA's second rulemaking under SNAP, Proposed Rule 20 (Docket No. EPA–HQ–OAR–2013–0748), was published on August 6, 2014 and proposed to change the status certain refrigerants to unacceptable for certain applications, including R–134a for BVM application, 79 FR 46126. A final rule corresponding to Proposed Rule 20 was published in the **Federal Register**on July 20, 2015. 80 FR 42870, 42917–42920 (July 20, 2015). This rule changes the status of R–134a for new vending machines to unacceptable beginning on January 1, 2019. Therefore, equipment complying with the amended BVM standards DOE is proposing in this NOPR would do so using the refrigerants allowable under the newly amended SNAP listings.

Due to the EPA SNAP rulemaking actions that were ongoing at the time of the preliminary analysis and to the small but growing prevalence of equipment using non-HFC refrigerants in the U.S. market, DOE received a number of stakeholder comments related to refrigerants in this rulemaking.

In comments in response to the preliminary analysis, NEEA drew DOE's attention to the ongoing [25] SNAP rulemakings and questioned their impacts on the final rule. The National Automatic Merchandising Association (NAMA) also commented that EPA's proposed SNAP ruling would introduce a new and significant variable that is not represented in the current data. (NAMA, No. 32 at p. 4)

In a joint written submission, the Alliance to Save Energy, American Council for an Energy-Efficient Economy, Appliance Standard Awareness Project (ASAP), Natural Resources Defense Council, and NEEA (Joint Comment) stated that DOE should examine possible efficiency improvements from the use of hydrocarbon refrigerants (Joint Comment, No. 27 at p. 2). NAMA and AMS expressed concern about the cost of hydrocarbon refrigeration systems, as well as their performance and reliability. (NAMA, No. 32 at p. 2; AMS, No. 29 at p. 2)

Additionally, DOE received comments specific to the use of CO_2 as a refrigerant. NAMA expressed concern about meeting the current DOE MDEC standards for Class A equipment using CO_2 because of the inherently lower efficiency of CO_2 compressors. (NAMA, No. 32 at p. 2) SVA commented that CO_2 refrigeration systems are less energy efficient than R–134a, but cost 50 percent more. (SVA, No. 30 at p. 1)

In response to the comments from stakeholders and due to the changes in allowable refrigerants for BVM applications arising as a result of EPA SNAP Final Rule 20 (80 FR 42870, 42917–42920; July 20, 2015), DOE analyzed the performance of Class A, Class B, Combination A, and Combination B equipment utilizing CO_2 refrigerant (R–744) and propane refrigerant (R–290) in this rulemaking.

DOE notes that while CO_2 has been approved for use in the United States in refrigerated beverage vending applications by EPA SNAP for several years, other hydrocarbons, including propane, were only recently listed as acceptable alternatives for use in refrigerated beverage vending applications in the United States with

[24] One example of such a public statement is available at *http://www.coca-colacompany.com/innovation/coca-cola-installs-1-millionth-hfc-free-cooler-globally-preventing-525mm-metrics-tons-of-co2*.

[25] At the time of the comment period for the BVM preliminary analysis, both SNAP rulemakings were in the proposal stage, and thus still ongoing.

EPA's recent publication of final rule 19, which became effective on May 11, 2015. 80 FR 19454, 19491. Although DOE is not aware of any commercially available BVM models using propane as a refrigerant, DOE has based this NOPR analysis on the use of propane as an alternative refrigerant, in addition to CO_2, based on use of propane as a refrigerant in other similar, self-contained commercial refrigeration applications. (See *e.g.,* Docket No. EPA–HQ–OAR–2014–0198, The Environmental Investigation Agency, No. 0134) EPA also listed R–450A, an HFC/HFO blend, as acceptable for retrofitting BVMs (79 FR 62863 (October 21, 2014)) and is evaluating R–450A and other similar blends as acceptable for new beverage vending machines. However, DOE did not evaluate these refrigerants in this NOPR, as DOE is not aware of any commercially available BVM models using R–450A or other hydrocarbon blends as a refrigerant or of any significant research and development efforts on the part of domestic BVM manufacturers to commercialize this technology in the near future.

In the engineering analysis for this NOPR, DOE first conducted analysis for each equipment class based on equipment using R–134a refrigerant, the refrigerant found in the majority of equipment available today and therefore providing the most specific and comprehensive data available. DOE then conducted analysis on each equipment class, using CO_2 and propane refrigerants, by adjusting the R–134a analysis to account for the performance differences attributable to the new refrigerants. This methodology allowed DOE to leverage the large existing base of experience, data, and models for sale utilizing R–134a while ensuring that its engineering model and downstream analyses properly addressed the refrigerant landscape applicable at the time when compliance with amended standards would be required.

In conducting its CO_2 analysis, DOE used inputs that align with SVA's comment regarding a lower efficiency for CO_2 refrigeration systems. DOE adjusted its engineering analysis to account for an increase in energy use for a beverage vending machine that uses CO_2 versus a similarly equipped unit using R–134a. Specifically, DOE used a 6-percent compressor power increase, based on a separate analytical comparison of HFC and CO_2 compressors, to account for the inherent relative inefficiency of CO_2. This figure was reviewed with manufacturers during interviews and through requests for public comment on the preliminary analysis. DOE also analyzed components for CO_2 refrigeration systems such as compressors and refrigeration coils as having higher costs than those for HFC refrigeration systems. Additionally, as CO_2 models were currently available on the market for purchase at the time of this analysis, DOE was able to procure, test, and tear down CO_2 equipment to use in corroborating its analysis.

For propane equipment, DOE used a similar methodology to that applied for CO_2. The engineering analysis used adjusted values for compressor performance, incorporating a 15-percent reduction in energy consumption as compared to an R–134a compressor, as well as adjustments to the cost of the compressor, heat exchangers, and other system components. These factors were developed through a separate, focused analysis targeting the inherent differences in performance potential between HFC and hydrocarbon refrigerants. For a detailed explanation of the methodology used in adjusting the analysis conducted on equipment using R–134a refrigerant for analyzing CO_2 and propane beverage vending machines in this NOPR, please see chapter 5 of the NOPR TSD.

Commensurate with NAMA and SVA's comments, DOE found in its analysis that, because of the decreased efficiency of CO_2 compressors as compared to R–134a compressors, more design options would need to be implemented for equipment using CO_2 refrigerant than equipment using R–134a or propane in order to achieve the same efficiency level. However, DOE's analysis showed that both the current standard level and all of the efficiency levels analyzed, including the proposed standard level, could be met by equipment using any refrigerant. Specifically, DOE established efficiency levels for the LCC, NIA, and national energy savings (NES) analyses that could be reached using any of the refrigerants analyzed. An MPC and an MSP were assigned to each efficiency level by weighting the refrigerant-specific MSPs associated with reaching that efficiency level based on the modeled market share of each refrigerant. For more information on DOE's efficiency level selection and the formulation of market shares by refrigerant, see sections IV.E and IV.G.1 of this NOPR, respectively.

To refine its engineering analysis for beverage vending machines further, DOE requests comment and data from interested parties on several topics related to the refrigerants analyzed in the engineering analysis and their relative performance characteristics. Specifically, DOE requests information on the efficiency of CO_2 and propane compressors in BVM applications (section VII.E of this NOPR).

DOE requests comment on the conclusion that both the current standard level and all of the efficiency levels analyzed could be met by equipment using any refrigerant (section VII.E of this NOPR).

DOE requests information on the additional costs associated with CO_2 and propane refrigeration systems, respectively, including but not limited to additional costs for the compressor, evaporator, condenser, and refrigerant tubing (section VII.E of this NOPR).

DOE requests comment and information on the use of propane, isobutane, and other hydrocarbon refrigerants in current commercially available BVM models or on significant research and development efforts on the part of domestic BVM manufacturers to commercialize this technology in the near future (section VII.E of this NOPR).

DOE requests comment on the likelihood of manufacturers using propane versus isobutane refrigerant since both have been added to the list of acceptable substitutes for use in BVM applications by EPA SNAP. If it is likely that isobutane would also be implemented in BVM applications, DOE requests similar information on the efficiency of isobutane compressors and additional costs associated with isobutane refrigeration systems, including but not limited to additional costs for the compressor, evaporator, condenser, and refrigerant tubing (section VII.E of this NOPR).

3. Design Options Analyzed and Maximum Technologically Feasible Efficiency Level

In response to the preliminary analysis, DOE received several comments with specific feedback regarding the design options analyzed. Specifically, SVA commented that the physical size constraint of certain evaporator fan applications did not allow for ECM motors, and NAMA stated that more insulation would make beverage vending machines larger and impact its market acceptance. (SVA, No. 33 at p. 40 and NAMA, No. 32 at p. 1) Additionally, AMS commented that additional insulation may be added to the beverage vending machines, but this would affect the size of machine, its product capacity, and market acceptance. (AMS, No. 29 at p. 2) SVA and NAMA commented that by 2019 all machines will have light-emitting diode (LED) lighting. (SVA, No. 33 at p. 88, NAMA, No. 32 at p. 2)

DOE based the specifications used in most of the design options for the engineering analysis on observations of what is currently in use in the market, including components and features incorporated by manufacturers of beverage vending machines as well as suppliers of those components. This information was gathered from the physical procurement and teardown of models and from confidential interviews conducted with manufacturers of beverage vending machines and other types of commercial refrigerated equipment. This methodology indicated that ECM evaporator motors are included in some Class A models currently produced. Additionally, DOE did not find there to be significant size differences between ECMs and other fan motor types.

In response to NAMA and AMS, DOE notes that the design options considered included the specifications for the foam insulation, which were 1 inch and 1.125 inches in the design options in the analysis. Both of these are commonly found insulation thicknesses in units being sold currently on the market, demonstrating in the market that these foam thicknesses are not prohibitive to implement.

DOE is aware of the increasing market share of beverage vending machines using LED lighting, and all of the standard levels proposed in this NOPR are at levels where the engineering analysis indicates LEDs will be a part of the least-cost path to achieving the proposed level. The comments by SVA and NAMA support this finding.

Regarding the concerns expressed by AMS over the levels of cost incurred by manufacturers in potentially improving the efficiency of combination vending machines, DOE is analyzing these machine types in parallel as a separate equipment class alongside the Class A and Class B equipment analyzed in this rulemaking. Any new standards for combination vending machines would only be promulgated after a thorough assessment of the costs and benefits to manufacturers, customers, and the nation, and would be set at a level deemed technologically feasible and economically justified. This will include an investigation of manufacturer product and capital conversion costs as part of the MIA.

In addition to these comments regarding the implementation of design options, DOE received comments regarding use of variable speed compressors, which were not analyzed in the engineering analysis for the preliminary analysis. In its written statement, the Joint Comment drew DOE's attention to Embraco, a manufacturer of variable speed compressors, and commented that DOE should incorporate variable speed compressors into their engineering analysis and refer to 2011 residential refrigerator rule for guidance. (Joint Comment, No. 27 at p. 1) ASAP also asked if DOE had considered variable speed compressors manufactured by Embraco. (ASAP, No. 33 at p. 31) AMS commented that fractional horsepower variable speed compressors were not available in the United States anymore since they have been made obsolete by the supplier. (AMS, No. 33 at p. 27)

DOE agrees with the Joint Comment that at least one variable speed compressor model with a suitable operating capacity range is available to BVM manufacturers. However, DOE is not aware of any beverage vending machines on the market or in prototype that use this or any other model of variable speed compressor. Additionally, in public comments and during manufacturer interviews, DOE was not provided any specific data on the performance or reliability of this technology were it to be implemented in beverage vending machines. In response to the comment regarding residential refrigerators, DOE agrees that the residential refrigerator rulemaking provides good guidance regarding the calculation of potential savings associated with the technology. However, DOE is concerned that the operating characteristics of beverage vending machines, including extended pull-down periods, may differ sufficiently from those experienced by other applications in which variable speed compressors have been effectively implemented. For this reason, DOE does not believe that the residential refrigerator experience provides adequate data regarding the potential energy impacts of variable speed compressors in BVM applications. Without application-specific energy and cost data for this technology in beverage vending machines or similar applications, DOE is not able to adequately predict the potential energy savings from such a technology and assess its cost-effectiveness against other design options. Additionally, DOE is not aware of any variable speed compressors using refrigerants allowable under the new EPA SNAP rules with operating capacity ranges nominally applicable to beverage vending machines.

DOE requests comment on whether the conversion to use of any alternative refrigerant may impact the availability or relevance of any design options currently observed in equipment on the market (section VII.E of this NOPR).

DOE requests data on the use of variable speed compressors in beverage vending machines (section VII.E of this NOPR).

In the previous stages of this rulemaking, DOE requested comment regarding the maximum technologically feasible level of performance attainable with technologies currently on the market. During the preliminary analysis, DOE reviewed a wide range of information sources from which to draw data on baseline and improved vending machine performance. DOE assembled this information into cost-efficiency curves extending from the baseline to max tech for each equipment class and configuration examined through the use of the design options listed in Table IV.3. DOE reviewed and revised these cost-efficiency curves in this NOPR based on feedback from interested parties and input from manufacturers provided during the course of manufacturer interviews. DOE believes that these cost-efficiency curves capture the feasible levels of equipment performance to the extent possible at this stage in the analysis.

TABLE IV.3—DESIGN OPTIONS MODELED IN THE ENGINEERING ANALYSIS

Design option	Notes
Higher efficiency lighting.	*e.g.,* LEDs
Higher efficiency evaporator fan motors.	*e.g.,* Electronically commutated motors
Evaporator fan controls.	
Improved evaporator design.	
Insulation increases or improvements.	*e.g.,* Thicker insulation, vacuum insulated panels
Improved glass pack.	Class A and Combination A only
Higher efficiency condenser fan motors.	*e.g.,* Electronically commutated motors
Improved condenser design.	
Higher efficiency compressors.	
Lighting low power modes.	*e.g.,* Lighting timers
Refrigeration low power modes.	*e.g.,* Timer-based cabinet temperature rise

4. Manufacturer Production Costs

In its engineering analysis, DOE estimates costs for manufacturers to produce equipment at the baseline and at increasingly higher levels of energy efficiency. In this NOPR, DOE based this manufacturer production cost model upon data from physical disassembly of units available on the market, corroborated with information from

manufacturer literature, discussions with industry experts, input from manufacturer interviews (see section IV.I.3 of this NOPR), and other sources. The baseline units modeled in the engineering analysis incorporated refrigerants allowable under SNAP regulations at the time of the effective date of any new or amended standards, namely propane and CO_2. As such, the manufacturer production costs at the baseline and increasing levels of efficiency all reflect the costs incurred in producing equipment using acceptable refrigerants under the final SNAP regulations issued in 2015. The incremental cost associated with producing a given BVM unit using propane or CO_2 refrigerant, as compared to a similar BVM unit using R–134a refrigerant is accounted for through the use of these refrigerant-specific cost curves. Chapter 5 of the TSD provides a detailed description of the manufacturing cost analysis.

D. Markups Analysis

DOE uses manufacturer-to-customer markups to convert the MSP estimates from the engineering analysis into customer purchase prices, which are subsequently used in the LCC and PBP analysis to evaluate how the increased cost of higher efficiency equipment compares to the annual and lifetime energy and operating cost savings resulting from such efficiency improvements. Accordingly, DOE estimates markups for baseline and all higher efficiency levels that are applied to the MSPs from the engineering analysis to obtain final customer purchase prices.

In order to develop markups, DOE identified distribution channels (*i.e.,* how the equipment is distributed from the manufacturer to the customer). Once proper distribution channels for each of the equipment classes were established, DOE relied on economic data from the U.S. Census Bureau and input from the industry to determine to what extent equipment prices increase as they pass from the manufacturer to the customer (see chapter 6 of the TSD).

DOE identified three distribution channels, as described below:

(1) Equipment Manufacturer →Vending Machine Operator (*e.g.,* bottler, beverage distributor, large food operator)

(2) Equipment Manufacturer →Distributor →Vending Machine Operator

(3) Equipment Manufacturer →Distributor →Site Owner

In the preliminary analysis public meeting, DOE was informed of an additional distribution channel wherein the equipment passes directly to large food service operators. (Crane Merchandising Systems, Public Meeting Transcript, No. 33 at pp. 63–64) DOE assumed that this distribution channel can be treated the same as the first distribution channel above, in which equipment goes directly from the manufacturer to the end user.

DOE requests comment on distribution channels for beverage vending machines (section VII.E of this NOPR).

E. Energy Use Analysis

The purpose of the energy use analysis is to establish an estimate of annual energy consumption (AEC) of beverage vending machines now and over the 30-year analysis period and to assess the energy-savings potential of different equipment efficiencies. DOE uses the resulting estimated AEC in the LCC and PBP analysis (section IV.F of this NOPR) to establish the customer operating cost savings of efficiency improvements considered. DOE also uses the estimate of energy use at the baseline and at higher levels of efficiency to estimate NES in the NIA (section IV.G of this NOPR).

The energy use analysis assessed the estimated AEC of a beverage vending machine as installed in the field. DOE recognizes that a variety of factors may affect the actual energy use of a beverage vending machine in the field, including ambient conditions, use and stocking profiles, and other factors. However, very limited data exist on field energy consumption of beverage vending machines. As such, in the energy use analysis DOE estimated that the DEC produced by the DOE test procedure is representative of the average daily energy consumption of that BVM unit in an indoor environment. However, for beverage vending machines installed outdoors, DOE developed a methodology to account for the impact of ambient conditions on the average AEC. Therefore, to model the AEC of each BVM unit, DOE separately estimated the energy use of equipment installed indoors and outdoors, to account for the impact of ambient temperature and relative humidity on field-installed BVM energy use.

As presented in the preliminary analysis, to determine AEC of BVM units installed indoors, DOE estimated that the DEC modeled in the engineering analysis and measured according to the DOE test procedure would be representative of the average energy consumption for that equipment every day of the year. Specifically, DOE believes beverage vending machines that are typically located inside industrial and commercial buildings are exposed to relatively constant temperature and relative humidity conditions throughout the year. DOE also believes that the nominal test conditions of (75 °F and 45 percent relative humidity) are sufficiently representative of conditioned spaces such that further adjustment of the tested energy consumption is not necessary for beverage vending machines located indoors.

To estimate the AEC from the DEC, DOE then multiplied the DEC values for a given BVM unit by 365 days per year. DOE estimated that Class A and Combination A beverage vending machines and a majority of Class B and Combination B beverage vending machines would all be installed inside.

However, DOE understands that some Class B and Combination B beverage vending machines are installed outdoors. Class B and Combination B beverage vending machines installed outdoors will be subject to potentially more variable ambient temperature and relative humidity conditions than BVM units installed indoors. These differences also vary depending on which climatic region the beverage vending machine is located.

During the 2009 BVM rulemaking, DOE modified its energy consumption model developed in the engineering analysis to reflect the equipment's thermal and compressor performance characteristics and to simulate the realistic performance of the machine exposed to varying temperature and relative humidity conditions (Chapter 7 of the 2009 BVM final rule TSD; Docket No. EERE–2006–STD–0125, No. 79). For the current analysis, DOE simplified its analysis by developing linear relationships between the modeled DEC as determined in accordance with the DOE test procedure and the AEC for Class B and Combination B beverage vending machines installed outdoors, as presented in the preliminary analysis. As such, DOE estimated the AEC of a given Class B or Combination B beverage vending machine installed outside by multiplying the DEC value by the linear equation determined from based on the 2009 BVM rulemaking analysis.

DOE estimated the fraction of Class B machines located in outdoor settings, based on publicly available data from college campuses,[26] and found that 16 percent of Class B machines were installed outdoors. DOE believes that

[26] *Beverage vending machine Outdoor Location and Elevated (90 °F) Outdoor Temperature Analysis.* Lawrence Berkeley National Laboratory. June 2014. Available at *http://eetd.lbl.gov/sites/all/files/lbnl-6744e.pdf.*

these data from college campuses are reasonably representative of BVM locations nationally due to the wide variety of building types and outdoor spaces on large college campuses, which can be correlated with the likely BVM locations expected.

DOE requests comment on the conclusion that data from college campuses are reasonably representative of BVM locations nationally and on their use in estimating the proportion of Class B and Combination B beverage vending machines installed outdoors (section VII.E of this NOPR).

DOE determined AEC estimates for each of the eight equipment class and refrigerant combinations modeled in the engineering analysis and presented in Table IV.4. That is, Class A, Class B, Combination A, and Combination B beverage vending machines were modeled individually for each of the two refrigerants used in these NOPR analyses: Propane (R–290) and CO_2 (R–744). However, while the engineering analysis considered three specific sizes (small, medium, and large) for Class A and Class B equipment, and two specific sizes (medium and large) for Combination A and B equipment, DOE based its energy use analysis on a ''representative size'' BVM for each equipment class. DOE determined this representative size based on a weighted average of the equipment sizes modeled in the engineering analysis. Because DOE does not believe there is a large spread of available refrigerated volumes in a given equipment class and because DOE does not anticipate the distribution of refrigerated volumes to change as a function of efficiency, DOE believes this simplifying assumption is justified and will not affect the results in a meaningful way. The representative sizes DOE used in its analysis for each equipment class are presented in Table IV.4.

TABLE IV.4—REPRESENTATIVE SIZE, IN TERMS OF REFRIGERATED VOLUME (ft^3), FOR EACH EQUIPMENT CLASS AND REFRIGERANT COMBINATION MODELED IN THE ENERGY USE ANALYSIS

Equipment class	Refrigerant	Representative refrigerated volume *ft^3*
Class A	CO_2	30.0
	Propane	
Class B	CO_2	23.4
	Propane	
Combination A.	CO_2	10.3
	Propane	
Combination B.	CO_2	4.3
	Propane	

DOE's methodology for estimating the energy use of Class A, Class B, Combination A, and Combination B beverage vending machines is discussed in more detail in chapter 7 of the NOPR TSD. In the following paragraph, DOE responds to specific comments received by interested parties on the energy use methodology DOE developed in the preliminary analysis.

In response to the preliminary analysis, DOE received several comments regarding the prevalence of beverage vending machines installed outdoors. AMS and NAMA agreed that Class A machines are almost exclusively used indoors. (AMS, No. 29 at p. 4; NAMA, No. 32 at p. 5) AMS added that, although they produce Combination A machines that are rated for outdoor use, they acknowledge that this is a minor portion of shipments and should be considered negligible. (AMS, No. 29 at p. 4) Natural Resources Canada (NRCan) asked for the source of the 25 percent outdoor installations used in 2009 and if that information is more accurate than the 16 percent assumption used now. (NRCan, No. 33 at p. 81) NEEA was unsure if 16 percent of machines were really representative of outdoor use and whether using distributions from college campuses was representative. (NEEA, No. 33 at p. 71–72)

DOE appreciates the comments from AMS and NAMA corroborating DOE's assumptions regarding Class A and Combination A equipment. Based on these comments, DOE has continued to assume that all Class A and Combination A beverage vending machines are installed indoors in this NOPR analysis. In response to the comments from NRCan regarding the source of the percentage of Class B machines installed outdoors in the 2009 BVM rulemaking, DOE based that estimate on engineering judgment and requested comment from manufacturers on this assumption. 74 FR 44927 (August 31, 2009). No additional data were provided to inform this analysis, and as such, DOE concluded that the percentage of Class B machines installed outdoors was reasonably representative of BVM installations throughout the country.

In response to NEEA's comment, DOE estimated the fraction of Class B beverage vending machines installed outdoors based on data regarding the BVM locations and types of vending machines found at six colleges and universities around the country. These campuses are thought to be fairly representative of the general BVM population because they have a mix of building types that mirror some of the major markets for beverage vending machines, including retail, commercial lodging, offices, public assembly, and outdoor spaces (see chapter 7 in the TSD for a full discussion of the building types represented in the sample from college campuses). From this research, DOE determined that 16 percent of Class B beverage vending machines are installed outside and believes that this assumption is more reliable than the assumption of 25 percent used in the 2009 BVM final rule.

In the preliminary analysis, DOE developed state-level (including the District of Columbia) adjustment factors to determine the AEC of beverage vending machines located outdoors in different regions of the country. Such adjustment factors would make it possible for DOE to model variability in the percentage of beverage vending machines installed outdoors in different climates, if such data were available. In the preliminary analysis, DOE requested such data from interested parties. DOE received several comments regarding the use of adjustment factors to estimate the location-specific AEC for Class B and Combination B equipment in each state (including the District of Columbia) and DOE's request for additional data regarding the variability of equipment installed outdoors by state or climate region. NEEA asked how the adjustment factors were calculated and what they would be used for. (NEEA, No. 33 at p. 73–74) Southern California Edison (SCE) asked if the adjustment factor accounted for some of the accessories that may be left off by cold weather heaters. (SCE, No. 33 at p. 74–75) NEEA suggested that DOE consider that more product would be dispensed in warmer weather and that may have an impact on the adjustment as well. (NEEA, No. 33 at p. 77–78)

In response to NEEA's comment regarding the methodology used in developing the adjustment factors to determine the AEC by state, the adjustment factor for each state was determined by dividing the outdoor AEC for each state by the national average AEC reported in Tables 7.4.1 and 7.4.2 of the 2009 BVM final rule TSD. The adjustment factor was applied to the calculated average AEC of a given beverage vending machine, determined using the scaling factor described above to translate the tested DEC of a given BVM model to an AEC value. In the preliminary analysis, DOE intended to apply the adjustment factors to generate state-level estimates of energy use for outdoor equipment that reflect relative numbers of units installed outdoors by state. Such data could then be averaged based on population-weights to generate

a nationally representative average AEC for outdoor equipment.

This level of data specificity would be necessary to accommodate for regional or state-level variation in the installation of outdoor units. In the preliminary analysis, DOE requested comment on any regional variation in the incidence of BVM equipment installed outdoors, but did not receive any input or data from interested parties. DOE was also not able to identify any data that would support state-level or regional variation in the percentage of Class B and Combination B BVM units installed outdoors. As such, in the energy use analysis performed for this NOPR, DOE determined that there are insufficient data to support variations in outdoor installations in different climate areas and has assumed one nationally representative value. DOE thus believes that using state-level adjustment factors are not necessary and opted to use a national average AEC for outdoor equipment to simplify the analysis. This simplification does not affect the accuracy of the annual energy use results, since the adjustment factors were generated based on the national average AEC.

DOE requests comment on its decision to disregard the adjustment factors calculated in the preliminary analysis thereby simplifying the energy use analysis by using the national average AEC values (section VII.E of this NOPR).

In response to SCE's comment regarding the adjustment factor for accessories, such as cold weather heaters, DOE reiterates that these factors are based on modeling performed in support of the 2009 BVM final rule. In the 2009 BVM final rule, DOE did not model the energy use of cold weather heaters due to lack of information on their use and control and because they are not measured as part of the DOE test procedure rating. DOE had no data on how the energy use of these heaters would be impacted by the design options considered at each efficiency level. As such, DOE's analysis assumes that the incremental energy use of any electric resistance heating elements energized to prevent freezing in cold temperatures is not directly affected by improved efficiency levels considered by DOE in the BVM analysis and has not been considered in the analysis.

DOE lacks sufficient data to consider the incidence of cold weather heaters in the energy use analysis or control methodologies for this technology. DOE notes that, potentially, not all beverage vending machines installed outdoors in climates experiencing extended periods below 32 °F outside would include such a feature, as some Class B and Combination B beverage vending machines installed outdoors may be moved inside during cold-weather periods. In addition, even based on conservative assumptions regarding the likely use of electric heaters in beverage vending machines installed outdoors, the energy use of cold weather heaters in outdoor Class B and Combination B equipment would be small compared to the annual energy use of the machine. As such, DOE believes that accounting for the energy use of cold weather heaters in the energy use analysis would not significantly impact the national average energy consumption values used in the LCC and downstream analyses. Since DOE lacks sufficient data on which to base assumptions regarding representative control strategies and operational characteristics of such BVM accessories, and because DOE believes the impact of any such heaters on the national average energy consumption values would be small, DOE elected to continue to use the unmodified regression developed in the preliminary analysis, which does not account for the energy use of cold weather heaters, to estimate the national average AEC of outdoor Class B and Combination B equipment.

DOE requests comment regarding whether the analysis should account for the impact of any incremental energy use associated with cold weather heaters on the national average energy consumption of Class B and Combination B equipment (section VII.E of this NOPR). If so, DOE also requests data on the incidence and control methodology of cold weather heaters in BVM equipment installed in cold climates (section VII.E of this NOPR).

Regarding NEEA's comment that variables such as purchasing patterns may vary seasonally and impact energy use, DOE did not account for such influences since there are no robust data regarding how increased equipment usage increases energy use above the tested value or the extent of changes in number or frequency of purchases in different climatic conditions. As such, DOE continues to estimate that the energy use of the beverage vending machines as tested in accordance with the DOE test procedure is reasonably representative of equipment energy usage in the field for indoor installations, and has applied the climate based scaling factors as described to estimate outdoor annual energy use.

DOE also acknowledges that most beverage vending machines are located inside conditioned spaces and will add to the building cooling load in the summer and reduce the building heating load in the winter. However, DOE notes that in its energy use analysis, DOE is most interested in the incremental improvements in energy consumption achieved by different design options and not the entire heat load contributed by a beverage vending machine. Based on similar analysis performed on self-contained commercial refrigeration equipment in support of recently published amended energy conservation standards for commercial refrigeration equipment, DOE believes that the net effect of these impacts are fairly modest in most cases. 78 FR 55890, 55926 (September 11, 2013). DOE also believes that the added complexity of determining the overall impact on building space-conditioning loads is not justified given the variety of building types, BVM locations (*e.g.,* outside, inside, or in vestibules), and HVAC system designs that would need to be taken into account.

DOE requests comment on the energy use analysis methodology used to estimate the AEC of Class A, Class B, Combination A, and Combination B beverage vending machines located indoors and outdoors, as applicable (section VII.E of this NOPR).

DOE requests comment on any other variables DOE should account for in its estimate of national average energy use for beverage vending machines (section VII.E of this NOPR).

F. Life-Cycle Cost and Payback Period Analyses

New or amended energy conservation standards usually decrease equipment operating expenses and increase the initial installed price. DOE analyzes the net effect of new or amended standards on customers by evaluating the net LCC. To evaluate the net LCC, DOE uses the cost-efficiency relationship derived in the engineering analysis and the energy costs derived from the energy use analysis. Inputs to the LCC calculation include the installed cost of equipment to the customer (customer purchase price plus installation cost), operating expenses (energy expenses and maintenance and repair costs), the lifetime of the unit, and a discount rate.

Because the installed cost of equipment typically increases while operating costs typically decrease under new standards, there is a time in the life of equipment having higher-than-baseline efficiency when the net operating-cost benefit (in dollars) since the time of purchase is equal to the incremental first cost of purchasing the equipment. The time required for

equipment to reach this cost-equivalence point is known as the PBP.

DOE uses Monte Carlo simulation and probability distributions to incorporate uncertainty and variability in the LCC and PBP analysis. DOE used Microsoft Excel combined with Crystal Ball™ (a commercially available program) to develop LCC and PBP spreadsheet models that incorporate both Monte Carlo simulation and probability distributions. The LCC subgroup analysis includes an assessment of impacts on customer subgroups.

DOE determined several input values for the LCC and PBP analysis including (1) customer purchase prices; (2) electricity prices; (3) maintenance, service, and installation costs; (4) equipment lifetimes; (5) discount rates; (6) equipment efficiency in the no-new-standards case; and (7) split incentives. The approach and data DOE used to derive these input values are described below.

1. Customer Purchase Prices

DOE multiplied the MSPs estimated in the engineering analysis by the supply-chain markups to calculate customer purchase prices for the LCC and PBP analysis. DOE determined, on average, 15 percent of this equipment passes through a distributor or wholesaler, and 85 percent of the equipment is sold by a manufacturer directly to the end user. In the LCC and PBP analysis, approximately 15 percent of the Monte Carlo iterations include a distributor or wholesaler markup, while 85 percent of the iterations use a markup factor of 1.0, indicative of no additional markup on top of the MSPs (besides sales tax).

DOE developed a projection of price trends for beverage vending machines in the preliminary analysis that, based on historical price trends, projected the MSP to decline by 1 percent from the 2014 MSP estimates through the 2019 assumed compliance date of new or amended standards. The preliminary analysis also projects an approximately 40 percent decline from the MSP values estimated in 2013 to the end of the 30-year NIA analysis period used in the NOPR.

DOE received comments from stakeholders regarding the price learning in the life-cycle cost analysis. AMS disagreed with the current price trend because the impacts of the EPA SNAP program are not able to be included in the calculations. (AMS, No. 29 at p. 4) SVA commented that DOE should consider price trend differences between Class A glass front beverage vending machines and conventional (Class B) beverage vending machines. (SVA, No. 30 at p. 2) Advocates commented that price trends as used in the preliminary analysis are sufficient and that prices for overall BVM units are not likely to decline as quickly as LED and accessory prices. (Joint Comment, No. 27 at p. 2)

DOE acknowledges the Advocates' comment supporting price trends. Regarding AMS's comment concerning the impact of SNAP on price trends of BVM equipment, DOE's analysis accounts for the impact of the SNAP rules on the U.S. beverage vending machine market.[27] Specifically, this analysis reflects the promulgation of final rule 19 (80 FR 19454), which allows for the use of certain hydrocarbon refrigerants in BVM applications, and final rule 20, which changed the status of R–134a to unacceptable for BVM applications 80 FR 42870, 42917–42920 (July 20, 2015). See appendix 8C of the NOPR TSD for a detailed discussion of the price trend numbers. In response to SVA's comment, DOE agrees that it would be better to have data very specific to individual equipment class price trends. However, such data are not available. The Producer Price Index (PPI) used in the analysis of price trends embodies the price trends of beverage vending machines as well as other vending machines. DOE performed a sensitivity analysis with price trends held constant, and found that doing so did not impact the selection of efficiency levels for TSLs. (See appendix 10D of the NOPR TSD.) Because DOE believes there is evidence of price learning in many appliances and equipment, and historical evidence of real price decline in beverage vending machines, DOE continued to include price learning based scenario for the NOPR.

DOE re-examined the data available and updated the price trend analysis for this NOPR analysis. DOE continued to use the automatic merchandising machines PPI but included historical shipments data from the U.S. Census Bureau's Current Industrial Reports to examine the decline in inflation adjusted PPI as a function of cumulative beverage vending machine shipments. Using these data for the beverage vending machines price trends analysis and DOE's projections for future shipments yields a price decline of roughly 10 percent over the period of 2014 through 2048. For the LCC model, between 2014 and 2019, the price decline is 1 percent. DOE used this revised price trend in the NOPR analysis, which reflects analytical techniques more consistent with the methodology DOE has preferentially used for other appliances. See appendix 8C of the TSD for further details on the price learning analysis.

2. Energy Prices

DOE derived electricity prices from the EIA energy price data for regional average energy price data for the commercial and industrial sectors (manufacturing facilities). DOE used projections of these energy prices for commercial and industrial customers to estimate future energy prices in the LCC and PBP analysis. EIA's Annual Energy Outlook 2014 (*AEO2014*) was used as the default source of projections for future energy prices.

DOE developed estimates of commercial and industrial electricity prices for each state and the District of Columbia. DOE derived average regional energy prices from data that are published annually based on EIA Form 826. DOE then used EIA's *AEO2014* price projections to estimate regional commercial and industrial electricity prices in future years. DOE assumed that 60 percent of installations were in commercial locations and 40 percent were in industrial locations.

3. Maintenance, Repair, and Installation Costs

DOE considered any expected changes to maintenance, repair, and installation costs for the beverage vending machines covered in this rulemaking. Typically, small incremental changes in equipment efficiency incur little or no changes in repair and maintenance costs over baseline equipment. The repair cost is the cost to the customer for replacing or repairing components in the BVM equipment that have failed. The maintenance cost is the cost to the customer of maintaining equipment operation. There is a greater probability that equipment with efficiencies that are significantly higher than the baseline will incur increased repair and maintenance costs, as such equipment is more likely to incorporate technologies that are not widely available or are less reliable than conventional, baseline technologies.

DOE based repair costs for baseline equipment on data in a Foster-Miller Inc.[28] report with adjustments to account for LED lighting. Maintenance costs include both preventative maintenance and annualized cost of refurbishment. Two ENERGY STAR

[27] Docket No. EPA–HQ–OAR–2014–0198 and Docket No. EPA–HQ–OAR–2013–0748.

[28] Foster-Miller, Inc. *Vending Machine Service Call Reduction Using the VendingMiser,* February 18, 2002. Report BAY–01197. Waltham, MA.

reports indicate that beverage vending machines are refurbished every 4 to 5 years; therefore, DOE estimated that beverage vending machines undergo refurbishment every 4.5 years. DOE used RSMeans [29] data for preventative maintenance costs and used data from the 2009 BVM final rule [30] for the annualized cost of refurbishment.

In the 2009 BVM rulemaking, DOE assumed that more-efficient beverage vending machines would not incur increased installation costs. Further, DOE did not find evidence of a change in repair or maintenance costs by efficiency level with the exception of repair cost decreases for efficiency levels that used LED lighting.

NAMA commented that more efficient equipment uses newer, more expensive technology with no proven track record and, as such, higher efficiency levels will yield higher repair costs. (NAMA, No. 32 at p. 3) DOE also received comment that different refrigerants might have different maintenance costs. (SCE, Public Meeting Transcript, No. 33 at p. 93)

DOE has not included different installation, maintenance, and repair costs for equipment with greater efficiency than the baseline efficiency models given the uncertainty of whether costs might actually increase or decrease with more efficient equipment. DOE has no information to suggest that maintenance costs vary with efficiency. DOE's repair costs are based on the annualized repair cost for baseline equipment from data in the Foster-Miller Inc. 2002 report,[31] adjusted for fewer lighting repairs and replacements (due to longer lifetimes of LED fixtures as compared to fluorescents), and to reflect 2014 prices (see chapter 8 of the NOPR TSD). DOE does not currently have sufficient data regarding the individual cost and lifetime or failure rate of each technology to account for variations in higher efficiency technologies.

Regarding SCE's comment that refrigerants might have different maintenance and repair costs, DOE accounted for this by applying the same assumptions regarding increased cost of refrigeration system components used in the engineering analysis (see chapter 5 of the TSD) to the refrigeration system components and costs from the Foster Miller report. Specifically, DOE assumed that CO_2 and propane refrigeration systems were 50 percent more expensive than R–134a refrigeration systems. As such, this results in a higher average annual repair cost for CO_2 and propane beverage vending machines of approximately $30 relative to equipment that uses HFC. DOE acknowledges that propane may incur higher maintenance costs due to more stringent safety requirements; however, such increased costs are difficult to quantify at this time, as propane has only very recently become an approved refrigerant on the EPA SNAP list. 80 FR 19454, 19491 (April 10, 2015).

DOE requests comment on the maintenance and repair costs modeled in the LCC analysis and especially appreciates additional data regarding differences in maintenance or repair costs that vary as a function of refrigerant, equipment class, or efficiency level (section VII.E of this NOPR).

4. Equipment Lifetime

DOE used information from various literature sources and input from manufacturers and other interested parties to establish average equipment lifetimes for use in the LCC and subsequent analyses. The 2009 final rule assumed that average BVM lifetime is 10 years. 74 FR 44914, 44927 (August 31, 2009). For this NOPR, a longer average lifetime of 13.5 years is assumed based on refurbishments occurring twice during the life of the equipment at an interval of 4.5 years. This estimate is based on a 2010 ENERGY STAR webinar,[32] which reported average lifetimes of 12 to 15 years, and data on the distribution of equipment ages in the stock of beverage vending machines in the Pacific Northwest from the Northwest Power and Conservation Council 2007 Regional Technical Forum [33] (RTF), which observed the age of the units in service to be approximately 8 years on average. Also, in response to the framework document, AMS commented that their machines were built to last 15 years (AMS, No. 17 at p. 12). DOE further assumed in the preliminary analysis that more efficient equipment will not have different lifetimes than the baseline equipment. SVA agreed with DOE's assumption that new technologies will not impact equipment lifetimes. (SVA, No. 30 at p. 2) DOE did not find evidence to the contrary, so it has maintained this assumption in the current analysis. This is supported by the comment made by AMS regarding the lifetime of their equipment.

In the preliminary analysis stage in the rulemaking, DOE received comments about equipment lifetimes. NEEA requested confirmation that refurbishments are included in maintenance and repair costs. (NEEA No. 33 at p. 116) NEEA requested clarification on when DOE was accounting for refurbishments in their analysis. (NEEA, No. 33 at p. 108) AMS agreed that the lifetime estimations presented are a reasonable approximation of real-world BVM lifetimes. AMS also stated that they believe the efficiency level will have an impact on BVM lifetimes. AMS believes that designs for higher efficiency include technologies that are less mature and would likely lower the lifetimes of the equipment until these technologies are more mature. (AMS, No. 29 at p.5)

As discussed in section IV.F.3 of this NOPR, refurbishment costs are included in the maintenance costs, and a discussion of how maintenance and repair costs are derived is in chapter 8 of the NOPR TSD. DOE acknowledges AMS's comment regarding efficiency levels' potential impact on BVM lifetimes. However, without reliable data, DOE did not have justification to establish different lifetimes based on the considered efficiency levels. DOE believes a lifetime of 13.5 years across efficiency levels is a representative lifetime assumption for beverage vending machines. DOE used this assumption in its analysis for this NOPR.

DOE notes that assumptions regarding equipment lifetime and refurbishment cycles also affect DOE's shipments model, which is discussed in section IV.G.1 of this NOPR.

DOE requests comment on the assumed lifetime of beverage vending machines and if the lifetime of beverage vending machines is likely to be longer or shorter in the future (section VII.E of this NOPR).

DOE requests comment on its assumption that a beverage vending machine will typically undergo two

[29] *RSMeans Facilities Maintenance & Repair 2010,* 17th Annual Edition. 2009. Kingston, MA.

[30] U.S. Department of Energy—Office of Energy Efficiency and Renewable Energy. *Chapter 8 Life-Cycle Cost And Payback Period Analyses, Beverage Vending Machines Final Rule Technical Support Document.* 2009. Washington, DC. (Last accessed January 2015.) *https://www1.eere.energy.gov/buildings/appliance_standards/commercial/pdfs/bvm_final_fr_tsd_chapter_8.pdf.*

[31] Foster-Miller, Inc. Vending Machine Service Call Reduction Using the VendingMiser, February 18, 2002. Report BAY–01197. Waltham, MA.

[32] USEPA (2010) Always Count Your Change, How ENERGY STAR Refrigerated Vending Machines Save Your Facility Money and Energy. Available online: *http://www.energystar.gov/ia/products/vending_machines/Vending_Machine_Webinar_Transcript.pdf.* Accessed May 16, 2014.

[33] Haeri, H., D. Bruchs, D. Korn, S. Shaw, J. Schott, Characterization and Energy Efficiency Opportunities in Vending Machines for the Northwestern US Market. Prepared for Northwest Power and Conservation Council Regional Technical Forum by Quantec, LLC and The Cadmus Group, Inc. Portland, OR. July 24, 2007.

refurbishments during the course of its life and if refurbishments are likely to increase or decrease in the future (section VII.E of this NOPR). DOE also requests comment on the applicability of this assumption to all equipment classes (section VII.E of this NOPR).

DOE requests further input or evidence regarding any technology options considered that would be expected to reduce overall equipment lifetimes and if so, by how much (section VII.E of this NOPR).

5. Discount Rates

DOE developed discount rates by estimating the average cost of capital to companies that purchase beverage vending machines covered under this rulemaking. DOE commonly uses the cost of capital to estimate the present value of cash flows to be derived from a typical company project or investment. Most companies use both debt and equity capital to fund investments, so the cost of capital is the weighted-average cost to the firm of equity and debt financing.

6. Equipment Efficiency in the No-New-Standards Case

To accurately analyze the incremental costs and benefits of the proposed standard levels, DOE's analyses consider the projected distribution of equipment efficiencies in the no-new-standards case (the case without new energy efficiency standards). That is, DOE calculates the percentage of customers who would be affected by a standard at a particular efficiency level (in the LCC and PBP analysis, discussed in this section IV.F), as well as the national benefits (in the NIA, discussed in section IV.G) and impacts on manufacturers (in the MIA, discussed in section IV.I) recognizing that a range of efficiencies currently exist in the market place for beverage vending machines and will continue to exist in the no-new-standards case.

To estimate the efficiency distributions for each equipment class, DOE relied on all publicly available energy use data. Specifically, the market efficiency distribution was determined separately for each equipment class and for each refrigerant. For equipment for which certification information was available in the DOE certification [34] and ENERGY STAR databases,[35] these data were used to determine the efficiency distribution of models within the equipment class, which only included Class B CO_2 equipment.

For Class A and Class B equipment that is not represented in DOE's combined BVM models database (Class A CO_2 equipment and Class A and Class B propane equipment), were assumed to be all ENERGY STAR compliant in the no-new-standards case. DOE made this assumption because DOE believes that, given the desire by most major bottlers for ENERGY STAR-listed equipment, if a manufacturer were to redesign a case to use a new refrigerant, it is likely that they would also bring the model up to ENERGY STAR performance levels. Or, if a manufacturer did not reengineer the model to meet the ENERGY STAR level independently, DOE assumed that it is likely that a manufacturer would use the same case and basic accessory set (*i.e.,* non-refrigeration system components) available on other similar ENERGY STAR-listed models using R–134a, changing only the compressor, as opposed to building separate less efficient components for the propane cases. Under these assumptions, DOE determined the ENERGY STAR performance level for each equipment class and refrigerant based both on the absolute DEC level, as well as the design option set included in such level. Both analysis approaches resulted in selection of the first efficiency level above the baseline, or EL 1, for Class A and Class B propane equipment and for Class A CO_2 beverage vending machines. Therefore, all shipments of Class A and Class B propane, as well as Class A CO_2 are assumed to be at EL 1, which corresponds to the ENERGY STAR level for Class A equipment and slightly below ENERGY STAR for Class B equipment (ENERGY STAR is EL 2 for Class B equipment).

DOE requests comment on its assumption that all baseline Class A and Class B propane and Class A CO_2 equipment would be EL 1 (section VII.E of this NOPR).

For Combination A and Combination B beverage vending machines, DOE notes that very little data exist regarding the efficiency distribution of such equipment. However, DOE has observed that all manufacturers of Combination A and Combination B equipment also produce Class A and/or Class B equipment. Therefore, based on the same analysis methodology used for Class A and Class B propane equipment and Class A CO_2 equipment, DOE estimated the efficiency distribution of Combination A and Combination B equipment based on the design option set reflected in the efficiency distribution for Class A and Class B equipment that are currently available on the market. Specifically, DOE assumed that it is likely that a manufacturer would use the same basic cabinet design and feature set available on combination vending machines as are available on similar Class A or Class B equipment, as opposed to developing separate, less efficient designs for their combination models. However, DOE notes that there are some BVM manufacturers that produce only Class A and/or Class B equipment and that these manufacturers typically produce the most efficient units. To reflect this fact, DOE assumed that the design option set corresponding to the ENERGY STAR levels for Class A and Class B equipment, which is the most common design, represented the maximum efficiency for combination equipment and an equivalent market share for combination equipment. That is, the market share at the ENERGY STAR level for Class A and Class B equipment was assumed to be applicable to the efficiency level corresponding to a similar equipment design (but not necessarily similar DEC) for Combination A and Combination B equipment, respectively. The remaining shipments were equally distributed between the ''ENERGY STAR equivalent'' efficiency level and the baseline efficiency level, or EL 0.

To project this efficiency distribution over the analysis time frame in the no-new-standard case, DOE assumed that the efficiency distribution that currently exists in the market would be maintained over the analysis period (2019–2048). Chapter 8 of this NOPR TSD provides more detail about DOE's approach to developing no-new-standards case efficiency distributions.

DOE requests comment on its assumption that Combination A and Combination B beverage vending machines have efficiency distributions similar to Class A and Class B equipment because manufacturers will use the same cabinet and similar components in the combination machines as the conventional Class A and Class B equipment (section VII.E of this NOPR).

In the preliminary analysis stage of this rulemaking, DOE received several comments regarding the efficiency distribution of BVM equipment and underlying data. AMS disagreed with the current approach to estimate the efficiencies of equipment shipments because of the impact of the EPA SNAP program and the optimistic assumption of 93 percent Energy Star compliance. AMS also stated that since combination machines are not subject to DOE rules, shipments of combination machines with operating efficiencies less than EL0

[34] *https://www.regulations.doe.gov/ccms.*

[35] *http://www.energystar.gov/productfinder/product/certified-vending-machines/results.*

are more common. (AMS, No. 29 at p. 5–6) SVA commented that Class A and B data in the Energy Star and CCMS databases are too low due the lighting systems being shut down during testing. (SVA, No. 30 at p. 2)

In response to AMS's comment regarding the impact of EPA's SNAP on ENERGY STAR compliance, DOE notes that it independently developed efficiency distributions for each equipment class and refrigerant. As stated previously, for Class A CO_2 equipment and Class A and B propane equipment, DOE developed no-new-standards case efficiency distributions based on the assumed efficiency level of equipment when actual model performance data did not exist. Based on DOE's engineering data, DOE does not anticipate difficulty in these alternative refrigerants meeting ENERGY STAR performance levels. DOE notes that some Class B CO_2 BVM models are currently certified in the ENERGY STAR database and propane is inherently a more efficient refrigerant than CO_2.

Regarding the efficiency distribution of combination machines, as stated above, DOE assumed that combination vending machines enter the market at efficiency levels similar to, but slightly less than, the comparable Class A and Class B efficiency distributions. In response to AMS's comment, each efficiency level is uniquely defined for each equipment class and EL0 represents the baseline efficiency for Combination A and Combination B equipment. DOE acknowledges that Combination A and Combination B equipment classes may be less efficient than Class A and B equipment because these classes have not previously been subject to standards. Therefore, DOE designed the EL0 level for these classes to reflect the minimum efficiency combination equipment that may currently exist in the market. Based on the definition of EL0 as the baseline or minimum efficiency for each equipment class, it is not possible for equipment to have lower efficiency than the baseline. See chapter 5 of the NOPR TSD for a discussion of the technology options that define the baseline Combination A and B equipment, which define EL0.

In response to SVA's comment regarding the accuracy of the ENERGY STAR and CCMS data for Class A and Class B equipment, DOE acknowledges that currently manufacturers can utilize certain types of lighting controls within the ENERGY STAR and CCMS testing databases that comply with the DOE test procedure for beverage vending machines at 10 CFR 431.294. Specifically, ASHRAE Standard 32.1–2010, which is currently incorporated by reference in the DOE test procedure, specifies that machines may be tested with energy management controls that are ''permanently operational and not capable of being adjusted by a machine operator'' operable. However, in absence of other information, DOE decided to continue using the ENERGY STAR and CCMS data to develop no-new-standards case efficiency levels. DOE notes that the recently published 2015 BVM test procedure final rule adopted a new Appendix A that contains the test procedure that should currently be used to certify equipment with existing energy conservation standards. Several clarifications were adopted in Appendix A, including the specification that, while energy management systems that cannot be adjusted by the machine operator may be employed, all lighting is to be illuminated to the maximum extent throughout the test. DOE notes that such treatment may be different than SVA's interpretation of the test procedure at the time of commenting, as SVA submitted their comment prior to the publication of the test procedure final rule.

7. Split Incentives

DOE acknowledges that in most cases the purchasers of beverage vending machines (a bottler or a vending services company) do not pay the energy costs for operation and thus would not directly reap any energy cost savings from more-efficient equipment. However, DOE believes that BVM owners would seek to pass on higher equipment costs to the users who pay the energy costs, if possible. DOE understands that the BVM owner typically has a financial arrangement with the company or institution on whose premises the beverage vending machine is located, in which the latter may pay a fee or receive a share of the revenue from the beverage vending machine. Thus, DOE expects that BVM owners could modify the arrangement to effectively pass on higher equipment costs. Therefore, DOE's LCC and PBP analysis uses the perspective that the company or institution on whose premises the beverage vending machine is located pays the higher equipment cost and receives the energy cost savings. DOE acknowledges that there is uncertainty about the pass-through of higher equipment costs, and thus it requests comments concerning the extent to which such pass-through occurs in the BVM market.

DOE also received comments about the split incentives used in the LCC analysis in the preliminary analysis stage of the rulemaking. AMS commented that it has no direct knowledge of the financial arrangements between BVM owners and the party that pays for the energy costs and whether increased costs can be passed to the party that pays the energy costs. (AMS, No. 29 at p. 5) SVA commented that additional equipment costs would not be passed along to those who pay the energy costs. (SVA, No. 30 at p. 2) NEEA commented that it was aware of one large bottler that passes the electricity cost directly through the vended product. (NEEA, Public Meeting Transcript, No. 33 at p. 97)

DOE acknowledges the comments regarding whether energy costs are passed onto the beverage vending machine owners, but given the uncertainty on the subject and absence of better information, DOE believes that its approach is reasonable to apply.

G. National Impact Analysis

The NIA assesses the NES and the NPV from a national perspective of total customer costs and savings expected to result from new or amended energy conservation standards at specific efficiency levels (*i.e.,* TSL) for each equipment class of beverage vending machines. DOE calculates the NES and NPV based on projections of annual equipment shipments, along with the AEC and total installed cost data from the LCC analysis. For the NOPR analysis, DOE forecasted the energy savings, operating cost savings, equipment costs, and NPV of customer benefits for equipment sold from 2019 through 2048 (the expected year in which the last standards-compliant equipment is shipped during the 30-year analysis).

DOE evaluates the impacts of new and amended standards by comparing base-case without such standards with standards-case projections. The no-new-standards case characterizes energy use and customer costs for each equipment class in the absence of any amended energy conservation standards. DOE compares these no-new-standards case projections with projections characterizing the market for each equipment class if DOE adopted the new and amended standards at each TSL. For the standards cases, DOE assumed a ''roll-up'' scenario in which equipment at efficiency levels that do not meet the standard level under consideration would ''roll up'' to the efficiency level that just meets the proposed standard level, and equipment already being purchased at efficiency levels at or above the proposed standard level would remain unaffected.

DOE uses a spreadsheet model to calculate the energy savings and the

national customer costs and savings from each TSL. The NOPR TSD and other documentation that DOE provides during the rulemaking help explain the models and how to use them, and interested parties can review DOE's analyses by interacting with these spreadsheets. The NIA spreadsheet model uses average values as inputs (rather than probability distributions of key input parameters as used in the LCC). To assess the effect of input uncertainty on NES and NPV results, DOE developed its spreadsheet model to conduct sensitivity analyses by running scenarios on specific input variables.

For the current analysis, the NIA used projections of energy price trends from the *AEO2014* reference case. In addition, DOE analyzed scenarios that used inputs from the *AEO2014* low economic growth and high economic growth cases. These cases have lower and higher energy price trends, respectively, compared to the reference case. NIA results based on these cases are presented in appendix 10E of the NOPR TSD.

A detailed description of the procedure to calculate NES and NPV and inputs for this analysis are provided in chapter 10 of the NOPR TSD.

1. Shipments Analysis

DOE uses forecasts of annual product shipments to calculate the national impacts of standards (NES and NPV) and to calculate the future cash flows of manufacturers.[36] DOE developed shipments forecasts based on an analysis of key market drivers for the particular equipment. In DOE's shipments model, shipments of equipment are driven by stock replacements assuming that the overall population of beverage vending machines will slightly decrease over the next several decades.

In the preliminary analysis, DOE estimated that the current stock of units installed in the field is 2.6 million. While it is true that new geographical locations may add vending machines to the current stock, DOE stated that many places are removing vending machines, and as such, that total stock will continue to decline. In the preliminary analysis, DOE used publicly available reports from ENERGY STAR on the market penetration of ENERGY STAR qualified machines to estimate total sales from 2005 to 2012. These reports indicated that shipments of new equipment have remained stagnant at approximately 100,000, and DOE assumed this would continue into the future. Therefore, in the preliminary analysis, DOE estimated that the total stock of beverage vending machines would decline to 1.51 million by 2019, and then stabilize at around 1.45 million through to 2050. DOE also estimated that all new shipments of BVM units were to replace existing equipment at the end of its useful life, consistent with the assumption of declining stock and the fact that the number of retiring units far exceeds units shipped.

SVA commented that DOE's shipments assumptions are too high. Sanden estimated that shipments are closer to 35,000 units a year and have been decreasing the past 7 years. (SVA, No. 30 at p. 3) An unidentified commenter during the public meeting stated that DOE's estimate of 100,000 shipments is too high. (Public Meeting Transcript, No. 33 at p. 107) In discussion of shipments, AMS stated that their equipment would all be classified as size Medium Class A and their combination machines would be classified in the small volume category. (AMS, No. 29 at p. 4)

DOE revised its shipments estimate in the NOPR analysis based on available information and estimates provided by manufacturers in response to the preliminary analysis phase of this rulemaking through the manufacturer interview process (see section IV.I.3 of this NOPR) to 45,000 new shipments per year in 2014. DOE modeled historical shipments for the period between 2006 and 2014 by assuming shipments of beverage vending machines decreased linearly from approximately 100,000 units per year, which was assumed in the 2009 BVM final rule (74 FR 44914, 44928, (August 31, 2009)) to 45,000 units per year. Based on these shipments, by 2014, the estimated stock has dropped from approximately 3M to 2.2M units surviving. DOE notes that if shipments were maintained around 45,000 units per year over the 30-year analysis period, this would result in a dramatic decline in overall stock of beverage vending machines in the United States and would reflect many current BVM owners removing BVM units from the marketplace permanently. Specifically, constant shipments of 45,000 would result in an 80 percent permanent reduction in BVM stock to approximately 600,000 units starting around 2030. Such a scenario would represent a significant change in the availability of vending machines in the nation and viability of the BVM industry, and DOE has not been able to identify any literature, data, or information that would support such a drastic change in the distribution of BVM units in the United States. As noted in chapter 9 of the preliminary analysis TSD, DOE referenced any available market literature as well as information regarding trends to limit availability of sugary beverages and snack food, particularly in schools, but notes that such information is extremely limited. DOE also notes that the types of vended products available in beverage vending machines are not limited to soda or other sugary beverages and that sales of water, energy drinks, and sports drinks have been increasing over the past several years.[37] Lacking any data indicating or supporting a significant reduction in availability or deployment of beverage vending machines, DOE believes it is reasonable to assume that the current estimate of 45,000 new shipments per year represents a low point and that shipments will recover overtime to maintain reasonably constant stocks of beverage vending machines into the future.

For the shipments model in this NOPR, DOE increased the historical shipments values between 1998 and 2006 by 18 percent to reflect the fact that the 2009 BVM final rule shipments model addresses only Class A and Class B equipment, not combination equipment. DOE estimates that combination machines represent 18 percent of total beverage vending machine shipments, as discussed further in section IV.G.1.a. Increasing the shipments and stock of beverage vending machines assumed in the 2009 BVM final rule resulted in a stock of 3.1 M BVM units in the United States in 2006. Between 2006 and 2014 DOE estimated that, consistent with SVA's observation that shipments have been declining over the past several years, shipments declined linearly from 118,000 in 2006 to 45,000 in 2014. Based on these shipments, by 2014, the estimated stock has dropped to 2.2M units surviving in 2014.

DOE modeled future shipments of new beverage vending machines from 2014–2048 based on data from Vending Times Census of the Industry 2014[38] that reported BVM stock trends in the commercial and industrial building sectors, as well as specific commercial and industrial building sectors where

[36] DOE uses all available data on manufacturer model availability, shipments, or national sales to develop estimates of the number of BVM units of each equipment class sold in each year of the analysis period. In general one would expect a close correspondence between shipments and sales and a reasonable correlation between model availability and sales.

[37] Vending Times Census of the Industry 2013 and 2014. Available at *www.vendingtimes.com.*

[38] Vending Times Census of the Industry 2014. Available at *www.vendingtimes.com.*

beverage vending machines are commonly deployed. For each commercial and industrial building sector, DOE modeled an average annual percentage reduction in stock, as shown in Table IV.5, based on an assumed percentage reduction in BVM units for different commercial building uses. The number of buildings for each sector was also evaluated based on data available from the 2012 Commercial Building Energy Consumption Survey (CBECS),[39] and an average increase in number of buildings was calculated by comparing 2012 CBECS data to historical 2003 CBECS data. Such a method accounts for the estimated growth in commercial buildings and decline in BVM units deployed in each commercial and industrial building sector individually. Then, to calculate the estimated BVM stock in future years through 2048, a building weighted average of average annual stock reductions was calculated for the industry overall and applied to current stock information starting in 2014. The estimated stock in 2048, based on this method is 1.8M, a 20 percent decrease from the 2.2M estimated in 2014. When accounting for the growth in number of buildings in the applicable commercial and industrial building sectors, this represents a decline in average saturation of beverage vending machines from 0.77 beverage vending machines per building in 2014 to 0.35 beverage vending machines per building in 2048.

TABLE IV.5—AVERAGE ANNUAL PERCENT REDUCTION IN BVM STOCK AND GROWTH IN NUMBER OF BUILDINGS FOR EACH INDUSTRIAL SECTOR AND THE INDUSTRY OVERALL

Commercial and industrial building sector *	Average annual % reduction in BVM stock	Annual growth in # of buildings (est. from CBECS data) *
Plants, Factories	0.29%	3.01%
Schools & Colleges and Universities	0.74	0.09
Public Locations	0.38	−0.80
Government and Military	0.29	2.03
Offices, Office Complexes	0.74	2.54
Hospitals, Nursing Homes	1.47	2.41
Other Locations	0.45	1.27
Total	0.55	1.78

* Note that the commercial and industrial building sectors assumed in this analysis correspond to those referenced in the 2013 Vending Times Census of the Industry. DOE mapped the CBECS building types to these commercial and industrial building sectors and provides a description of that mapping in chapter 9 of the NOPR TSD.

For more information on DOE's shipments estimates, the shipments analysis assumptions, and details on the calculation methodology, refer to chapter 9 of the NOPR TSD.

DOE requests comment on its assumptions regarding historical shipments between 1998 and 2014 (section VII.E of this NOPR). DOE also requests data from manufacturers on historical shipments, by equipment class, size, and efficiency level, for as many years as possible, ideally beginning in 1998 until the present (section VII.E of this NOPR).

DOE requests comment on its assumptions regarding future shipments. Specifically, DOE requests comment on the stock of BVM units likely to be available in the United States or in particular commercial and industrial building sectors over time (section VII.E of this NOPR). DOE also requests comment on the number of beverage vending machines that are typically installed in each location or building in each industry and if this is likely to increase or decrease over time (section VII.E of this NOPR).

DOE requests comment on its assumptions regarding likely reduction in stock in different commercial and industrial building sectors in which beverage vending machines are typically installed (section VII.E of this NOPR). DOE also requests comment on other factors that might be influencing an overall reduction in BVM stock and if this trend is likely to continue over time (section VII.E of this NOPR).

In this shipments analysis, DOE assumed that the lifetimes of beverage vending machines will remain constant over the 30-year analysis period. However, DOE notes that the number of refurbishments a piece of equipment undergoes and its approximate lifetime will impact its persistence in the market and the need for new units to replace retiring old stock.

DOE also notes that changes in the availability of new refrigerants and limitation of certain other refrigerants for BVM applications may impact the overall BVM market in the United States and, specifically, the future shipments of new beverage vending machines through 2048. However, DOE has no data on which to base any assumptions regarding how changes in refrigerant availability would impact shipments now or in the future. However, DOE notes that it does not expect the specific refrigerant used in a given beverage vending machine to impact demand for beverage vending machines and overall equipment stocks over time. As such, DOE maintains that the historical Vending Times data and stock-based analysis approach that DOE employed to develop shipment assumptions for this NOPR are appropriate and represent the best available information about future shipments of beverage vending machines.

DOE requests comment on the impact of the EPA SNAP rules on future shipments of beverage vending machines, by equipment class, refrigerant, and efficiency level (section VII.E of this NOPR).

a. Market Share by Equipment Class

Given a total volume of shipments, DOE estimates the shipments of each equipment class based on the estimated market share of each equipment class. In the preliminary analysis, DOE assumed that 98 percent of shipments were Class A and Class B, split equally between these two classes, and that Combination A and Combination B each represented 1 percent of the total BVM market.

In response to the preliminary analysis, NAMA commented that almost all shipments by their members are

[39] *http://www.eia.gov/consumption/commercial/reports/2012/preliminary/index.cfm.*

Class A. (NAMA, No. 32 at p. 4) NAMA also commented that Class A equipment from their members would be considered ''medium volume.'' (NAMA, No. 32 at p. 4) NAMA also commented on market share, stating that most are Class A, but some will become Combination A. NAMA stated that there is no data to support market share proportioning. (NAMA, No. 32 at p. 3)

DOE received comments regarding shipments of combination machines. AMS produces machines that would be classified as Combination A, but cannot comment on the market share of their shipments. (AMS, No. 29 at p. 6) SVA commented that it does not manufacture combination machines, but believes that 25 percent is a high number of combination machines in the market relative to bottle vending machines. (SandenVendo, No. 33 at p. 68)

DOE agrees with commenters that the market share of Class A equipment is quite large and possibly larger than Class B. Based on the comments made in response to the preliminary analysis and additional quantitative information provided during manufacturer interviews (see section IV.I.3 of this NOPR), DOE revised the market share assigned to each of the equipment classes, as shown in Table IV.6.

TABLE IV.6—MARKET SHARE OF EACH EQUIPMENT CLASS ASSUMED DURING THE PRELIMINARY ANALYSIS AND NOPR ANALYSIS

Equipment class	Preliminary analysis market share	NOPR Market share
Class A	49%	54.3%
Class B	49	27.7
Combination A	1	9.3
Combination B	1	8.7

In this NOPR analysis, DOE tentatively assumed that the market share for each equipment class was maintained over the 30-year analysis period and did not change as a function of standard level or as a function of changes in refrigerant availability resulting from the two recent EPA SNAP rulemakings. 80 FR 19454, 19491 (April 10, 2015) and 80 FR 42870, 42917–42920 (July 20, 2015). That is, in 2048, Class A, Class B, Combination A, and Combination B continued to represent 54.3, 27.7, 9.3, and 8.7 percent of the market, respectively. DOE made this assumption because it does not have data or information to suggest that the relative shipments of different equipment classes would change over time and, if so, in what direction and on what basis.

In response to SVA's comment, DOE notes that in the preliminary analysis the market share of Combination A and Combination B machines was only 2 percent and, in the NOPR analysis it has been revised to 18 percent based on input manufacturers provided during the manufacturer interviews (see section IV.I.3 of this NOPR).

b. Market Share by Refrigerant

Once DOE has defined shipments by equipment class, DOE also defines the shipments within each equipment class by refrigerant. In the preliminary analysis, DOE assumed a shipments scenario through 2048 in the absence of any changes in refrigerant availability that would result from the promulgation of final rules under EPA's SNAP program, which proposed to change the status of R–134a to unacceptable, and proposed to list propane as acceptable for BVM applications. 79 FR 46126 (August 6, 2014); 79 FR 38811 (July 9, 2014).[40] Specifically, under this ''no change in refrigerant availability'' scenario, DOE assumed 50 percent of beverage vending machine equipment in each equipment class would be CO_2 equipment by 2020. DOE based this assumption based on a public commitment made by Coca-Cola to be ''HFC free by 2015,'' acknowledging that bottlers represent approximately 90 percent of the BVM market[41] and assuming that Coca-Cola represents approximately half of the bottler BVM market[42] DOE assumed that, if Coca-Cola achieves their goal of 100 percent of their machines using CO_2 refrigerant by 2020,[43] it is likely that some other smaller BVM operators may have transitioned to CO_2 refrigerant-based machines based on their availability and proven performance in the market by that time. DOE assumed this applied to all equipment classes equivalently and requested comment from manufacturers on this assumption in the preliminary analysis.

In response, DOE received comments about shipments of CO_2 based equipment. SVA agreed with DOE's assumption that 50 percent of shipments will use CO_2 as a refrigerant by 2020 or earlier, but that since CO_2 has a slightly higher energy consumption than R–134a, any reduction in DEC levels, especially for Class A equipment, could slow the rate of transition as manufactures try to develop equipment that meets MDEC requirements. (SVA, No. 30 at p. 3)

In this NOPR analysis, DOE revised the assumptions regarding the relative shipments of each refrigerant based on recent regulatory actions under EPA's SNAP program, which listed propane and other hydrocarbon refrigerants as acceptable for BVM applications (80 FR 19454, 19491(April 10, 2015)) and changed the status of the industry-standard refrigerant R–134a to unacceptable beginning on January 1, 2019 (80 FR 42870, 42917–42920; July 20, 2015). Specifically, in this NOPR DOE modeled a shipments scenario assuming that all shipments of new BVM equipment would use CO_2 or propane as a refrigerant beginning on January 1, 2019, as required by Final Rule 20. *Id.*

Given the greater market experience with CO_2, DOE assumed that CO_2 would represent 60 percent of the market and propane would represent 40 percent of the market for all equipment classes beginning in 2019 and continuing through the end of the analysis period (2048). Specifically, due to the listing of CO_2 as an acceptable refrigerant for BVM applications several years ago by EPA SNAP, as well as a commitment by Coca-Cola (the largest equipment purchaser) to move away from HFC refrigerants in the near future, the

[40] DOE notes that both rules were only proposed at the time of the preliminary analysis.

[41] Northwest Power and Conservation Council Regional Technical Forum. 2007. ''Characterization of Energy Efficiency Opportunities in Vending Machines for the Northwestern US Market.''

[42] R744, ''Coca-Cola to approve 9 models of CO_2 vending machine—exclusive interview,'' Available online *http://www.r744.com/news/view/3466.*

[43] To date, Coca-Cola is slightly behind their stated goal of 2015. The Coca-Cola Company (2014) 2013/2014 Global Reporting Initiative Report. Available online *http://assets.coca-colacompany.com/1a/e5/20840408404b9bc484ebc58d536c/2013-2014-coca-cola-sustainability-report-pdf.pdf.*

market has already seen evolution towards the widespread use of CO_2. In response to SVA's comment regarding the rate of adoption of CO_2 equipment, DOE believes that 2019 provides manufacturers sufficient time to develop new equipment designs to meet MDEC requirements.

However, DOE acknowledges that propane-based BVM models have only very recently become authorized under SNAP and that there is much more limited industry experience with this refrigerant. DOE has based this NOPR analysis on the use of propane as an alternative refrigerant, in addition to CO_2, and assumed that propane-based BVM models will represent 40 percent of shipments by 2019. As mentioned in the engineering analysis, DOE believes this assumption is reasonable based on use of propane as a refrigerant in other, similar, self-contained commercial refrigeration applications. (See, *e.g.,* Docket No. EPA–HQ–OAR–2014–0198, The Environmental Investigation Agency, No. 0134)

DOE's shipments analysis and assumptions are discussed in more detail in chapter 9 of the NOPR TSD.

DOE requests comment on its assumptions regarding the relative market share of each refrigerant by equipment class (section VII.E of this NOPR).

c. High and Low Shipments Assumptions

DOE recognizes that there is a considerable amount of uncertainty associated with forecasting future shipments of beverage vending machines. As such, in addition to the primary shipments scenario presented above, DOE also estimated low and high shipments scenarios as sensitivities on the primary scenario. The low and high shipments scenarios include the same assumptions regarding market share by equipment class and refrigerant, which is that just the magnitude of total shipments of new beverage vending machines is varied among the scenarios. Specifically, for the low shipments scenario, DOE assumed that shipments declined to 45,000, as suggested by manufacturers, but recover only to 100,000 shipments per year and result in a stock of 1.3 M at the end of the analysis period. This is in contrast to the primary shipments scenario, in which shipments recover past 100,000 BVM units per year and contribute to an overall BVM stock of 1.8 M BVM units at the end of the analysis period. Under the low shipments scenario, the surviving stock of beverage vending machines is 1.34 M BVM units, a 40 percent reduction in units installed in the United States. Conversely, the high shipments scenario assumes the same overall decline in stock assumed in the primary shipment case; that is, a stock of 1.8 M BVM units in 2048. However, the high shipments scenario assumes that shipments recover more quickly than in the primary shipments case. The high shipments scenario assumes shipments of new beverage vending machines recover over the next 10 years and are maintained at approximately 135,000 new BVM units per year from 2024 through 2048. While the high shipments scenario reflects the same stock estimate as the primary shipments scenario in 2048, because the high shipments scenario assumes a faster recovery of shipments; approximately 33 percent more BVM units are shipped between 2019 and 2048 than under the primary shipments scenario. These two sensitivity scenarios are discussed in more detail in chapter 9 of the NOPR TSD.

DOE requests comment on the high and low shipments scenarios (section VII.E of this NOPR).

2. Forecasted Efficiency Trends

A key component of DOE's NIA is the energy efficiencies forecasted over time for the no-new-standards case (without new standards) and each of the standards cases. The forecasted efficiencies represent the annual shipment-weighted energy efficiency of the equipment under consideration during the forecast period (*i.e.,* from the assumed compliance date of a new standard to 30 years after compliance is required).

As discussed above, DOE developed a distribution of efficiencies in the no-new-standards case for the assumed compliance year of new standards for each BVM equipment class. Because no information was available to suggest a different trend, DOE assumed that the efficiency distribution in the no-new-standards case would remain the same in future years. In each standards case, a ''roll-up'' scenario approach was applied to establish the efficiency distribution for the compliance year. Under the ''roll-up'' scenario, DOE assumed: (1) Equipment efficiencies in the no-new-standards case that do not meet the standard level under consideration would ''roll-up'' to meet the new standard level; and (2) equipment efficiencies above the standard level under consideration would not be affected. The ''roll-up'' was a more conservative approach over the ''market shift'' approach. In a market shift approach it is assumed that a given number of customers will prefer to buy equipment above the baseline. Therefore, in a standards case scenario customers will continue to purchase above the new baseline by shifting to an efficiency level that keeps their purchase the same number of efficiency levels above the new baseline until they no longer can do so because the market becomes compressed by the maximum available efficiency level.

DOE received comments during the preliminary analysis regarding the NIA analysis. Sanden commented that energy consumption levels will increase as new interactive technologies are used in beverage vending machines. (SVA, No. 30 at p. 3) NEEA commented that a company may decide to move from the baseline to EL4 not the next EL that minimizes costs. (NEEA No. 33 at p. 117)

DOE acknowledges the comments on forecasted efficiency distributions and that customers may choose to skip efficiency levels; however, without better information DOE chose to stay with the more conservative approach of rolling up to the next efficiency level to minimize costs, which is consistent with expected business behavior in competitive markets. In response to SVA's comments, DOE also acknowledges that customers may be influenced by a variety of factors that would prevent them from simply shifting their purchasing behavior to an energy efficiency level equivalently higher than the new standard-level equipment due to the increased availability of beverage vending machines with new customer interactive technologies, such as digital graphics display screens, that increase the energy consumption of BVM models compared to units without such screens.

DOE also recognizes that recent changes in refrigerant availability resulting from the two recent EPA SNAP rulemakings may have an impact on forecasted efficiency distributions under the no-new-standards case. 80 FR 19454, 19491 (April 10, 2015) and 80 FR 42870, 42917–42920 (July 20, 2015). However, DOE did not account for such in this NOPR analysis, as DOE does not have data or information to suggest how efficiency distributions of different equipment classes or refrigerants would change over time and, if so, in what direction and on what basis as a result of these changes.

DOE requests comment on the impact of the recent EPA SNAP rulemakings changing the availability of certain refrigerants for the BVM application on future efficiency distributions (section VII.E of this NOPR).

3. National Energy Savings Analysis

The inputs for determining the NES are: (1) Annual energy consumption per unit; (2) shipments; (3) product or equipment stock; (4) national energy consumption; and (5) site-to-source conversion factors. As discussed in the energy use analysis, DOE calculated the national energy consumption by multiplying the number of units (stock) of each type of equipment (by vintage or age) by the unit energy consumption (also by vintage). Vintage represents the age of the equipment.

DOE calculated annual NES based on the difference in national energy consumption for the no-new-standards case (without new efficiency standards) and for each higher efficiency standard.[44] Cumulative energy savings are the sum of the annual NES over the period in which equipment shipped in 2019–2048 are in operation.

DOE uses a multiplicative factor called ''site-to-source conversion factor'' to convert site energy consumption (at the commercial building) into primary or source energy consumption (the energy input at the energy generation station required to convert and deliver the energy required at the site of consumption). These site-to-source conversion factors account for the energy used at power plants to generate electricity and for the losses in transmission and distribution, as well as for natural gas losses from pipeline leakage and energy used for pumping. For electricity, the conversion factors vary over time due to projected changes in generation sources (that is, the power plant types projected to provide electricity to the country). The factors that DOE developed are marginal values, which represent the response of the system to an incremental decrease in consumption associated with amended energy conservation standards.

For this NOPR, DOE used conversion factors based on the U.S. energy sector modeling using the National Energy Modeling System (NEMS) Building Technologies (NEMS–BT) version that corresponds to *AEO2014* and which provides national energy forecasts through 2040. Within the results of NEMS–BT model runs performed by DOE, a site-to-source ratio for commercial refrigeration was developed. The site-to-source ratio was held constant beyond 2040 through the end of the analysis period (30 years plus the life of equipment).

[44] The no-new-standards case represents a mix of efficiencies above the minimum efficiency level (EL 0). Please see section IV.F.6 for a more detail description of associated assumptions.

a. Full-Fuel-Cycle Analysis

DOE has historically presented NES in terms of primary energy savings. On August 18, 2011, DOE published a final statement of policy in the **Federal Register** announcing its intention to use FFC measures of energy use and greenhouse gas and other emissions in the NIA and emissions analyses included in future energy conservation standards rulemakings. 76 FR 51281. While DOE stated in that document that it intended to use the Greenhouse Gases, Regulated Emissions, and Energy Use in Transportation (GREET) model to conduct the analysis, it also said it would review alternative methods, including the use of NEMS. After evaluating both models and the approaches discussed in the August 18, 2011 document, DOE published an amended statement of policy, articulating its determination that NEMS is a more appropriate tool for this purpose. 77 FR 49701 (August 17, 2012).

The approach used for this NOPR, and the FFC multipliers that were applied, are described in appendix 10D of the TSD. NES results are presented in both primary and in terms of FFC savings; the savings by TSL are summarized in terms of FFC savings in section I.C of this NOPR.

4. Net Present Value Analysis

The inputs for determining NPV are: (1) Total annual installed cost, (2) total annual savings in operating costs, (3) a discount factor to calculate the present value of costs and savings, (4) present value of costs, and (5) present value of savings. DOE calculated the net savings for each year as the difference between the no-new-standards case and each standards case in terms of total savings in operating costs versus total increases in installed costs. DOE calculated savings over the lifetime of equipment shipped in the forecast period. DOE calculated NPV as the difference between the present value of operating cost savings and the present value of total installed costs.

For the NPV analysis, DOE calculates increases in total installed costs as the difference in total installed cost between the no-new-standards case and standards case (*i.e.,* once the standards take effect). Because the more-efficient equipment bought in the standards case usually costs more than equipment bought in the no-new-standards case, cost increases appear as negative values in calculating the NPV.

DOE expresses savings in operating costs as decreases associated with the lower energy consumption of equipment bought in the standards case compared to the no-new-standards case. Total savings in operating costs are the product of savings per unit and the number of units of each vintage that survive in a given year.

DOE multiplied monetary values in future years by the discount factor to determine the present value of costs and savings. DOE estimates the NPV of customer benefits using both a 3-percent and a 7-percent real discount rate as the average real rate of return on private investment in the U.S. economy. DOE uses these discount rates in accordance with guidance provided by the U.S. Office of Management and Budget (OMB) to Federal agencies on the development of regulatory analysis. (OMB Circular A–4 (Sept. 17, 2003), section E, ''Identifying and Measuring Benefits and Costs'') The 7-percent real value is an estimate of the average before-tax rate of return to private capital in the U.S. economy. The 3-percent real value represents the ''societal rate of time preference,'' which is the rate at which society discounts future consumption flows to their present.

H. Customer Subgroup Analysis

In analyzing the potential impact of new or amended standards on commercial customers, DOE evaluates the impact on identifiable groups (*i.e.,* subgroups) of customers, such as different types of businesses that may be disproportionately affected by a national standard level. A customer subgroup comprises an identifiable subset of the population that might be affected disproportionately by new or amended energy conservation standards. The purpose of the subgroup analysis is to determine the extent of this disproportional impact. In comparing potential impacts on the different customer subgroups, DOE may evaluate variations in regional electricity prices, energy use profiles, and purchase prices that might affect the LCC of an energy conservation standard to certain customer subgroups. In the preliminary analysis, DOE requested feedback from interested parties regarding relevant subgroups for consideration and did not receive specific comments regarding customer subgroups to be analyzed. For this rulemaking, DOE identified manufacturing and/or industrial facilities that purchase their own beverage vending machines as a relevant subgroup. These facilities typically have higher discount rates and lower electricity prices than the general population of BVM customers. These two conditions make it likely that this subgroup will have the lowest LCC

savings of any major customer subgroup.

DOE determined the impact on this BVM customer subgroup using the LCC spreadsheet model. DOE conducted the LCC and PBP analysis for customers represented by the subgroup. The results of DOE's LCC subgroup analysis are summarized in section V.B.1.b of this NOPR and described in detail in chapter 12 of the TSD.

DOE requests comment on the identification and analysis of beverage vending machine customer subgroups (section VII.E of this NOPR).

I. Manufacturer Impact Analysis

1. Overview

DOE performed a MIA to determine the financial impact of amended energy conservation standards on manufacturers of beverage vending machines, and to estimate the potential impact of such standards on employment and manufacturing capacity. The MIA has 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 with inputs specific to this rulemaking. The key GRIM inputs are data on the industry cost structure, equipment costs, shipments, and assumptions about markups and conversion expenditures. The key output is the INPV. Different sets of assumptions (*i.e.,* markup and shipments scenarios) will produce different results. The qualitative part of the MIA addresses factors such as product characteristics, impacts on particular subgroups of firms, and important market and product trends. The complete MIA is outlined in chapter 12 of the NOPR TSD.

DOE conducted the MIA for this rulemaking in three phases. In Phase 1 of the MIA, DOE conducted structured, detailed interviews with manufacturers and prepared a profile of the BVM industry. During manufacturer interviews, DOE discussed engineering, manufacturing, procurement, and financial topics to identify concerns and to inform and validate assumptions used in the GRIM. See section IV.I.3 of this NOPR for a description of the key issues manufacturers raised during the interviews. See appendix 12A of the TSD for a copy of the interview guide.

DOE used information obtained during these interviews to prepare a profile of the BVM industry. Drawing on financial analysis performed as part of the 2009 energy conservation standard for BVMs, as well as feedback obtained from manufacturers, DOE derived financial inputs for the GRIM (*e.g.,* sales, general, and administration (SG&A) expenses; research and development (R&D) expenses; and tax rates). DOE also used public sources of information, including company SEC 10–K filings,[45] corporate annual reports, the U.S. Census Bureau's Economic Census,[46] and Hoover's reports,[47] to develop the industry profile.

In Phase 2 of the MIA, DOE prepared an industry cash-flow analysis to quantify the potential impacts of an amended energy conservation standard on manufacturers of BVMs. In general, energy conservation standards can affect manufacturer cash flow in three distinct ways: (1) Create a need for increased investment; (2) raise production costs per unit; and (3) alter revenue due to higher per-unit prices and possible changes in sales volumes. To quantify these impacts, DOE used the GRIM to perform a cash-flow analysis for the BVM industry using financial values derived during Phase 1.

In Phase 3 of the MIA, DOE evaluated subgroups of manufacturers that may be disproportionately impacted by amended energy conservation standards or that may not be represented accurately by the average cost assumptions used to develop the industry cash-flow analysis. For example, small manufacturers, niche players, or manufacturers exhibiting a cost structure that largely differs from the industry average could be more negatively affected. DOE identified one subgroup for a separate impact analysis, small businesses.

DOE initially identified eight companies that sell BVM equipment in the United States. For the small businesses subgroup analysis, DOE applied the small business size standards published by the Small Business Administration (SBA) to determine whether a company is considered a small business. 65 FR 30836, 30848 (May 15, 2000), as amended at 65 FR 53533, 53544 (Sept. 5, 2000) and codified at 13 CFR part 121. To be categorized as a small business under North American Industry Classification System (NAICS) code 333318, *Other Commercial and Service Industry Machinery Manufacturing,* a BVM manufacturer and its affiliates may employ a maximum of 1,000 employees. The 1,000-employee threshold includes all employees in a business's parent company and any other subsidiaries. Based on this classification, of the eight companies selling BVMs in the United States, DOE identified five manufacturers that qualify as small businesses, one of which is a foreign manufacturer. The BVM small manufacturer subgroup is discussed in chapter 12 of the NOPR TSD and in section V.B.2 of this NOPR.

Additionally, in Phase 3 of the MIA, DOE evaluated impacts of amended energy conservation standards on manufacturing capacity and direct employment. DOE also evaluated cumulative regulatory burdens affecting the BVM industry.

2. Government Regulatory Impact Model

DOE uses the GRIM to quantify the changes in cash flow due to new standards that result in a higher or lower industry value. The GRIM analysis uses a standard, annual cash-flow analysis that incorporates manufacturer costs, markups, shipments, and industry financial information as inputs. The GRIM models changes in costs, distribution of shipments, investments, and manufacturer margins that could result from an amended energy conservation standard. The GRIM spreadsheet uses the inputs to arrive at a series of annual cash flows, beginning in 2015 (the reference year of the analysis) and continuing to 2048. DOE calculated INPVs by summing the stream of annual discounted cash flows during this period. For BVM manufacturers, DOE used a real discount rate of 8.5 percent, which was derived from industry financials and then modified according to feedback received during manufacturer interviews.

The GRIM calculates cash flows using standard accounting principles and compares changes in INPV between a no-new-standards case and each standards case. The difference in INPV between the no-new-standards case and a standards case represents the financial impact of the amended energy conservation standard on manufacturers. As discussed previously, DOE collected this information on the critical GRIM inputs from a number of sources, including publicly available data and interviews with a number of manufacturers (described in the next section). The GRIM results are shown in section V.B.2 of this NOPR. Additional details about the GRIM, the discount rate, and other financial parameters can

[45] U.S. Securities and Exchange Commission. Annual 10–K Reports. Various Years. <*http://sec.gov*>.

[46] U.S. Census Bureau, Annual Survey of Manufacturers: General Statistics: Statistics for Industry Groups and Industries. <*http://factfinder2.census.gov/faces/nav/jsf/pages/searchresults.xhtml?refresh=t*>.

[47] Hoovers Inc. Company Profiles. Various Companies. <*http://www.hoovers.com*>.

be found in chapter 12 of the NOPR TSD.

a. Government Regulatory Impact Model Key Inputs

Manufacturer Production Costs

Manufacturing more efficient equipment is typically more expensive than manufacturing baseline equipment due to the use of more complex components, which are typically more costly than baseline components. The changes in the MPCs of the analyzed equipment can affect the revenues, gross margins, and cash flow of the industry, making these equipment cost data key GRIM inputs for DOE's analysis.

In the MIA, DOE used the MPCs for each considered efficiency level calculated in the engineering analysis, as described in section IV.C of this notice and further detailed in chapter 5 of the NOPR TSD. In addition, DOE used information from its teardown analysis, described in chapter 5 of the TSD, to disaggregate the MPCs into material, labor, and overhead costs. To calculate the MPCs for equipment above the baseline, DOE added the incremental material, labor, and overhead costs from the engineering cost-efficiency curves to the baseline MPCs. These cost breakdowns and product markups were validated and revised with manufacturers during manufacturer interviews. DOE notes that, since all BVM equipment would be required to be compliant with EPA's new Rule 20 regulations prohibiting the use of R–134a after January 1, 2019 (80 FR 42870, 42917–42920; July 20, 2015), the MPCs modeled in the GRIM represent equipment that is compliant with Rule 20 (*i.e.,* uses only CO_2 and propane refrigerants), as well as any existing energy conservation standards for such equipment.

Shipments Forecasts

The GRIM estimates manufacturer revenues based on total unit shipment forecasts by equipment class and the distribution of these values by efficiency level. Changes in sales volumes and efficiency mix over time can significantly affect manufacturer finances. For this analysis, the GRIM uses the NIA's annual shipment forecasts derived from the shipments analysis. See section IV.G of this NOPR and chapter 10 of the NOPR TSD for additional details.

Product and Capital Conversion Costs Associated With Energy Conservation Standards for Beverage Vending Machines

An amended energy conservation standard would cause manufacturers to incur one-time conversion costs to bring their production facilities and product designs into compliance. DOE evaluated the level of conversion-related expenditures that would be needed to comply with each considered efficiency level in each equipment class. For the MIA, DOE classified these conversion costs into two major groups: (1) Product conversion costs; and (2) capital conversion costs. Product conversion costs are one-time investments in research, development, testing, marketing, and other non-capitalized costs necessary to make product designs comply with the amended energy conservation standard. Capital conversion costs are one-time investments in property, plant, and equipment necessary to adapt or change existing production facilities such that new compliant equipment designs can be fabricated and assembled.

Industry investments related to compliance with EPA Rule 20 are detailed in the next section (''One-Time Investments Associated with EPA SNAP Rule 20'') and are separate from the conversion costs manufacturers are estimated to incur to comply with amended energy conservation standards.

To evaluate the level of capital conversion expenditures manufacturers would likely incur to comply with amended energy conservation standards, DOE used manufacturer interview feedback to determine an average per-manufacturer capital conversion cost for each design option and equipment class. DOE scaled the per-manufacturer capital conversion costs to the industry level using a count of manufacturers producing the given equipment class (*i.e.,* Class A, Class B, Combination A, Combination B). DOE validated manufacturer comments related to capital conversion costs related to amended standards compliance through estimates of capital expenditure requirements derived from the product teardown analysis and engineering analysis described in chapter 5 of the TSD.

As detailed in Section IV.G.1 of this notice, shipments of BVM units with HFC refrigerants are forecasted to fall to zero by 2019 as a result of the EPA SNAP Rule 20 compliance date of 2019. Therefore, DOE estimates no conversion costs associated with the remaining shipments of BVM units with HFC refrigerants that are forecasted to occur during the conversion period (the three years leading up to the amended energy conservation standard year of 2019).

Table IV.7 contains the per-manufacturer capital conversion costs associated with key design options for each equipment class. DOE assumes that all Combination A units share a common cabinet and glass pack design with a Class A unit, and would not carry any additional capital conversion costs.

TABLE IV.7—PER-MANUFACTURER CAPITAL CONVERSION COSTS FOR KEY DESIGN OPTIONS

[2014$ millions]

Design option	Capital conversion costs (2014$ millions)			
	Class A	Class B	Combination A	Combination B
Enhanced Glass Pack	0.06	* N/A	0	N/A
1.125″ Thick Insulation	0.13	0.10	0	0.09
Vacuum Insulated Panels	0.27	0.31	0	0.27

* N/A = Not Applicable

DOE used a top-down approach that relied on manufacturer feedback from interviews to assess product conversion costs for the BVM industry. Using the DOE's CCMS [48] and ENERGY STAR [49] databases, along with manufacturer Web sites, DOE determined the number of platforms that are currently available for each equipment type (*i.e.,* Class A, Class B, Combination A, Combination B). DOE used manufacturer feedback to determine an average per platform product conversion cost by design option and equipment type. DOE then used the platform counts to scale the average per platform product conversion to the industry level. DOE received insufficient feedback from industry to estimate representative product conversion costs for Combination A and Combination B equipment. As a result, DOE scaled Class A product conversion costs to estimate Combination A product conversion costs and DOE scaled Class B product conversion costs to scale Combination B product conversion costs. This scaling was based on the ratio of Combination A to Class A platforms in the industry and the ratio of Combination B to Class B platforms, respectively.

Table IV.8 contains the per-platform product conversion costs associated with key design options for each equipment class.

TABLE IV.8—PER-PLATFORM PRODUCT CONVERSION COSTS FOR KEY DESIGN OPTIONS

[2014$ millions]

Design option	Product conversion costs (2014$ millions)			
	Class A	Class B	Combination A	Combination B
Higher Efficiency Compressor	0.03	0.04	0.004	0.04
Enhanced Glass Pack	0.08	* N/A	0.004	N/A
1.125″ Thick Insulation	0.09	0.05	0.004	0.05
Vacuum Insulated Panels	0.14	0.11	0.004	0.10

* N/A = Not Applicable.

DOE assumes that all energy conservation standards-related conversion costs occur between the year of publication of the final rule and the year by which manufacturers must comply with the new standard. The conversion cost figures used in the GRIM can be found in section V.B.2 of this NOPR. For additional information on the estimated product and capital conversion costs, see chapter 12 of the NOPR TSD.

DOE requests manufacturers provide an estimate of the capital and product conversion costs associated compliance with DOE amended energy conservation standards (section VII.E of this NOPR). In addition, DOE specifically requests feedback from industry regarding the product conversion costs associated with standards compliance for Combination A and Combination B equipment (section VII.E of this NOPR).

One-Time Investments Associated With EPA SNAP Rule 20

As a result of EPA Rule 20, the industry will be required to make an upfront investment in order to transition from the use of R–134a to R–744 or R–290. This industry investment (detailed below) is not a result of the amended DOE energy conservation standards. However, DOE reflects the impact of this investment in both the no-new-standards and standards cases.

EPA Rule 20 did not provide an estimate of the upfront investments associated with a R–134a refrigerant phase-out for BVM manufacturers. Based on feedback in interviews, DOE estimated an upfront cost to the industry to comply with Rule 20 using refrigerants R–744 and R–290. DOE estimated that each BVM manufacturer would need to invest $750,000 to update their products to comply with Rule 20 if they have no compliant products today. DOE assumed this one-time investment applied to all eight manufacturers, resulting in an industry cost of $6 million.[50] DOE believes this is a conservative estimate since there are manufacturers that already have SNAP-compliant products on the market today and those manufacturers would not need to make the same level of investment ahead of the 2019 effective date. For integration into the GRIM, DOE assumed that this one-time cost would occur in 2018 because the EPA's Rule 20 requires a phaseout of R–134a by 2019. This cost is independent of conversion costs that industry would need to make as a result of amended energy conservation standards (discussed in the previous section). Unlike product and capital conversion costs necessitated by DOE energy conservation standards, DOE includes this one-time Rule 20 investment in the GRIM in both the no-new-standards case and the standards case. The costs related to complying with EPA Rule 20 have been incorporated into the baseline to which DOE analyzed these proposed standards. As such, all the costs to industry that occur in the standards case relate to the impact of the proposed energy conservations standards.

DOE requests manufacturers provide an estimate of the one-time investments required to transition to alternative refrigerants, such as CO_2 and propane (section VII.E of this NOPR).

DOE requests that manufacturers provide sufficient detail such that DOE could model and verify these one-time costs related to the change in refrigerants, including the specific capital expenditures required and the potential redesign costs on a per-platform basis (section VII.E of this NOPR).

Additionally, DOE requests manufacturers provide information about the ability to coordinate one-time investments related to EPA Rule 20 compliance and conversion costs necessitated by the DOE energy conservation standards (section VII.E of this NOPR).

b. Government Regulatory Impact Model Scenarios

Manufacturer Markup Scenarios

MSPs include direct manufacturing production costs (*i.e.,* labor, materials, and overhead estimated in DOE's MPCs) and all non-production costs (*i.e.,* SG&A, R&D, and interest), along with profit. To calculate the MSPs in the GRIM, DOE applied manufacturer

[48] "CCMS." CCMS. January 19, 2015. Accessed January 19, 2015. *http://www.regulations.doe.gov/certification-data/.*

[49] ENERGY STAR Certified Vending Machines. June 6, 2013. Accessed January 19, 2015. *http://www.energystar.gov/products/certified-products.*

[50] In the GRIM, the $6 million one-time SNAP investment would affect the industry in the no-new-standards case as well as at each TSL.

markups to the MPCs estimated in the engineering analysis for each equipment class and efficiency level. Modifying these manufacturer markups in the standards case yields different sets of impacts on manufacturers. For the MIA, DOE modeled two standards-case manufacturer markup scenarios to represent the uncertainty regarding the potential impacts on prices and profitability for manufacturers following the implementation of amended energy conservation standards: (1) A preservation of gross margin percentage markup scenario; and (2) a preservation of per-unit operating profit markup scenario. These scenarios lead to different manufacturer markup values that, when applied to the inputted MPCs, result in varying revenue and cash flow impacts.

Under the preservation of gross margin percentage scenario, DOE applied a single uniform ''gross margin percentage'' markup across all efficiency levels (for a given equipment class), which assumes that manufacturers would be able to maintain the same amount of profit as a percentage of revenues at all efficiency levels within an equipment class. As production costs increase with efficiency, this scenario implies that the absolute dollar markup will increase as well. Based on publicly available financial information for manufacturers of beverage vending machines as well as comments from manufacturer interviews, DOE assumed the average manufacturer markups to vary by equipment class as shown in Table IV.9.

TABLE IV.9—BASELINE MANUFACTURER MARKUPS

Equipment class	Markup
Class A	1.22
Class B	1.17
Combination A	1.36
Combination B	1.36

Because this manufacturer markup scenario assumes that manufacturers would be able to maintain their gross margin percentage markups as production costs increase in response to an amended energy conservation standard, it represents a high bound to industry profitability.

In the preservation of per-unit operating profits scenario, manufacturer markups are calibrated such that the per-unit operating profit in the year after the compliance date of the amended energy conservation standard is the same as in the no-new-standards case for each product class. Under this scenario, as the cost of production goes up, manufacturers are generally required to reduce the markups on their minimally compliant products to maintain a cost-competitive offering. The implicit assumption behind this scenario is that the industry can only maintain operating profits after compliance with the amended standard is required. Therefore, gross margin (as a percentage) is reduced between the no-new-standards case and the standards case. This manufacturer markup scenario represents a low bound to industry profitability under an amended energy conservation standard.

3. Manufacturer Interviews

To inform the MIA, DOE interviewed manufacturers with an estimated combined market share of 78 percent. The information gathered during these interviews enabled DOE to tailor the GRIM to reflect the unique financial characteristics of the BVM industry. During the manufacturer interviews, DOE asked manufacturers to describe their major concerns about this rulemaking. Below, DOE summarizes these issues, which were informally raised in manufacturer interviews, in order to obtain public comment and related data.

a. Uncertainty Regarding Potential EPA Phaseout of Hazardous Refrigerants

Manufacturers expressed significant concern relating to the combined effect of amended energy efficiency standards for BVMs and the proposal by the EPA to change the status of certain HFC's, including R–134a, to unacceptable. At the time of the MIA interviews, EPA SNAP Rule 20 had been proposed, containing a proposed compliance date of January 1, 2016. 79 FR 46126, 46135 (August 6, 2014). The rule has since been finalized with a change of status for R–134a to unacceptable in new vending applications beginning in 2019. 80 FR 42870, 42917–42920 (July 20, 2015).

Manufacturers stated that complying with the current DOE efficiency standard for Class A products has been difficult enough without having to switch refrigerants. They stated that alternative refrigerants may be less efficient than HFC–134a and the proposed ban of HFCs coupled with amended standards for Class A products could potentially limit or prevent certain manufacturers' abilities to maintain Class A product offerings. Manufacturers requested that DOE take the change in refrigerant into account in its analysis.

b. Impact on Product Utility

Manufacturers commented that current Class A standards greatly inhibit their ability to provide all the features demanded by their customers, and, by extension, any amended standard for Class A machines would have an even greater detrimental impact on customer utility and product innovation. Because many of the product add-ons oriented towards greater purchaser interaction—a feature valued by some Class A customers—require more energy, more stringent standards would be in direct conflict with customer utility.

c. Availability of Higher Efficiency Components

Due to the low volume nature of the BVM industry overall, manufacturers expressed concern relating to the availability of components that would be required if energy efficiency standards for beverage vending machines are amended.

Historically, because there has been a minimal market for higher efficiency beverage vending machines, there are few suppliers of higher efficiency components to the industry. These suppliers have had the ability to charge high prices for components.

Manufacturers added that this issue becomes even more burdensome when considering the high efficiency components that will be needed for use in beverage vending machines using natural refrigerants (*i.e.,* CO_2 or propane). BVM manufacturers are concerned that, due to the extremely low number of CO_2 and hydrocarbon component manufactures, the limited availability and cost of these components would significantly increase product manufacturing costs.

4. Discussion of Comments

During the public comment period following the preliminary analysis public meeting, NAMA (a trade association) and AMS (a small business manufacturer of beverage vending machines) provided several comments on the potential impact of amended energy conservation standards on manufacturers.

AMS commented that potential EPA regulations to phase out R–134a could create costs totaling at least $100,000 associated with the need for a new engineering laboratory, manufacturing changes, and new safety equipment to handle hydrocarbon refrigerants. Additionally, AMS pointed out that the EPA proposal to phase out R–134a by 2016 will require product redesign, followed by testing and safety certifications in addition to the

restructuring of testing and production facilities. (AMS, No. 29 at p. 3) NAMA also commented that the additional cost of manufacturing and safety equipment needed to produce hydrocarbon refrigeration systems for beverage vending machines would exceed $100,000. Both AMS and NAMA raised concerns that the proposed EPA regulations and an amended energy conservation standard would result in significant cumulative regulatory burden. (AMS, No. 29 at p. 3; NAMA, No. 32 at p. 3)

DOE recognizes that EPA regulations that restrict the use of HFC refrigerants will lead to changes in production costs for manufacturers and necessitate investments. DOE accounted for the forthcoming HFC phase out by estimating refrigerant-specific design pathways, cost efficiency curves and the upfront investments needed to adapt products, production lines, and facilities to the use of propane and CO_2. While AMS and NEMA estimated an investment of $100,000 per manufacturer for capital expenditures such as laboratory, production facility, and safety equipment changes, DOE used a higher value of $750,000 per manufacturer to account for capital expenditures as well as non-equipment costs such R&D, testing, and marketing material changes to bring BVM equipment using propane-290 or R–744 to market. DOE integrated this cost into both the no-new-standards and standards case estimates of INPV. See section IV.I.2. for further detail on one-time costs associated with SNAP Rule 20 compliance. Furthermore, DOE includes the EPA's SNAP Rule 20 in its list of cumulative regulatory burdens in section V.B.2.e of this NOPR.

In comments, AMS noted that while they may be the smallest U.S. manufacturer of beverage vending machines, they do not meet the definition of a ''small business.'' (AMS, No. 29 at p. 1)

For the purposes of the Regulatory Flexibility Analysis, DOE is required to use the SBA definition of ''small business'' for manufacturing. The SBA definition sets size thresholds based on classifications by the NAICS. BVM manufacturing is classified under NAICS 333318, ''Other Commercial and Service Industry Machinery Manufacturing.'' For this category, the SBA size threshold is 1,000 employees or less for an entity to be considered as a small business. Under the SBA definition of a small business and for the purposes of the Regulatory Flexibility Analysis, DOE believes AMS is a small manufacturer. The Regulatory Flexibility Analysis uses the SBA thresholds in determining whether small manufacturers as a subgroup may be disproportionately impacted by the proposed standard and in determining whether there are regulatory alternatives to DOE's proposed energy conservation regulation.

Separate from the Regulatory Flexibility Analysis, EPCA also provides compliance flexibility for small companies meeting specific criteria. Under 10 CFR part 430 subpart E, titled ''Small Business Exemptions,'' a manufacturer whose annual gross revenue from all of its operations does not exceed $8,000,000 may apply for an exemption from all or part of an energy conservation standard for a limited period of time. This criterion is used to determine whether individual companies can apply for temporary exemption from the energy conservation standard. Companies with annual revenue greater than $8,000,000 do not meet the ''Small Business Exemption'' criteria under 10 CFR 40 subpart E and do not qualify for exemption requests. However, such companies may still be considered a small manufacturer for the purposes of the Regulatory Flexibility Analysis, as discussed previously.

J. Emissions Analysis

The emissions analysis consists of two components. The first component estimates the effect of potential energy conservation standards on power sector and site (where applicable) combustion emissions of CO_2, NO_X, SO_2, and Hg. The second component estimates the impacts of potential standards on emissions of two additional greenhouse gases, CH_4 and N_2O, as well as the reductions to emissions of all species due to ''upstream'' activities in the fuel production chain. These upstream activities comprise extraction, processing, and transporting fuels to the site of combustion. The associated emissions are referred to as upstream emissions.

The analysis of power sector emissions uses marginal emissions factors calculated using a methodology based on results published for the *AEO2014* reference case and a set of side cases that implement a variety of efficiency-related policies. The methodology is described in chapter 15 of the NOPR TSD.

Combustion emissions of CH_4 and N_2O are estimated using emissions intensity factors published by the EPA, GHG Emissions Factors Hub.[51] The FFC upstream emissions are estimated based on the methodology described in chapter 15 of the NOPR TSD. The upstream emissions include both emissions from fuel combustion during extraction, processing, and transportation of fuel, and ''fugitive'' emissions (direct leakage to the atmosphere) of CH_4 and CO_2.

The emissions intensity factors are expressed in terms of physical units per MWh or MMBtu of site energy savings. Total emissions reductions are estimated using the energy savings calculated in the national impact analysis.

For CH_4 and N_2O, DOE calculated emissions reduction in tons and also in terms of units of carbon dioxide equivalent (CO_2eq). Gases are converted to CO_2eq by multiplying the physical units by the gases' global warming potential (GWP) over a 100-year time horizon. Based on the Fourth Assessment Report of the Intergovernmental Panel on Climate Change,[52] DOE used GWP values of 28 for CH_4 and 265 for N_2O.

The *AEO2014* projections incorporate the projected impacts of existing air quality regulations on emissions. *AEO2014* generally represents current legislation and environmental regulations, including recent government actions, for which implementing regulations were available as of October 31, 2013. DOE's estimation of impacts accounts for the presence of the emissions control programs discussed in the following paragraphs.

SO_2 emissions from affected electric generating units (EGUs) are subject to nationwide and regional emissions cap-and-trade programs. Title IV of the Clean Air Act sets an annual emissions cap on SO_2 for affected EGUs in the 48 contiguous states and the District of Columbia (DC). SO_2 emissions from 28 eastern states and DC were also limited under the Clean Air Interstate Rule (CAIR), which created an allowance-based trading program that operates along with the Title IV program in those states and DC 70 FR 25162 (May 12, 2005). CAIR was remanded to EPA by the U.S. Court of Appeals for the District of Columbia Circuit (D.C. Circuit), but it remained in effect.[53] In 2011 EPA issued

[51] Available at *http://www.epa.gov/climateleadership/inventory/ghg-emissions.html.*

[52] Intergovernmental Panel on Climate Change. Chapter 8 in *Climate Change 2013: The Physical Science Basis. Contribution of Working Group I to the Fifth Assessment Report of the Intergovernmental Panel on Climate Change.* Stocker, T.F., D. Qin, G.-K. Plattner, M. Tignor, S.K. Allen, J. Boschung, A. Nauels, Y. Xia, V. Bex and P.M. Midgley (eds.). 2013. Cambridge University Press, Cambridge, United Kingdom and New York, NY, USA.

[53] See *North Carolina* v. *EPA,* 550 F.3d 1176 (D.C. Cir. 2008); *North Carolina* v. *EPA,* 531 F.3d 896 (D.C. Cir. 2008).

a replacement for CAIR, the Cross-State Air Pollution Rule (CSAPR). 76 FR 48208 (August 8, 2011). On August 21, 2012, the D.C. Circuit issued a decision to vacate CSAPR,[54] and the court ordered EPA to continue administering CAIR. On April 29, 2014, the U.S. Supreme Court reversed the judgment of the D.C. Circuit and remanded the case for further proceedings consistent with the Supreme Court's opinion.[55] On October 23, 2014, the D.C. Circuit lifted the stay of CSAPR.[56] Pursuant to this action, CSAPR went into effect (and CAIR ceased to be in effect) as of January 1, 2015.

Because *AEO2014* was prepared before the Supreme Court's opinion, it assumed that CAIR remains a binding regulation through 2040. Thus, DOE's analysis used emissions factors that assume that CAIR, not CSAPR, is the regulation in force. However, the difference between CAIR and CSAPR is not relevant for the purpose of DOE's analysis of emissions impacts from energy conservation standards.

The attainment of emissions caps is typically flexible among EGUs and is enforced through the use of emissions allowances and tradable permits. Under existing EPA regulations, any excess SO_2 emissions allowances resulting from the lower electricity demand caused by the adoption of an efficiency standard could be used to permit offsetting increases in SO_2 emissions by any regulated EGU. In past rulemakings, DOE recognized that there was uncertainty about the effects of efficiency standards on SO_2 emissions covered by the existing cap-and-trade system, but it concluded that no reductions in power sector emissions would occur for SO_2 as a result of standards.

Beginning in 2016, however, SO_2 emissions will fall as a result of the Mercury and Air Toxics Standards (MATS) for power plants. 77 FR 9304 (February 16, 2012) In the final MATS rule, EPA established a standard for hydrogen chloride (HCl) as a surrogate for acid gas hazardous air pollutants (HAPs), and also established a standard for SO_2 (a non-HAP acid gas) as an alternative equivalent surrogate standard for acid gas HAP. The same controls are used to reduce HAP and non-HAP acid gas; thus, SO_2 emissions will be reduced as a result of the control technologies installed on coal-fired power plants to comply with the MATS requirements for acid gas. *AEO2014* assumes that, in order to continue operating, coal plants must have either flue gas desulfurization or dry sorbent injection systems installed by 2016. Both technologies are used to reduce acid gas emissions and also reduce SO_2 emissions. Under the MATS, emissions will be far below the cap that would be established by CAIR, so it is unlikely that excess SO_2 emissions allowances resulting from the lower electricity demand would be needed or used to permit offsetting increases in SO_2 emissions by any regulated EGU. Therefore, DOE believes that efficiency standards will reduce SO_2 emissions in 2016 and beyond.

CAIR established a cap on NO_X emissions in 28 eastern states and the District of Columbia.[57] Energy conservation standards are expected to have little or no physical effect on these emissions in those states covered by CAIR because excess NO_X emissions allowances resulting from the lower electricity demand could be used to permit offsetting increases in NO_X emissions. However, standards would be expected to reduce NO_X emissions in the states not affected by the caps, so DOE estimated NO_X emissions reductions from potential standards considered in this NOPR for these states.

The MATS also limit mercury emissions from power plants, but they do not include emissions caps and, as such, DOE's energy conservation standards would likely reduce mercury emissions. DOE estimated mercury emissions reduction using emissions factors based on *AEO2014*, which incorporates the MATS.

Power plants may emit particulates from the smoke stack, which are known as direct particulate matter (PM) emissions. NEMS does not account for direct PM emissions from power plants. DOE is investigating the possibility of using other methods to estimate reduction in PM emissions due to standards. The great majority of ambient PM associated with power plants is in the form of secondary sulfates and nitrates, which are produced at a significant distance from power plants by complex atmospheric chemical reactions that often involve the gaseous emissions of power plants, mainly SO_2 and NO_X. The monetary benefits that DOE estimates for reductions in SO_2 and NO_X emissions resulting from standards are in fact primarily related to the health benefits of reduced ambient PM.

DOE notes that the Supreme Court recently remanded EPA's 2012 rule regarding national emission standards for hazardous air pollutants from certain electric utility steam generating units. See Michigan v. EPA (Case No. 14–46, 2015). DOE has tentatively determined that the remand of the MATS rule does not change the assumptions regarding the impact of energy efficiency standards on SO_2 emissions (see chapter 13 for further discussion). Further, while the remand of the MATS rule may have an impact on the overall amount of mercury emitted by power plants, it does not change the impact of the energy efficiency standards on mercury emissions. DOE will continue to monitor developments related to this case and respond to them as appropriate.

K. Monetizing Carbon Dioxide and Other Emissions Impacts

As part of the development of this proposed rule, DOE considered the estimated monetary benefits from the reduced emissions of CO_2 and NO_X that are expected to result from each of the TSLs considered. In order to make this calculation similar to the calculation of the NPV of customer benefit, DOE considered the reduced emissions expected to result over the lifetime of equipment shipped in the forecast period for each TSL. This section summarizes the basis for the monetary values used for each of these emissions and presents the values considered in this rulemaking.

For this proposed rule, DOE is relying on a set of values for the SCC that was developed by an interagency process. A summary of the basis for these values is provided below, and a more detailed description of the methodologies used is provided as an appendix to chapter 14 of the TSD.

1. Social Cost of Carbon

The SCC is an estimate of the monetized damages associated with an incremental increase in carbon emissions in a given year. It is intended to include (but is not limited to) climate-change-related changes in net agricultural productivity, human health, property damages from increased flood risk, and the value of ecosystem services. Estimates of the SCC are provided in dollars per metric ton of CO_2. A domestic SCC value is meant to

[54] See *EME Homer City Generation, LP* v. *EPA,* 696 F.3d 7, 38 (D.C. Cir. 2012).

[55] See *EPA* v. *EME Homer City Generation,* 134 S.Ct. 1584, 1610 (U.S. 2014). The Supreme Court held in part that EPA's methodology for quantifying emissions that must be eliminated in certain States due to their impacts in other downwind States was based on a permissible, workable, and equitable interpretation of the Clean Air Act provision that provides statutory authority for CSAPR.

[56] See *Georgia* v. *EPA,* Order (*D.C. Cir. filed October 23, 2014*) (*No. 11–1302*).

[57] CSAPR also applies to NO_X, and it would supersede the regulation of NO_X under CAIR. As stated previously, the current analysis assumes that CAIR, not CSAPR, is the regulation in force. The difference between CAIR and CSAPR with regard to DOE's analysis of NO_X emissions is slight.

reflect the value of damages in the United States resulting from a unit change in CO_2 emissions, while a global SCC value is meant to reflect the value of damages worldwide.

Under section 1(b) of Executive Order 12866, agencies must, to the extent permitted by law, ''assess both the costs and the benefits of the intended regulation and, recognizing that some costs and benefits are difficult to quantify, propose or adopt a regulation only upon a reasoned determination that the benefits of the intended regulation justify its costs.'' The purpose of the SCC estimates presented here is to allow agencies to incorporate the monetized social benefits of reducing CO_2 emissions into cost-benefit analyses of regulatory actions. The estimates are presented with an acknowledgement of the many uncertainties involved and with a clear understanding that they should be updated over time to reflect increasing knowledge of the science and economics of climate impacts.

As part of the interagency process that developed these SCC estimates, technical experts from numerous agencies met on a regular basis to consider public comments, explore the technical literature in relevant fields, and discuss key model inputs and assumptions. The main objective of this process was to develop a range of SCC values using a defensible set of input assumptions grounded in the existing scientific and economic literatures. In this way, key uncertainties and model differences transparently and consistently inform the range of SCC estimates used in the rulemaking process.

a. Monetizing Carbon Dioxide Emissions

When attempting to assess the incremental economic impacts of CO_2 emissions, the analyst faces a number of serious challenges. A report from the National Research Council [58] points out that any assessment will suffer from uncertainty, speculation, and lack of information about: (1) Future emissions of greenhouse gases; (2) the effects of past and future emissions on the climate system; (3) the impact of changes in climate on the physical and biological environment; and (4) the translation of these environmental impacts into economic damages. As a result, any effort to quantify and monetize the harms associated with climate change will raise serious questions of science, economics, and ethics and should be viewed as provisional.

Despite the limits of both quantification and monetization, SCC estimates can be useful in estimating the social benefits of reducing CO_2 emissions. The agency can estimate the benefits from reduced (or costs from increased) emissions in any future year by multiplying the change in emissions in that year by the SCC value appropriate for that year. The net present value of the benefits can then be calculated by multiplying each of these future benefits by an appropriate discount factor and summing across all affected years.

It is important to emphasize that the interagency process is committed to updating these estimates as the science and economic understanding of climate change and its impacts on society improves over time. In the meantime, the interagency group will continue to explore the issues raised by this analysis and consider public comments as part of the ongoing interagency process.

b. Development of Social Cost of Carbon Values

In 2009, an interagency process was initiated to offer a preliminary assessment of how best to quantify the benefits from reducing CO_2 emissions. To ensure consistency in how benefits are evaluated across agencies, the Administration sought to develop a transparent and defensible method, specifically designed for the rulemaking process, to quantify avoided climate change damages from reduced CO_2 emissions. The interagency group did not undertake any original analysis. Instead, it combined SCC estimates from the existing literature to use as interim values until a more comprehensive analysis could be conducted. The outcome of the preliminary assessment by the interagency group was a set of five interim values: Global SCC estimates for 2007 (in 2006$) of $55, $33, $19, $10, and $5 per metric ton of CO_2. These interim values represented the first sustained interagency effort within the U.S. government to develop an SCC for use in regulatory analysis. The results of this preliminary effort were presented in several proposed and final rules.

c. Current Approach and Key Assumptions

Since the release of the interim values, the interagency group reconvened on a regular basis to generate improved SCC estimates. Specifically, the group considered public comments and further explored the technical literature in relevant fields. The interagency group relied on three integrated assessment models commonly used to estimate the SCC: The FUND, DICE, and PAGE models. These models are frequently cited in the peer-reviewed literature and were used in the last assessment of the Intergovernmental Panel on Climate Change. Each model was given equal weight in the SCC values that were developed.

Each model takes a slightly different approach to model how changes in emissions result in changes in economic damages. A key objective of the interagency process was to enable a consistent exploration of the three models while respecting the different approaches to quantifying damages taken by the key modelers in the field. An extensive review of the literature was conducted to select three sets of input parameters for these models: Climate sensitivity, socio-economic and emissions trajectories, and discount rates. A probability distribution for climate sensitivity was specified as an input into all three models. In addition, the interagency group used a range of scenarios for the socio-economic parameters and a range of values for the discount rate. All other model features were left unchanged, relying on the model developers' best estimates and judgments.

The interagency group selected four sets of SCC values for use in regulatory analyses. Three sets of values are based on the average SCC from the three integrated assessment models, at discount rates of 2.5, 3, and 5 percent. The fourth set, which represents the 95th percentile SCC estimate across all three models at a 3-percent discount rate, is included to represent higher-than-expected impacts from temperature change further out in the tails of the SCC distribution. The values grow in real terms over time. Additionally, the interagency group determined that a range of values from 7 percent to 23 percent should be used to adjust the global SCC to calculate domestic effects, although preference is given to consideration of the global benefits of reducing CO_2 emissions. Table IV.10 presents the values in the 2010 interagency group report,[59] which is reproduced in appendix 14A of the TSD.

[58] National Research Council. *Hidden Costs of Energy: Unpriced Consequences of Energy Production and Use.* 2009. National Academies Press: Washington, DC.

[59] *Social Cost of Carbon for Regulatory Impact Analysis Under Executive Order 12866.* Interagency Working Group on Social Cost of Carbon, United States Government, February 2010. *www.whitehouse.gov/sites/default/files/omb/inforeg/for-agencies/Social-Cost-of-Carbon-for-RIA.pdf.*

TABLE IV.10—ANNUAL SCC VALUES FROM 2010 INTERAGENCY REPORT, 2010–2050

[2007 dollars per metric ton CO_2]

Year	Discount rate (%)			
	5	3	2.5	3
	Average	Average	Average	95th percentile
2010	4.7	21.4	35.1	64.9
2015	5.7	23.8	38.4	72.8
2020	6.8	26.3	41.7	80.7
2025	8.2	29.6	45.9	90.4
2030	9.7	32.8	50.0	100.0
2035	11.2	36.0	54.2	109.7
2040	12.7	39.2	58.4	119.3
2045	14.2	42.1	61.7	127.8
2050	15.7	44.9	65.0	136.2

The SCC values used for this NOPR were generated using the most recent versions of the three integrated assessment models that have been published in the peer-reviewed literature.[60] (See appendix 14B of the TSD for further information.) Table IV.11 shows the updated sets of SCC estimates in 5-year increments from 2010 through 2050. The full set of annual SCC estimates from 2010 through 2050 is reported in appendix 14B of the TSD. The central value that emerges is the average SCC across models at the 3-percent discount rate. However, for purposes of capturing the uncertainties involved in regulatory impact analysis, the interagency group emphasizes the importance of including all four sets of SCC values.

TABLE IV.11—ANNUAL SCC VALUES FROM 2013 INTERAGENCY UPDATE, 2010–2050

[2007 dollars per metric ton CO_2]

Year	Discount rate (%)			
	5	3	2.5	3
	Average	Average	Average	95th percentile
2010	10	31	50	86
2015	11	36	56	105
2020	12	42	62	123
2025	14	46	68	138
2030	16	50	73	152
2035	18	55	78	168
2040	21	60	84	183
2045	23	64	89	197
2050	26	69	95	212

It is important to recognize that a number of key uncertainties remain and that current SCC estimates should be treated as provisional and revisable because they will evolve with improved scientific and economic understanding. The interagency group also recognizes that the existing models are imperfect and incomplete. The National Research Council report mentioned in section IV.K.1.a of this NOPR points out that there is tension between the goal of producing quantified estimates of the economic damages from an incremental ton of carbon and the limits of existing efforts to model these effects. A number of analytic challenges are being addressed by the research community, including research programs housed in many of the Federal agencies participating in the interagency process to estimate the SCC. The interagency group intends to periodically review and reconsider those estimates to reflect increasing knowledge of the science and economics of climate impacts, as well as improvements in modeling.

In summary, in considering the potential global benefits resulting from reduced CO_2 emissions, DOE used the values from the 2013 interagency report, adjusted to 2014$ using the gross domestic product price deflator. For each of the four cases of SCC values, the values for emissions in 2015 were $12.2, $40.0, $62.3, and $116.8 per metric ton of CO_2 avoided. DOE derived values after 2050 using the relevant growth rates for the 2040–2050 period in the interagency update.

DOE multiplied the CO_2 emissions reduction estimated for each year by the SCC value for that year in each of the four cases. To calculate a present value of the stream of monetary values, DOE discounted the values in each of the four cases using the specific discount rate that had been used to obtain the SCC values in each case.

2. Valuation of Other Emissions Reductions

As noted above, DOE has taken into account how the new and amended

[60] *Technical Update of the Social Cost of Carbon for Regulatory Impact Analysis Under Executive Order 12866.* Interagency Working Group on Social Cost of Carbon, United States Government. May 2013; revised July 2015. *https://www.whitehouse.gov/sites/default/files/omb/inforeg/scc-tsd-final-july-2015.pdf.*

energy conservation standards would reduce NO_X emissions in those 22 states not affected by emission caps. DOE estimated the monetized value of NO_X emissions reductions resulting from each of the TSLs considered for this rule based on estimates found in the relevant scientific literature. Estimates of monetary value for reducing NO_X from stationary sources range from $483 to $4,963 per ton (2014$).[61] DOE calculated monetary benefits using a medium value for NO_X emissions of $2,723 per short ton (in 2014$), and real discount rates of 3 percent and 7 percent.

DOE is evaluating appropriate monetization of avoided SO_2 and Hg emissions in energy conservation standards rulemakings. DOE has not included such monetization in the current analysis.

L. Utility Impact Analysis

The utility impact analysis estimates several effects on the power generation industry that would result from the adoption of new or amended energy conservation standards proposed in this NOPR. The utility impact analysis estimates the changes in electric installed capacity and generation that result for each TSL. The utility impact analysis uses a variant of NEMS associated with *AEO2014,*[62] which is a public domain, multi-sectored, partial equilibrium model of the U.S. energy sector. DOE uses a variant of this model, referred to as NEMS–BT,[63] to account for selected utility impacts of new or amended energy conservation standards. DOE's analysis consists of a comparison between model results for the most recent *AEO* reference case and for cases in which energy use is decremented to reflect the impact of potential standards. The energy savings inputs associated with each TSL come from the NIA. Chapter 15 of the TSD describes the utility impact analysis.

M. Employment Impact Analysis

DOE considers employment impacts in the domestic economy as one factor in selecting a proposed standard. Employment impacts include both direct and indirect impacts. Direct employment impacts are changes in the number of employees at the plants that produce the covered products, along with affiliated distribution and service companies. DOE evaluated direct employment impacts in the MIA.

Indirect employment impacts are changes in national employment that occur due to the shift in expenditures and capital investment caused by the purchase and operation of more-efficient equipment. Indirect employment impacts from standards consist of the jobs created or eliminated in the national economy due to: (1) Reduced spending by end users on energy; (2) reduced spending on new energy supply by the utility industry; (3) increased customer spending on the purchase of new equipment; and (4) the effects of those three factors throughout the economy.

One method for assessing the possible effects on the demand for labor of such shifts in economic activity is to compare sector employment statistics developed by the Labor Department's Bureau of Labor Statistics (BLS). BLS regularly publishes its estimates of the number of jobs per million dollars of economic activity in different sectors of the economy, as well as the jobs created elsewhere in the economy by this same economic activity. Data from BLS indicate that expenditures in the utility sector generally create fewer jobs (both directly and indirectly) than expenditures in other sectors of the economy.[64] There are many reasons for these differences, including wage differences and the fact that the utility sector is more capital-intensive and less labor-intensive than other sectors. Energy conservation standards have the effect of reducing customer utility bills. Because reduced customer expenditures for energy likely lead to increased expenditures in other sectors of the economy, the general effect of efficiency standards is to shift economic activity from a less labor-intensive sector (*i.e.,* the utility sector) to more labor-intensive sectors (*e.g.,* the retail and service sectors). Thus, based on the BLS data alone, DOE believes net national employment may increase because of shifts in economic activity resulting from amended and new BVM energy conservation standards proposed in this NOPR.

For the standard levels proposed in this NOPR, DOE estimated indirect national employment impacts using an input/output model of the U.S. economy called Impact of Sector Energy Technologies version 3.1.1 (ImSET).[65] ImSET is a special-purpose version of the ''U.S. Benchmark National Input-Output'' (I–O) model, which was designed to estimate the national employment and income effects of energy-saving technologies. The ImSET software includes a computer-based I–O model having structural coefficients that characterize economic flows among 187 sectors. ImSET's national economic I–O structure is based on a 2002 U.S. benchmark table, specially aggregated to the 187 sectors most relevant to industrial, commercial, and residential building energy use. DOE notes that ImSET is not a general equilibrium forecasting model and understands the uncertainties involved in projecting employment impacts, especially changes in the later years of the analysis. Because ImSET does not incorporate price changes, the employment effects predicted by ImSET may overestimate actual job impacts over the long run. For this NOPR, DOE used ImSET only to estimate short-term (2020 and 2025) employment impacts.

DOE reiterates that the indirect employment impacts estimated with ImSET for the entire economy differ from the direct employment impacts in the BVM manufacturing sector estimated using the GRIM in the MIA, as described at the beginning of this section. The methodologies used and the sectors analyzed in the ImSET and GRIM models are different.

N. Description of Materials Incorporated by Reference

As discussed in section IV.A.1.a, DOE is proposing in this NOPR to incorporate by reference ASTM Standard E 1084–86 (Reapproved 2009), ''Standard Test Method for Solar Transmittance (Terrestrial) of Sheet Materials Using Sunlight,'' to determine whether a material is transparent when assessing whether a beverage vending machine has a transparent front and meets the proposed Class A definition.

[61] U.S. Office of Management and Budget, Office of Information and Regulatory Affairs. *2006 Report to Congress on the Costs and Benefits of Federal Regulations and Unfunded Mandates on State, Local, and Tribal Entities,* Washington, DC. Available at *www.whitehouse.gov/sites/default/files/omb/assets/omb/inforeg/2006_cb/2006_cb_final_report.pdf.*

[62] For more information on NEMS, refer to the U.S. Department of Energy, Energy Information Administration documentation. A useful summary is *National Energy Modeling System: An Overview 2003,* DOE/EIA–0581 (2003), March 2003.

[63] DOE/EIA approves use of the name ''NEMS'' to describe only an official version of the model without any modification to code or data. Because this analysis entails some minor code modifications and the model is run under various policy scenarios that are variations on DOE/EIA assumptions, DOE refers to it by the name ''NEMS–BT'' (''BT'' is DOE's Building Technologies Program, under whose aegis this work has been performed).

[64] *See* U.S. Department of Commerce—Bureau of Economic Analysis. *Regional Multipliers: A User Handbook for the Regional Input-Output Modeling System (RIMS II).* 1992.

[65] Scott, M.J., O.V. Livingston, P.J. Balducci, J.M. Roop, and R.W. Schultz. *ImSET 3.1: Impact of Sector Energy Technologies.* 2009. Pacific Northwest National Laboratory, Richland, WA. Report No. PNNL–18412. *www.pnl.gov/main/publications/external/technical_reports/PNNL-18412.pdf.*

Copies of ASTM standards may be purchased from ASTM International, 100 Barr Harbor Drive, PO Box C700, West Conshohocken, PA, 19428, (877) 909–2786, or at *www.astm.org.*

V. Analytical Results and Conclusions

The following section addresses the results from DOE's analyses with respect to potential energy conservation standards for beverage vending machines in this rulemaking.

A. Trial Standard Levels

DOE analyzed 8 efficiency levels (ELs) for Class A equipment, 12 ELs for Class B equipment, 15 ELs for Combination A equipment, and 14 ELs for Combination B equipment in the LCC and NIA analyses, where each EL represents a 5-percent improvement in efficiency from baseline efficiency (EL 0) to up to max tech. Of the ELs analyzed for each class DOE selected five TSLs based on the following criteria:

(1) TSL 1 is equivalent to the current ENERGY STAR criterion for all equipment that is eligible for ENERGY STAR qualification. This corresponded to EL 2 for Class B equipment and EL 1 for Class A. Combination equipment is currently not eligible for ENERGY STAR qualification and, as such, DOE selected TSL 1 as equivalent to EL 1, since EL 1 was the first EL analyzed above the baseline (EL 0).

(2) TSL 2 was selected to be the EL, which is 10 percent better than TSL 1.

(3) TSL 3 was selected to be an interim analysis point corresponding to the EL halfway between TSL 2 and 4 (rounding up when between ELs).

(4) TSL 4 represents the EL with the maximum NPV at a 7-percent discount rate. This level also corresponds to the maximum LCC savings for most equipment classes. In addition, the EL corresponding to a 3-year payback, zero customers with net cost, and maximum NPV at a 3-percent discount rate were the same or within one EL from the selected EL.

(5) TSL 5 corresponds to the max tech EL.

Table V.1 shows the TSL levels DOE selected for the equipment classes analyzed. Note that DOE performed its analyses for a ''representative size'' beverage vending machine and defined refrigerant-neutral ELs such that the selected ELs could be met by any refrigerant. Similarly, the defined TSLs share this approach and can be met by either refrigerant.

TABLE V.1—TRIAL STANDARD LEVELS FOR A REPRESENTATIVE SIZE BVM MODEL EXPRESSED IN TERMS OF DAILY ENERGY CONSUMPTION

[kWh/day]

Equipment Class	Representative volume (ft)^3	TSL	Baseline	TSL 1	TSL 2	TSL 3	TSL 4	TSL 5
Class A	30.0	EL	0	1	3	4	5	8
		DEC	4.21	4.00	3.58	3.37	3.16	2.49
Class B	23.4	EL	0	2	4	8	11	12
		DEC	4.86	4.37	3.89	2.92	2.19	1.70
Combination A	10.3	EL	0	1	3	8	13	15
		DEC	5.99	5.69	5.09	3.59	2.10	1.66
Combination B	4.3	EL	0	1	3	8	13	14
		DEC	4.44	4.21	3.77	2.66	1.55	1.19

In this NOPR, DOE elected to maintain the energy conservation standard structure established in the 2009 BVM final rule, which establishes the MDEC of covered BVM models in terms of a linear equation of the following form:

$$MDEC = A \times V + B$$

Where:

A is expressed in terms of kWh/(day·ft3) of measured refrigerated volume,

V is the measured refrigerated volume (ft3) calculated for the equipment, and

B is an offset factor expressed in kWh/day.

Coefficients A and B are uniquely derived for each equipment class based on a linear equation passing between the daily energy consumption values for equipment of different refrigerated volumes. For the A and B coefficients, DOE used the unique energy consumption values of the small, medium, and large or medium and large size BVM units for Class A and B or Combination A and B beverage vending machines, respectively. Table V.2 depicts the TSL equations for each analyzed TSL and equipment class. The methodology used to establish the TSL equations and more detailed results is described in more detail in appendix 10B of the TSD.

TABLE V.2—TRIAL STANDARD LEVELS MAXIMUM DAILY ENERGY CONSUMPTION (kWh/day) EXPRESSED IN TERMS OF EQUATIONS AND COEFFICIENTS FOR BVM EQUIPMENT

TSL	Class A	Class B	Combination A	Combination B
Baseline	0.055 × V + 2.56	0.073 × V + 3.16	0.126 × V + 4.70	0.126 × V + 3.89
1	0.052 × V + 2.43	0.066 × V + 2.84	0.119 × V + 4.46	0.120 × V + 3.69
2	0.047 × V + 2.18	0.058 × V + 2.53	0.107 × V + 3.99	0.107 × V + 3.31
3	0.044 × V + 2.05	0.044 × V + 1.90	0.075 × V + 2.82	0.076 × V + 2.33
4	0.041 × V + 1.92	0.033 × V + 1.42	0.044 × V + 1.64	0.044 × V + 1.36
5	0.032 × V + 1.51	0.026 × V + 1.10	0.035 × V + 1.31	0.034 × V + 1.04

In Table V.2, ''V'' is the representative value of refrigerated volume (ft^3) of the BVM model, as measured in accordance with the method for determining refrigerated volume adopted in the recently amended DOE test procedure for beverage vending machines and appropriate sampling plan requirements. 80 FR 45758 (July 31, 2015). In this NOPR, DOE is proposing a calculation method at 10 CFR 429.52(a)(3) for determining the

representative value of refrigerated volume for each BVM model. DOE is proposing that the representative value of refrigerated volume must be determined as the mean of the measured refrigerated volume of each tested unit and manufacturers must use this calculated value for determining the appropriate standard level for that model.

DOE is also proposing provisions to assess whether the representative value of refrigerated volume, as certified by manufacturers, is valid. Under the proposed provisions, DOE would compare the manufacturer's certified rating with results from the unit or units in DOE's tested sample. If the results of the tested unit or units in DOE's sample are within 5 percent of the representative value of refrigerated volume certified by manufacturers, the certified refrigerated volume value would be considered valid. Based on whether the representative value of refrigerated volume is valid, DOE proposes to do one of the following:

(1) If the representative value of refrigerated volume, as certified by manufacturers, is valid, DOE would use this value to determine the MDEC for that model; or

(2) If the representative value of refrigerated volume is invalid, DOE would use the results of the tested unit or units as the basis for calculating the MDEC for that BVM model.

DOE proposes that these sampling and enforcement provisions would be effective 30 days after publication of any final rule in the **Federal Register** and, as such, applicable to both the existing standards, as well as any new and amended standards adopted as a result of this rulemaking.

DOE requests comment on the proposal to clarify the calculation of the refrigerated volume for each BVM basic model (section VII.E of this NOPR).

B. Economic Justification and Energy Savings

DOE analyzed the economic impacts on customers by looking at the effects potential standards would have on the LCC and PBP. DOE also examined the impacts of potential standards on customer subgroups. These analyses are discussed below.

1. Economic Impacts on Commercial Customers

a. Life-Cycle Cost and Payback Period

Customers affected by new standards usually incur higher purchase prices and lower operating costs. DOE evaluates these impacts on individual customers by calculating changes in LCC and the PBP associated with the TSLs. The results of the LCC analysis for each TSL were obtained by comparing the installed and operating costs of the equipment in the base-case scenario against the standards-case scenarios at each TSL. Inputs used for calculating the LCC include total installed costs (*i.e.,* equipment price plus installation costs), operating expenses (*i.e.,* annual energy savings, energy prices, energy price trends, repair costs, and maintenance costs), equipment lifetime, and discount rates.

The LCC analysis is carried out using Monte Carlo simulations. Consequently, the results of the LCC analysis are distributions covering a range of values, as opposed to a single deterministic value. DOE presents the mean or median values, as appropriate, calculated from the distributions of results. The LCC analysis also provides information on the percentage of customers for whom an increase in the minimum efficiency standard would have a positive impact (net benefit), a negative impact (net cost), or no impact.

DOE also performed a PBP analysis as part of the LCC analysis. The PBP is the number of years it would take for the customer to recover the increased costs of higher-efficiency equipment as a result of operating cost savings. The PBP is an economic benefit-cost measure that uses benefits and costs without discounting. Chapter 8 of the NOPR TSD provides detailed information on the LCC and PBP analysis.

DOE used a ''roll-up'' scenario in this rulemaking. Under the roll-up scenario, DOE assumes that the market shares of the efficiency levels (in the no-new-standards case) that do not meet the standard level under consideration would be ''rolled up'' into (meaning ''added to'') the market share of the efficiency level at the standard level under consideration, and the market shares of efficiency levels that are above the standard level under consideration would remain unaffected. Customers in the no-new-standards scenario who buy the equipment at or above the TSL under consideration would be unaffected if the standard were to be set at that TSL. Customers in the base-case scenario who buy equipment below the TSL under consideration would be affected if the standard were to be set at that TSL. Among these affected customers, some may benefit from lower LCCs of the equipment and some may incur net cost due to higher LCCs, depending on the inputs to the LCC analysis, such as electricity prices, discount rates, and installed costs.

DOE's LCC and PBP analysis provided key outputs for each efficiency level above the baseline. The results for all equipment classes are given in Table V.3 through Table V.18. DOE's results indicate that affected customers typically have a positive LCC savings, with the exception of the TSL 5 Class A CO_2 equipment customers.

TABLE V.3—AVERAGE LCC AND PBP RESULTS FOR CLASS A, CO_2*

TSL	EL	% of Baseline energy use	Average costs (2014$)				Simple payback period (years)	Average lifetime (years)
			Installed cost	First year's operating cost	Lifetime operating cost	LCC		
	0	100	2,898	419	4,226	7,124	.....	13.5
1	1	95	2,902	412	4,151	7,053	0.6	13.5
	2	90	2,911	404	4,075	6,986	0.9	13.5
2	3	85	2,921	397	4,000	6,921	1.1	13.5
3	4	80	2,968	389	3,924	6,892	2.4	13.5
4	5	75	3,031	382	3,849	6,880	3.6	13.5
	6	70	3,205	374	3,773	6,978	6.9	13.5
	7	65	3,457	367	3,698	7,155	10.7	13.5
5	8	59	3,759	358	3,607	7,367	14.1	13.5

* The results for each EL are calculated assuming that all customers use equipment at that efficiency level. The PBP is measured relative to the baseline equipment.

TABLE V.4—AVERAGE LCC SAVINGS RELATIVE TO THE NO-NEW-STANDARDS CASE EFFICIENCY DISTRIBUTION FOR CLASS A, CO_2

TSL	EL	% of Baseline energy use	Life-cycle cost savings	
			% of Customers that experience a net cost	Average life-cycle cost savings * (2014$)
	0	100	0	0
1	1	95	0	0
	2	90	0	67
2	3	85	0	132
3	4	80	0	160
4	5	75	1	173
	6	70	31	75
	7	65	78	(102)
5	8	59	93	(314)

* The calculation includes customers with zero LCC savings (no impact). Parentheses indicate negative values.

TABLE V.5—AVERAGE LCC AND PBP RESULTS FOR CLASS A, PROPANE *

TSL	EL	% of Baseline energy use	Average costs (2014$)				Simple payback period (years)	Average lifetime (years)
			Installed cost	First year's operating cost	Lifetime operating cost	LCC		
	0	100	2,874	419	4,226	7,100	.....	13.5
1	1	95	2,877	412	4,151	7,028	0.4	13.5
	2	90	2,883	404	4,075	6,958	0.6	13.5
2	3	85	2,892	397	4,000	6,892	0.8	13.5
3	4	80	2,903	389	3,924	6,827	1.0	13.5
4	5	75	2,914	382	3,849	6,763	1.1	13.5
	6	70	3,005	374	3,773	6,778	2.9	13.5
	7	65	3,176	367	3,698	6,874	5.8	13.5
5	8	59	3,381	358	3,607	6,988	8.3	13.5

* The results for each EL are calculated assuming that all customers use equipment at that efficiency level. The PBP is measured relative to the baseline equipment.

TABLE V.6—AVERAGE LCC SAVINGS RELATIVE TO THE NO-NEW-STANDARDS CASE EFFICIENCY DISTRIBUTION FOR CLASS A, PROPANE

TSL	EL	% of Baseline energy use	Life-cycle cost savings	
			% of Customers that experience a net cost	Average life-cycle cost savings * (2014$)
	0	100	0	0
1	1	95	0	0
	2	90	0	70
2	3	85	0	136
3	4	80	0	201
4	5	75	0	265
	6	70	0	250
	7	65	15	154
5	8	59	47	39

* The calculation includes customers with zero LCC savings (no impact). Parentheses indicate negative values.

TABLE V.7—AVERAGE LCC AND PBP RESULTS FOR CLASS B, CO_2*

TSL	EL	% of Baseline energy use	Average costs (2014$)				Simple payback period (years)	Average lifetime (years)
			Installed cost	First year's operating cost	Lifetime operating cost	LCC		
	0	100	2,368	458	4,617	6,985	.....	13.5
	1	95	2,372	450	4,532	6,904	0.5	13.5
1	2	90	2,376	441	4,447	6,823	0.5	13.5
	3	85	2,380	433	4,362	6,743	0.5	13.5
2	4	80	2,385	424	4,277	6,663	0.5	13.5

TABLE V.7—AVERAGE LCC AND PBP RESULTS FOR CLASS B, CO_2*—Continued

TSL	EL	% of Baseline energy use	Average costs (2014$)				Simple payback period (years)	Average lifetime (years)
			Installed cost	First year's operating cost	Lifetime operating cost	LCC		
	5	75	2,391	416	4,192	6,584	0.5	13.5
	6	70	2,397	408	4,108	6,505	0.6	13.5
	7	65	2,403	399	4,023	6,426	0.6	13.5
3	8	60	2,411	391	3,938	6,349	0.6	13.5
	9	55	2,425	382	3,853	6,277	0.7	13.5
	10	50	2,450	354	3,567	6,017	0.8	13.5
4	11	45	2,625	346	3,482	6,106	2.3	13.5
5	12	35	3,298	329	3,311	6,609	7.2	13.5

*The results for each EL are calculated assuming that all customers use equipment at that efficiency level. The PBP is measured relative to the baseline equipment.

TABLE V.8—AVERAGE LCC SAVINGS RELATIVE TO THE NO-NEW-STANDARDS CASE EFFICIENCY DISTRIBUTION FOR CLASS B, CO_2

TSL	EL	% of Baseline energy use	Life-cycle cost savings	
			% of Customers that experience a net cost	Average life-cycle cost savings* (2014$)
	0	100	0	0
	1	95	0	0
1	2	90	0	0
	3	85	0	0
2	4	80	0	34
	5	75	0	80
	6	70	0	147
	7	65	0	215
3	8	60	0	292
	9	55	0	363
	10	50	0	624
4	11	45	0	534
5	12	35	51	31

*The calculation includes customers with zero LCC savings (no impact).

TABLE V.9—AVERAGE LCC AND PBP RESULTS FOR CLASS B, PROPANE*

TSL	EL	% of Baseline energy use	Average costs (2014$)				Simple payback period (years)	Average lifetime (years)
			Installed cost	First year's operating cost	Lifetime operating cost	LCC		
	0	100	2,337	458	4,617	6,954	.....	13.5
	1	95	2,339	450	4,532	6,871	0.3	13.5
1	2	90	2,342	441	4,447	6,789	0.3	13.5
	3	85	2,345	433	4,362	6,708	0.3	13.5
2	4	80	2,349	424	4,277	6,626	0.4	13.5
	5	75	2,354	416	4,192	6,547	0.4	13.5
	6	70	2,360	408	4,108	6,468	0.5	13.5
	7	65	2,366	399	4,023	6,388	0.5	13.5
3	8	60	2,372	391	3,938	6,310	0.5	13.5
	9	55	2,381	382	3,853	6,233	0.6	13.5
	10	50	2,392	374	3,768	6,160	0.7	13.5
4	11	45	2,486	346	3,482	5,967	1.3	13.5
5	12	35	2,989	329	3,311	6,300	5.0	13.5

*The results for each EL are calculated assuming that all customers use equipment at that efficiency level. The PBP is measured relative to the baseline equipment.

TABLE V.10—AVERAGE LCC SAVINGS RELATIVE TO THE NO-NEW-STANDARDS CASE EFFICIENCY DISTRIBUTION FOR CLASS B, PROPANE

TSL	EL	% of Baseline energy use	Life-cycle cost savings	
			% of Customers that experience a net cost	Average life-cycle cost savings * (2014$)
	0	100	0	0
	1	95	0	4
1	2	90	0	16
	3	85	0	97
2	4	80	0	179
	5	75	0	258
	6	70	0	338
	7	65	0	417
3	8	60	0	495
	9	55	0	572
	10	50	0	645
4	11	45	0	838
5	12	35	4	505

* The calculation includes customers with zero LCC savings (no impact).

TABLE V.11—AVERAGE LCC AND PBP RESULTS FOR COMBINATION A, CO_2 *

TSL	EL	% of Baseline energy use	Average costs (2014$)				Simple payback period (years)	Average lifetime (years)
			Installed cost	First year's operating cost	Lifetime operating cost	LCC		
	0	100	2,877	508	5,117	7,994	.....	13.5
1	1	95	2,879	497	5,007	7,886	0.2	13.5
	2	90	2,881	486	4,897	7,778	0.2	13.5
2	3	85	2,883	475	4,787	7,670	0.2	13.5
	4	80	2,886	464	4,677	7,563	0.2	13.5
	5	75	2,889	453	4,567	7,456	0.2	13.5
	6	70	2,894	442	4,457	7,351	0.2	13.5
	7	65	2,900	431	4,347	7,247	0.3	13.5
3	8	60	2,909	420	4,237	7,146	0.4	13.5
	9	55	2,919	410	4,127	7,047	0.4	13.5
	10	50	2,930	399	4,017	6,948	0.5	13.5
	11	45	2,945	388	3,908	6,852	0.6	13.5
	12	40	2,962	357	3,596	6,559	0.6	13.5
4	13	35	3,108	346	3,487	6,595	1.4	13.5
	14	30	3,689	335	3,377	7,066	4.7	13.5
5	15	28	3,995	330	3,328	7,323	6.3	13.5

* The results for each EL are calculated assuming that all customers use equipment at that efficiency level. The PBP is measured relative to the baseline equipment.

TABLE V.12—AVERAGE LCC SAVINGS RELATIVE TO THE NO-NEW-STANDARDS CASE EFFICIENCY DISTRIBUTION FOR COMBINATION A, CO_2

TSL	EL	% of Baseline energy use	Life-cycle cost savings	
			% of Customers that experience a net cost	Average life-cycle cost savings * (2014$)
	0	100	0	0
1	1	95	0	53
	2	90	0	161
2	3	85	0	269
	4	80	0	376
	5	75	0	483
	6	70	0	588
	7	65	0	692
3	8	60	0	793
	9	55	0	892
	10	50	0	991
	11	45	0	1,087
	12	40	0	1,381
4	13	35	0	1,344
	14	30	1	873
5	15	28	10	616

TABLE V.13—AVERAGE LCC AND PBP RESULTS FOR COMBINATION A, PROPANE *

TSL	EL	% of Baseline energy use	Average costs (2014$)				Simple payback period (years)	Average lifetime (years)
			Installed cost	First year's operating cost	Lifetime operating cost	LCC		
	0	100	2,871	508	5,117	7,988	.....	13.5
1	1	95	2,873	497	5,007	7,880	0.1	13.5
	2	90	2,874	486	4,897	7,771	0.1	13.5
2	3	85	2,876	475	4,787	7,663	0.1	13.5
	4	80	2,878	464	4,677	7,555	0.2	13.5
	5	75	2,880	453	4,567	7,448	0.2	13.5
	6	70	2,884	442	4,457	7,341	0.2	13.5
	7	65	2,890	431	4,347	7,237	0.2	13.5
3	8	60	2,897	420	4,237	7,134	0.3	13.5
	9	55	2,907	410	4,127	7,034	0.4	13.5
	10	50	2,918	399	4,017	6,935	0.4	13.5
	11	45	2,932	388	3,908	6,840	0.5	13.5
	12	40	2,949	357	3,596	6,545	0.5	13.5
4	13	35	3,043	346	3,487	6,530	1.1	13.5
	14	30	3,535	335	3,377	6,912	3.9	13.5
5	15	28	3,810	330	3,328	7,138	5.3	13.5

* The results for each EL are calculated assuming that all customers use equipment at that efficiency level. The PBP is measured relative to the baseline equipment.

TABLE V.14—AVERAGE LCC SAVINGS RELATIVE TO THE NO-NEW-STANDARDS CASE EFFICIENCY DISTRIBUTION FOR COMBINATION A, PROPANE

TSL	EL	% of Baseline energy use	Life-cycle cost savings	
			% of Customers that experience a net cost	Average life-cycle cost savings * (2014$)
	0	100	0	0
1	1	95	0	55
	2	90	0	164
2	3	85	0	272
	4	80	0	380
	5	75	0	487
	6	70	0	593
	7	65	0	697
3	8	60	0	801
	9	55	0	900
	10	50	0	999
	11	45	0	1,095
	12	40	0	1,390
4	13	35	0	1,405
	14	30	0	1,023
5	15	28	3	797

* The calculation includes customers with zero LCC savings (no impact).

TABLE V.15—AVERAGE LCC AND PBP RESULTS FOR COMBINATION B, CO_2 *

TSL	EL	% of Baseline energy use	Average costs (2014$)				Simple payback period (years)	Average lifetime (years)
			Installed cost	First year's operating cost	Lifetime operating cost	LCC		
	0	100	2,474	458	4,618	7,092	.....	13.5
1	1	95	2,475	450	4,533	7,008	0.1	13.5
	2	90	2,476	441	4,448	6,924	0.1	13.5
2	3	85	2,477	433	4,363	6,840	0.1	13.5
	4	80	2,478	425	4,278	6,756	0.1	13.5
	5	75	2,479	416	4,193	6,672	0.1	13.5
	6	70	2,480	408	4,108	6,589	0.1	13.5
	7	65	2,485	399	4,023	6,508	0.2	13.5
3	8	60	2,490	391	3,938	6,428	0.2	13.5
	9	55	2,499	382	3,853	6,352	0.3	13.5
	10	50	2,511	374	3,768	6,279	0.4	13.5
	11	45	2,525	366	3,683	6,208	0.5	13.5

TABLE V.15—AVERAGE LCC AND PBP RESULTS FOR COMBINATION B, CO_2 *—Continued

TSL	EL	% of Baseline energy use	Average costs (2014$)				Simple payback period (years)	Average lifetime (years)
			Installed cost	First year's operating cost	Lifetime operating cost	LCC		
	12	40	2,539	357	3,598	6,138	0.7	13.5
4	13	35	2,556	329	3,312	5,868	0.6	13.5
5	14	27	3,278	315	3,172	6,451	5.6	13.5

* The results for each EL are calculated assuming that all customers use equipment at that efficiency level. The PBP is measured relative to the baseline equipment.

TABLE V.16—AVERAGE LCC SAVINGS RELATIVE TO THE NO-NEW-STANDARDS CASE EFFICIENCY DISTRIBUTION FOR COMBINATION B, CO_2

TSL	EL	% of Baseline energy use	Life-cycle cost savings	
			% of Customers that experience a net cost	Average life-cycle cost savings * (2014$)
	0	100	0	0
1	1	95	0	21
	2	90	0	64
2	3	85	0	127
	4	80	0	211
	5	75	0	295
	6	70	0	378
	7	65	0	459
3	8	60	0	539
	9	55	0	615
	10	50	0	687
	11	45	0	759
	12	40	0	829
4	13	35	0	1,098
5	14	27	7	516

* The calculation includes customers with zero LCC savings (no impact).

TABLE V.17—AVERAGE LCC AND PBP RESULTS FOR COMBINATION B, PROPANE *

TSL	EL	% of Baseline energy use	Average costs (2014$)				Simple payback period (years)	Average lifetime (years)
			Installed cost	First year's operating cost	Lifetime operating cost	LCC		
	0	100	2,461	458	4,618	7,079	.....	13.5
1	1	95	2,461	450	4,533	6,995	0.1	13.5
	2	90	2,462	441	4,448	6,911	0.1	13.5
2	3	85	2,463	433	4,363	6,826	0.1	13.5
	4	80	2,464	425	4,278	6,742	0.1	13.5
	5	75	2,465	416	4,193	6,658	0.1	13.5
	6	70	2,466	408	4,108	6,574	0.1	13.5
	7	65	2,467	399	4,023	6,490	0.1	13.5
3	8	60	2,470	391	3,938	6,409	0.1	13.5
	9	55	2,476	382	3,853	6,329	0.2	13.5
	10	50	2,484	374	3,768	6,253	0.3	13.5
	11	45	2,498	366	3,683	6,181	0.4	13.5
	12	40	2,513	337	3,397	5,910	0.4	13.5
4	13	35	2,529	329	3,312	5,841	0.5	13.5
5	14	27	2,869	315	3,172	6,041	2.9	13.5

* The results for each EL are calculated assuming that all customers use equipment at that efficiency level. The PBP is measured relative to the baseline equipment.

TABLE V.18—AVERAGE LCC SAVINGS RELATIVE TO THE NO-NEW-STANDARDS CASE EFFICIENCY DISTRIBUTION FOR COMBINATION B, PROPANE

TSL	EL	% of Baseline energy use	Life-cycle cost savings	
			% of Customers that experience a net cost	Average life-cycle cost savings * (2014$)
	0	100	0	0
1	1	95	0	28
	2	90	0	84
2	3	85	0	168
	4	80	0	252
	5	75	0	336
	6	70	0	421
	7	65	0	504
3	8	60	0	586
	9	55	0	666
	10	50	0	742
	11	45	0	813
	12	40	0	1,084
4	13	35	0	1,153
5	14	27	0	953

* The calculation includes customers with zero LCC savings (no impact).

b. Life-Cycle Cost Subgroup Analysis

Using the LCC spreadsheet model, DOE estimated the impacts of the TSLs on manufacturing and/or industrial facilities that purchase their own beverage vending machines. This subgroup typically has higher discount rates and lower electricity prices relative to the average customer. DOE estimated the average LCC savings and simple PBP for this subgroup as shown in Table V.19 through Table V.26.

The results of the LCC subgroup analysis indicate that the manufacturing/industrial subgroup fares slightly worse than the average customer, with the subgroup showing lower LCC savings and longer payback periods than a typical customer shows. At TSL 4, all equipment classes have positive LCC savings for the subgroup, although not as great in magnitude as for the average customer. Chapter 11 of the NOPR TSD provides a more detailed discussion on the LCC subgroup analysis and results.

TABLE V.19—COMPARISON OF IMPACTS FOR MANUFACTURING/INDUSTRIAL SUBGROUP RELATIVE TO ALL CUSTOMERS, CLASS A, CO_2

TSL	LCC Savings (2014$) *		Simple Payback Period (years)	
	Manufacturing subgroup	All customers	Manufacturing subgroup	All customers
1	0	0	0.8	0.6
2	98	132	1.3	1.1
3	110	160	3.0	2.4
4	106	173	4.5	3.6
5	(433)	(314)	17.7	14.1

* Parentheses indicate negative values.

TABLE V.20—COMPARISON OF IMPACTS FOR MANUFACTURING/INDUSTRIAL SUBGROUP RELATIVE TO ALL CUSTOMERS, CLASS A, PROPANE

TSL	LCC Savings (2014$) *		Simple payback period (years)	
	Manufacturing subgroup	All customers	Manufacturing subgroup	All customers
1	0	0	0.5	0.4
2	103	136	1.0	0.8
3	151	201	1.2	1.0
4	199	265	1.3	1.1
5	(80)	39	10.4	8.3

* Parentheses indicate negative values.

TABLE V.21—COMPARISON OF IMPACTS FOR MANUFACTURING/INDUSTRIAL SUBGROUP RELATIVE TO ALL CUSTOMERS, CLASS B, CO_2

TSL	LCC Savings (2014$) *		Simple payback period (years)	
	Manufacturing subgroup	All customers	Manufacturing subgroup	All customers
1	0	0	0.6	0.5
2	26	34	0.6	0.5
3	222	292	0.8	0.6
4	403	534	2.7	2.3
5	(136)	31	8.7	7.2

* Parentheses indicate negative values.

TABLE V.22—COMPARISON OF IMPACTS FOR MANUFACTURING/INDUSTRIAL SUBGROUP RELATIVE TO ALL CUSTOMERS, CLASS B, PROPANE

TSL	LCC Savings (2014$) *		Simple payback period (years)	
	Manufacturing subgroup	All customers	Manufacturing subgroup	All customers
1	13	16	0.4	0.3
2	138	179	0.5	0.4
3	380	495	0.7	0.5
4	661	838	1.6	1.3
5	292	505	6.1	5.0

* Parentheses indicate negative values.

TABLE V.23—COMPARISON OF IMPACTS FOR MANUFACTURING/INDUSTRIAL SUBGROUP RELATIVE TO ALL CUSTOMERS, COMBINATION A, CO_2

TSL	LCC Savings (2014$)		Simple payback period (years)	
	Manufacturing subgroup	All customers	Manufacturing subgroup	All customers
1	42	53	0.2	0.2
2	209	269	0.2	0.2
3	613	793	0.5	0.4
4	1,038	1,344	1.7	1.4
5	276	616	7.7	6.3

TABLE V.24—COMPARISON OF IMPACTS FOR MANUFACTURING/INDUSTRIAL SUBGROUP RELATIVE TO ALL CUSTOMERS, COMBINATION A, PROPANE

TSL	LCC Savings (2014$)		Simple payback period (years)	
	Manufacturing subgroup	All customers	Manufacturing subgroup	All customers
1	43	55	0.2	0.1
2	211	272	0.2	0.1
3	619	801	0.4	0.3
4	1,097	1,405	1.3	1.1
5	456	797	6.5	5.3

TABLE V.25—COMPARISON OF IMPACTS FOR MANUFACTURING/INDUSTRIAL SUBGROUP RELATIVE TO ALL CUSTOMERS, COMBINATION B, CO_2

TSL	LCC Savings (2014$)		Simple payback period (years)	
	Manufacturing subgroup	All customers	Manufacturing subgroup	All customers
1	16	21	0.2	0.1
2	98	127	0.2	0.1

TABLE V.25—COMPARISON OF IMPACTS FOR MANUFACTURING/INDUSTRIAL SUBGROUP RELATIVE TO ALL CUSTOMERS, COMBINATION B, CO_2—Continued

TSL	LCC Savings (2014$)		Simple payback period (years)	
	Manufacturing subgroup	All customers	Manufacturing subgroup	All customers
3	417	539	0.3	0.2
4	877	1,098	0.8	0.6
5	266	516	6.8	5.6

TABLE V.26—COMPARISON OF IMPACTS FOR MANUFACTURING/INDUSTRIAL SUBGROUP RELATIVE TO ALL CUSTOMERS, COMBINATION B, PROPANE

TSL	LCC Savings (2014$)		Simple payback period (years)	
	Manufacturing subgroup	All customers	Manufacturing subgroup	All customers
1	22	28	0.1	0.1
2	131	168	0.1	0.1
3	455	586	0.2	0.1
4	923	1,153	0.6	0.5
5	693	953	3.5	2.9

c. Rebuttable Presumption Payback

As discussed in section III.F.2 of this NOPR, EPCA provides a rebuttable presumption that an energy conservation standard is economically justified if the additional cost to the customer of the equipment that meets the new or amended standard level is less than three times the value of the first-year energy savings resulting from the standard. (42 U.S.C. 6295(o)(1)(B)(iii)) DOE's LCC and PBP analyses generate values that calculate the PBP for customers of potential new and amended energy conservation standards. These analyses include, but are not limited to, the 3-year PBP contemplated under the rebuttable presumption test. However, DOE routinely conducts a full economic analysis that considers the full range of impacts, including those to the customer, manufacturer, nation, and environment, as required under 42 U.S.C. 6295(o)(2)(B)(i). The results of this analysis serve as the basis for DOE to definitively evaluate the economic justification for a potential standard level, thereby supporting or rebutting the results of any preliminary determination of economic justification. Table V.27 shows the rebuttable presumption payback periods for TSL 4, for all equipment classes and both CO_2 and propane refrigerants.

TABLE V.27—REBUTTABLE PRESUMPTION PAYBACK PERIODS AT TSL 4 FOR ALL REFRIGERANTS AND EQUIPMENT CLASSES

Refrigerant	Rebuttable presumption payback period (years)			
	Class A	Class B	Combination A	Combination B
CO_2	3.6	2.3	1.4	0.6
Propane	1.1	1.3	1.1	0.5

2. Economic Impact on Manufacturers

DOE performed an MIA to estimate the impact of amended energy conservation standards on manufacturers of beverage vending machines. The section below describes the expected impacts on manufacturers at each TSL. Chapter 12 of the NOPR TSD explains the analysis in further detail.

a. Industry Cash-Flow Analysis Results

The following tables illustrate the estimated financial impacts (represented by changes in industry net present value, or INPV) of amended energy conservation standards on manufacturers of beverage vending machines, as well as the conversion costs that DOE expects manufacturers would incur for all equipment classes at each TSL.

As discussed in sections IV.I and V.B.2.a of this NOPR, DOE modeled two different markup scenarios to evaluate the range of cash flow impacts on the BVM industry: (1) The preservation of gross margin percentage markup scenario; and (2) the preservation of per-unit operating profit markup scenario.

To assess the less severe end of the range of potential impacts, DOE modeled a preservation of gross margin percentage markup scenario, in which a uniform ''gross margin percentage'' markup is applied across all potential efficiency levels. In this scenario, DOE assumed that a manufacturer's absolute dollar markup would increase as production costs increase in the standards case.

To assess the more severe end of the range of potential impacts, DOE modeled the preservation of per unit operating profit markup scenario, which reflects manufacturer concerns surrounding their inability to maintain margins as manufacturing production

costs increase to meet more stringent efficiency levels. In this scenario, as manufacturers make the necessary investments required to convert their facilities to produce new standards-compliant products and incur higher costs of goods sold, their percentage markup decreases. Operating profit does not change in absolute dollars but decreases as a percentage of revenue.

Each of the modeled scenarios results in a unique set of cash flows and corresponding industry values at each TSL. In the following discussion, the INPV results refer to the difference in industry value between the no-new-standards case and each standards case that result from the sum of discounted cash flows from the reference year 2015 through 2048, the end of the analysis period. To provide perspective on the short-run cash flow impact, DOE includes in the discussion of the results a comparison of free cash flow between the no-new-standards case and the standards case at each TSL in the year before amended standards would take effect. This figure provides an understanding of the magnitude of the required conversion costs—relative to the cash flow generated by the industry in the no-new-standards case.

Table V.28 and Table V.29 present a range of results reflecting both the preservation of gross margin percentage markup scenario and the preservation of per-unit operating profit markup scenario. As noted, the preservation of per-unit operating profit scenario accounts for the more severe impacts presented. Estimated conversion costs and free cash flow in the year prior to the effective date of amended standards do not vary with markup scenario.

TABLE V.28—MANUFACTURER IMPACT ANALYSIS UNDER THE PRESERVATION OF GROSS MARGIN PERCENTAGE MARKUP SCENARIO FOR ANALYSIS PERIOD

[2015–2048]

	Units	No-new-standards case	Trial standard level				
			1	2	3	4	5
INPV	*2014$M*	62.7	62.7	62.8	63.1	62.9	73.8
Change in INPV	*2014$M**		(0.01)	0.06	0.33	0.15	11.07
	*% Change**		(0.02)	0.10	0.53	0.24	17.64
Product Conversion Costs	*2014$M*		0.05	0.23	0.79	1.61	3.36
Capital Conversion Costs	*2014$M*				0.18	1.19	3.16
Total Conversion Costs	*2014$M*		0.05	0.23	0.97	2.80	6.52
Free Cash Flow	*2014$M*	(1.6)	(1.6)	(1.7)	(2.0)	(2.7)	(4.1)
	*% Change**		(0.9)	(4.5)	(20.0)	(63.6)	(151.5)

* Parentheses indicate negative values.

TABLE V.29—MANUFACTURER IMPACT ANALYSIS UNDER THE PRESERVATION OF PER-UNIT OPERATING PROFIT MARKUP SCENARIO FOR ANALYSIS PERIOD

[2015–2048]

	Units	No-new-standards case	Trial standard level				
			1	2	3	4	5
INPV	*2014$M*	62.7	62.7	62.5	61.7	59.2	50.7
Change in INPV	*2014$M**		(0.03)	(0.24)	(1.04)	(3.54)	(12.06)
	*% Change**		(0.05)	(0.38)	(1.66)	(5.65)	(19.23)
Product Conversion Costs	*2014$M*		0.05	0.23	0.79	1.61	3.36
Capital Conversion Costs	*2014$M*				0.18	1.19	3.16
Total Conversion Costs	*2014$M*		0.05	0.23	0.97	2.80	6.52
Free Cash Flow	*2014$M*	(1.6)	(1.6)	(1.7)	(2.0)	(2.7)	(4.1)
	*% Change**		(0.9)	(4.5)	(20.0)	(63.6)	(151.5)

* Parentheses indicate negative values.

At TSL 1, DOE estimates the impact on INPV for manufacturers of beverage vending machine to range from −$.03 million to −$.01 million, or a change in INPV of −0.05 percent and −0.02 percent under the preservation of per-unit operating profit markup scenario and preservation of gross margin percentage markup scenario, respectively. At this TSL, industry free cash flow is estimated to decrease by approximately 0.9 percent to $1.6 million, compared to the base-case value of $1.6 million in the year before the compliance date (2018).

At TSL 1, the industry as a whole is expected to incur $0.05 million in product conversion costs and would have no capital conversion costs necessary to manufacture redesigned platforms associated with amended energy conservation standards compliance. DOE's engineering analysis indicates that the most cost-effective design options to reach TSL 1 are component swaps and software modifications such as automatic lighting controls, evaporator fan controls, incorporation of a permanent split capacitor evaporator fan motor, or enhanced evaporator coils. Manufacturer feedback indicated that such component swaps do not incur large product or capital conversion costs.

At TSL 2, DOE estimates the impact on INPV for manufacturers of beverage vending machines to range from −$.24 million to −$.06 million, or a change in INPV of −0.38 to −0.10 percent under the preservation of gross margin percentage markup scenario and the preservation of per-unit operating profit markup scenario, respectively. At this TSL, industry free cash flow is estimated to decrease by approximately 4.5 percent to $1.7 million, compared to the base-case value of $1.6 million in the year before the compliance date (2018).

At TSL 2, the industry as a whole is expected to incur $0.23 million in product conversion costs and no capital conversion costs to manufacturer products requiring platform redesigns. DOE's engineering analysis indicates that the most cost-effective design options to reach TSL 2 are component swaps and software modifications such as incorporating an enhanced evaporator coil, improved single speed reciprocating compressor, or a low power state for CO_2 products, and incorporating a permanent split capacitor condenser fan motor, LED lighting, enhanced evaporator coil, or evaporator fan controls for propane products. Manufacturer feedback indicated that such component swaps do not incur large product or capital conversion costs.

At TSL 3, DOE estimates the impact on INPV for manufacturers of beverage vending machines to range from −$1.04 million to $0.33 million, or a change in INPV of −1.66 percent to 0.53 percent under the preservation of gross margin percentage markup scenario and the preservation of per-unit operating profit markup scenario, respectively. At this TSL, industry free cash flow is estimated to decrease by approximately 20.0 percent to $2.0 million, compared to the base-case value of $1.6 million in the year before the compliance date (2018).

At TSL 3, the industry as a whole is expected to spend $0.79 million in product conversion costs, as well as $0.18 million in capital conversion costs to manufacture redesigned platforms. While conversion costs remain relatively constant for manufacturers of Class B, Combination A and Combination B machines, the conversion costs for Class A equipment increase at TSL 3 (especially for CO_2 products), as a greater portion of these products will require larger investments to achieve the trial efficiency. At this level, manufacturers will most likely be required to integrate enhanced glass packs into Class A CO_2 machines. Because Class A machines represent approximately 54 percent of the market, conversion costs associated with these products have a significant impact on total industry conversion costs.

At TSL 4, DOE estimates the impact on INPV for manufacturers of beverage vending machines to range from −$3.54 million to −$0.15 million, or a change in INPV of −5.65 percent to −0.24 percent under the preservation of gross margin percentage markup scenario and the preservation of per-unit operating profit markup scenario, respectively. At this TSL, industry free cash flow is estimated to decrease by approximately 63.6 percent to −$2.7 million, compared to the base-case value of $1.6 million in the year before the compliance date (2018).

At TSL 4, the industry as a whole is expected to spend $1.61 million in product conversion costs, as well as $1.19 million in capital conversion costs for platform redesigns. At TSL 4, some manufacturers will likely be required to increase the thickness of their products' insulation and incorporate vacuum insulated panels (VIPs). Additionally, many manufacturers of Combination A machines will most likely be required to integrate enhanced glass packs in order to achieve the required efficiency.

At TSL 4, there is a slight decrease of less than 1 percent in total industry shipments in 2019 relative to the no-new-standards case. Under the preservation of gross margin percentage markup scenario, the decrease in shipments and increased conversion costs are outweighed by a relatively larger increase in industry revenue, resulting in a positive change in INPV. Under the preservation of per-unit operating profit markup scenario, the increase in MPCs at TSL 4 is outweighed by the decrease in shipments and the increase in industry conversion costs, resulting in a decrease in INPV.

At TSL 5, DOE estimates the impact on INPV for manufacturers of beverage vending machines to range from −$12.06 million to $11.07 million, or a change in INPV of −19.23 percent to 17.64 percent under the preservation of gross margin percentage markup scenario and the preservation of per-unit operating profit markup scenario, respectively. At this TSL, industry free cash flow is estimated to decrease by approximately 151.5 percent to $4.1 million, compared to the base-case value of $1.6 million in the year before the compliance date (2018).

At TSL 5, the industry as a whole is expected to spend $3.36 million in product conversion costs associated with the research and development and testing and certification, as well as $3.16 million in one-time investments in PP&E for platform redesigns. The conversion cost burden for manufacturers of all products increases substantially at TSL 5. At this level, manufacturers will likely be required to integrate VIPs to achieve the required efficiency. VIPs are an unproven technology in the BVM industry and would likely require substantial effort and cost to incorporate.

At TSL 5, there is an 6-percent decrease in total industry shipments in 2019 relative to the no-new-standards case. Under the preservation of gross margin percentage markup scenario, this decrease in shipments and increased conversion costs are outweighed by a relatively larger increase in industry MPCs, resulting in a positive change in INPV. Under the preservation of per-unit operating profit markup scenario, the increase in MPCs at TSL 5 is outweighed by the decrease in shipments and the increase in industry conversion costs. This results in a decrease in INPV.

b. Impacts on Direct Employment

To quantitatively assess the potential impacts of amended energy conservation standards on direct employment, DOE used the GRIM to estimate the domestic labor expenditures and number of direct employees in the no-new-standards case and at each TSL from 2014 through 2048. DOE used data from the U.S. Census Bureau's 2011 Annual Survey of Manufacturers,[66] the results of the engineering analysis, and interviews with manufacturers to determine the inputs necessary to calculate industry-wide labor expenditures and domestic direct employment levels. Labor expenditures related to manufacturing of beverage vending machines are a function of labor intensity, sales volume, and an assumption that wages remain fixed in real terms over time. The total labor expenditures in each year are calculated by multiplying the MPCs by the labor percentage of MPCs. DOE estimates that 90 percent of BVM units are produced domestically.

The total labor expenditures in the GRIM were then converted to domestic production employment levels by dividing production labor expenditures by the annual payment per production worker (production worker hours times the labor rate found in the U.S. Census Bureau's 2011 Annual Survey of Manufacturers). The production worker estimates in this section only cover workers up to the line-supervisor level who are directly involved in fabricating and assembling a product within an original equipment manufacturer (OEM) facility. Workers performing services that are closely associated with production operations, such as materials handling tasks using forklifts, are also included as production labor. DOE's estimates only account for production workers who manufacture the specific products covered by this rulemaking.

Because production employment expenditures are assumed to be a fixed

[66] U.S. Census Bureau, Annual Survey of Manufacturers: General Statistics: Statistics for Industry Groups and Industries (2011) (Available at *http://www.census.gov/manufacturing/asm/index.html*).

percentage of cost of goods sold and the MPCs typically increase with more efficient products, labor tracks the increased prices in the GRIM. As efficiency of BVMs increase, so does the complexity of the products, generally requiring more labor to produce. Based on industry feedback, DOE believes that manufacturers that use domestic production currently will continue to produce the same scope of covered products in domestic production facilities. DOE does not expect production to shift to lower labor cost countries. To estimate a lower bound to employment, DOE assumed that employment tracks closely with industry shipments, and any percentage decrease in shipments will result in a commensurate percentage decrease in employment. A complete description of the assumptions used to generate these upper and lower bounds can be found in chapter 12 of the NOPR TSD.

Using the GRIM, DOE estimates that in the absence of amended energy conservation standards, there would be 414 domestic production workers in the BVM industry. As noted previously, DOE estimates that 90 percent of BVM units sold in the United States are manufactured domestically. Table V.30 shows the range of the impacts of potential amended energy conservation standards on U.S. production workers of beverage vending machines.

TABLE V.30—POTENTIAL CHANGES IN THE TOTAL NUMBER OF BEVERAGE VENDING MACHINE PRODUCTION WORKERS IN 2019

	No-new-standards case *	Trial standard level				
		1	2	3	4	5
Potential Changes in Domestic Production Workers in 2019. **	.....	.....	0 to 2	0 to 11	(1) to 40	(26) to 133

* No-new-standards case estimates 414 domestic production workers in the BVM industry in 2019.
** Parentheses indicate negative values.

The upper end of the range estimates the maximum increase in the number of production workers in the BVM industry after implementation of an emended energy conservation standard. It assumes that manufacturers would continue to produce the same scope of covered products within the United States and would require some additional labor to produce more efficient products.

The lower end of the range represents the maximum decrease in total number of U.S. production workers that could result from an amended energy conservation standard. During interviews, manufacturers noted that, due to the high shipping costs associated with beverage vending machines, they would be hesitant to move any major production operations outside the U.S. Therefore, the lower bound of direct employment impacts assumes domestic production of beverage vending machines would decrease by the same relative percentage decrease in industry shipments as a result of an amended energy conservation standard.

This conclusion is independent of any conclusions regarding indirect employment impacts in the broader United States economy, which are documented in chapter 16 of the TSD.

DOE requests comments on the total annual direct employment levels in the industry for BVM production (section VII.E of this NOPR).

c. Impacts on Manufacturing Capacity

According to interview feedback from BVM manufacturers, amended energy conservations standards will not significantly constrain manufacturing production capacity. Manufacturers stated that they would use normally-scheduled factory downtime to make any facility modifications that are necessary as a result of amended standards. DOE believes that manufactures will be able to maintain production capacity levels sufficient to meet market demand under these proposed levels. However, manufacturers did express concern regarding the potential strain on technical resources if the amended standard's effective date did not provide ample time for the industry to first fully comply with the EPA's proposed HFC phaseout. At the time of manufacturer interviews, EPA SNAP Proposed Rule 20 (Docket No. EPA–HQ–OAR–2013–0748) proposed to change the status of certain refrigerants to be unacceptable for certain applications, including HFC–134a for BVM applications, with a proposed phaseout on January 1, 2016. 79 FR 46126, 46135 (August 6, 2014). Although Rule 20 has subsequently been finalized with a mandated phaseout date of January 1, 2019 (80 FR 42870, 42917–42920; July 20, 2015), few manufacturers have experience with CO_2 designs, and no beverage vending machines in the domestic market currently use propane. The switch to CO_2 and propane will require all manufacturers to redesign the majority of their products. Manufacturers are concerned they do not have the technical capacity to redesign for new refrigerants and amended energy conservation standards. DOE accounted for the forthcoming HFC phaseout in its analysis by estimating CO_2- and propane-specific cost-efficiency curves and industry conversion costs related to energy conservation standards compliance, as well as a one-time investment required for the industry to switch all BVM production to CO_2- and propane. Cost-efficiency curves are presented in chapter 5 of the NOPR TSD, and information regarding conversion costs is contained in chapter 12.

d. Impacts on Subgroups of Manufacturers

Small manufacturers, niche equipment manufacturers, and manufacturers exhibiting a cost structure substantially different from the industry average could be affected disproportionately. As discussed in sections IV.I.3 and V.B.2.a of this NOPR, using average cost assumptions to develop an industry cash-flow estimate is inadequate to assess differential impacts among manufacturer subgroups.

For BVM equipment, DOE identified and evaluated the impact of amended energy conservation standards on one subgroup: Small manufacturers. The SBA defines a ''small business'' as having 1,000 employees or less for NAICS 333318, ''Other Commercial and Service Industry Machinery Manufacturing.'' Based on this definition, DOE identified 5 manufacturers in the BVM equipment industry that are small businesses.

For a discussion of the impacts on the small manufacturer subgroup, see the Regulatory Flexibility Analysis in

section V.B.2.d of this NOPR and chapter 12 of the NOPR TSD.

e. Cumulative Regulatory Burden

While any one regulation may not impose a significant burden on manufacturers, the combined effects of several impending regulations may have serious consequences for some manufacturers, groups of manufacturers or an entire industry. Assessing the impact of a single regulation may overlook this cumulative regulatory burden. Multiple regulations affecting the same manufacturer can strain profits and can lead companies to abandon product lines or markets with lower expected future returns than competing products. For these reasons, DOE conducts an analysis of cumulative regulatory burden as part of its rulemakings pertaining to appliance efficiency.

For the cumulative regulatory burden analysis, DOE considers other DOE regulations that could affect BVM manufacturers that will take effect approximately three years before or after the 2019 compliance date of amended energy conservation standards. The compliance years and expected industry conversion costs of energy conservation standards that may also impact BVM manufacturers are indicated in Table V.31.

TABLE V.31—COMPLIANCE DATES AND EXPECTED CONVERSION EXPENSES OF FEDERAL ENERGY CONSERVATION STANDARDS AFFECTING BVM MANUFACTURERS

Regulation	Compliance date(s)	Expected expenses/impacts
Commercial Refrigeration Equipment 79 FR 17725 (March 28, 2014)	3/27/2017	$43.1 million.

Manufacturers cited ENERGY STAR standards for beverage vending machines as a source of regulatory burden. In response, DOE does not consider the ENERGY STAR program in its analysis of cumulative regulatory burden because ENERGY STAR is a voluntary program and is not federally mandated.

In interviews, manufactures cited the proposed phaseout of HFCs (including the common BVM refrigerant, HFC–134a) which could happen as early as January 2016 (subsequently finalized for January 2019), as a major source of additional burden accompanying potential amended efficiency standards. As detailed in section IV.I, based on feedback in interviews, DOE assumed that each manufacturer would need to invest $750,000 to update their products to comply with Rule 20. DOE assumed this one-time SNAP investment would apply to all eight manufacturers in the year leading up to the phaseout (*i.e.,* 2018), resulting in an additional burden to the industry of $6 million. This one-time cost occurs in both the no-new-standards case and in the standards case.

3. National Impact Analysis

a. Significance of Energy Savings

DOE estimated the NES by calculating the difference in annual energy consumption for the base-case scenario and standards-case scenario at each TSL for each equipment class and summing up the annual energy savings for the beverage vending machines purchased during the 30-year 2019 through 2048 analysis period. Energy impacts include the 30-year period, plus the life of equipment purchased in the last year of the analysis, or roughly 2019 through 2078. The energy consumption calculated in the NIA is full-fuel-cycle (FFC) energy, which quantifies savings beginning at the source of energy production. DOE also reports primary or source energy that takes into account losses in the generation and transmission of electricity. FFC and primary energy are discussed in section IV.G.3 of this NOPR.

Table V.32 presents the source NES for all equipment classes at each TSL and the sum total of NES for each TSL.

TABLE V.32—CUMULATIVE NATIONAL PRIMARY ENERGY SAVINGS FOR EQUIPMENT PURCHASED IN 2019–2048

[Quads]

Equipment class	Standard level				
	TSL 1	TSL 2	TSL 3	TSL 4	TSL 5
Class A	*0.000	0.031	0.046	0.062	0.108
CO_2	0.000	0.018	0.028	0.037	0.065
Propane	0.000	0.012	0.018	0.025	0.044
Class B	0.004	0.013	0.045	0.071	0.087
CO_2	0.000	0.002	0.020	0.036	0.045
Propane	0.004	0.011	0.025	0.035	0.042
Combination A	0.002	0.010	0.029	0.048	0.052
CO_2	0.001	0.006	0.017	0.029	0.031
Propane	0.001	0.004	0.012	0.019	0.021
Combination B	0.001	0.005	0.019	0.033	0.037
CO_2	0.000	0.003	0.011	0.019	0.022
Propane	0.000	0.002	0.008	0.013	0.015
Total †	0.006	0.058	0.138	0.213	0.284

* The value equal to 0.000 means the NES rounds to less than 0.001 quads.
† Numbers may not add to totals, due to rounding.

Table V.33 presents FFC energy savings at each TSL for each equipment class. The NES increases from 0.007 quads at TSL 1 to 0.297 quads at TSL 5.

TABLE V.33—CUMULATIVE NATIONAL ENERGY SAVINGS INCLUDING FULL-FUEL-CYCLE FOR EQUIPMENT PURCHASED IN 2019–2048 (QUADS)

Equipment class	Standard level				
	TSL 1	TSL 2	TSL 3	TSL 4	TSL 5
Class A	* 0.000	0.032	0.048	0.064	0.114
CO_2	0.000	0.019	0.029	0.039	0.068
Propane	0.000	0.013	0.019	0.026	0.046
Class B	0.004	0.014	0.047	0.074	0.091
CO_2	0.000	0.002	0.021	0.037	0.047
Propane	0.004	0.011	0.026	0.037	0.044
Combination A	0.002	0.010	0.030	0.050	0.055
CO_2	0.001	0.006	0.018	0.030	0.033
Propane	0.001	0.004	0.012	0.020	0.022
Combination B	0.001	0.005	0.020	0.034	0.038
CO_2	0.000	0.003	0.011	0.020	0.023
Propane	0.000	0.002	0.008	0.014	0.016
Total **	0.007	0.061	0.145	0.223	0.297

* A value equal to 0.000 means the NES rounds to less than 0.001 quads.
** Numbers may not add to totals, due to rounding.

OMB Circular A–4 [67] requires agencies to present analytical results, including separate schedules of the monetized benefits and costs that show the type and timing of benefits and costs. Circular A–4 also directs agencies to consider the variability of key elements underlying the estimates of benefits and costs. For this rulemaking, DOE undertook a sensitivity analysis using 9 rather than 30 years of product shipments. The choice of a 9-year period is a proxy for the timeline in EPCA for the review of certain energy conservation standards and potential revision of and compliance with such revised standards.[68] DOE notes that the review timeframe established in EPCA generally does not overlap with the product lifetime, product manufacturing cycles or other factors specific to beverage vending machines. Thus, this information is presented for informational purposes only and is not indicative of any change in DOE's analytical methodology. The NES results based on a 9-year analysis period are presented in Table V.34. The impacts are counted over the lifetime of equipment purchased in 2019 through 2027.

TABLE V.34—NATIONAL FULL-FUEL-CYCLE ENERGY SAVINGS FOR 9 YEARS OF SHIPMENTS (2019–2027)

[Quads]

Equipment class	Standard level				
	TSL 1	TSL 2	TSL 3	TSL 4	TSL 5
Class A	* 0.000	0.006	0.010	0.013	0.023
CO_2	0.000	0.004	0.006	0.008	0.013
Propane	0.000	0.003	0.004	0.005	0.009
Class B	0.001	0.003	0.009	0.015	0.018
CO_2	0.000	0.000	0.004	0.007	0.009
Propane	0.001	0.002	0.005	0.007	0.009
Combination A	0.000	0.002	0.006	0.010	0.011
CO_2	0.000	0.001	0.004	0.006	0.007
Propane	0.000	0.001	0.002	0.004	0.004
Combination B	0.000	0.001	0.004	0.007	0.008
CO_2	0.000	0.001	0.002	0.004	0.004
Propane	0.000	0.000	0.002	0.003	0.003
Total **	0.001	0.012	0.029	0.045	0.059

* A value equal to 0.000 means the NES rounds to less than 0.001 quads.
** Numbers may not add to totals, due to rounding.

[67] U.S. Office of Management and Budget, ''Circular A–4: Regulatory Analysis'' (Sept. 17, 2003) (Available at: *http://www.whitehouse.gov/omb/circulars_a004_a-4/*).

[68] EPCA requires DOE to review its standards at least once every 6 years, and requires, for certain products, a 3-year period after any new standard is promulgated before compliance is required, except that in no case may any new standards be required within 6 years of the compliance date of the previous standards. (42 U.S.C. 6295(m)) While adding a 6-year review to the 3-year compliance period adds up to 9 years, DOE notes that it may undertake reviews at any time within the 6 year period and that the 3-year compliance date may yield to the 6-year backstop. A 9-year analysis period may not be appropriate given the variability that occurs in the timing of standards reviews and the fact that for some consumer products, the compliance period is 5 years rather than 3 years.

b. Net Present Value of Customer Costs and Benefits

DOE estimated the cumulative NPV to the nation of the total savings for the customers that would result from potential standards at each TSL. In accordance with OMB guidelines on regulatory analysis (OMB Circular A–4, section E, September 17, 2003), DOE calculated NPV using both a 7-percent and a 3-percent real discount rate. The 7-percent rate is an estimate of the average before-tax rate of return on private capital in the U.S. economy, and reflects the returns on real estate and small business capital, including corporate capital. DOE used this discount rate to approximate the opportunity cost of capital in the private sector, because recent OMB analysis has found the average rate of return on capital to be near this rate. In addition, DOE used the 3-percent rate to capture the potential effects of amended standards on private consumption. This rate represents the rate at which society discounts future consumption flows to their present value. It can be approximated by the real rate of return on long-term government debt (*i.e.,* yield on Treasury notes minus annual rate of change in the CPI), which has averaged about 3 percent on a pre-tax basis for the last 30 years.

Table V.35 and Table V.36 show the customer NPV results for each of the TSLs DOE considered for beverage vending machines at both 7-percent and 3-percent discount rates. In each case, the impacts cover the expected lifetime of equipment purchased from 2019 through 2048. Detailed NPV results are presented in chapter 10 of the NOPR TSD.

The NPV results at a 7-percent discount rate for TSL 5 were negative for Class A. In all cases the TSL 5 NPV was significantly lower than the TSL 4 results. This is consistent with the results of LCC analysis results for TSL 5, which showed significant increase in LCC and significantly higher PBPs. Efficiency levels for TSL 4 were chosen to correspond to the highest NPV at a 7-percent discount rate for all classes. Consequently, the total NPV for beverage vending machines was highest for TSL 4, with a value of $0.417 billion (2014$) at a 7-percent discount rate. TSL 3 showed the second highest total NPV, with a value of $0.261 billion (2014$) at a 7-percent discount rate. TSL 1, TSL 2 and TSL 5 have a total NPV lower than TSL 3 or 4.

TABLE V.35—NET PRESENT VALUE AT A 7-PERCENT DISCOUNT RATE FOR EQUIPMENT PURCHASED IN 2019–2048

[billion 2014$]

Equipment class	Standard level				
	TSL 1	TSL 2	TSL 3	TSL 4	TSL 5
Class A	0.000	0.058	0.076	0.090	* (0.069)
CO_2	0.000	0.034	0.042	0.045	(0.077)
Propane	0.000	0.023	0.035	0.046	0.007
Class B	0.007	0.026	0.088	0.149	0.053
CO_2	0.000	0.005	0.038	0.070	0.004
Propane	0.007	0.022	0.049	0.079	0.049
Combination A	0.004	0.020	0.059	0.101	0.050
CO_2	0.002	0.012	0.035	0.059	0.027
Propane	0.002	0.008	0.024	0.041	0.023
Combination B	0.002	0.010	0.039	0.077	0.047
CO_2	0.001	0.005	0.022	0.045	0.021
Propane	0.001	0.005	0.016	0.032	0.026
Total	0.013	0.113	0.261	0.417	0.081

* Values in parentheses are negative numbers.

TABLE V.36—NET PRESENT VALUE AT A 3-PERCENT DISCOUNT RATE FOR EQUIPMENT PURCHASED IN 2019–2048

[billion 2014$]

Equipment class	Standard level				
	TSL 1	TSL 2	TSL 3	TSL 4	TSL 5
Class A	0.000	0.149	0.203	0.249	*(0.005)
CO_2	0.000	0.088	0.114	0.131	(0.072)
Propane	0.000	0.060	0.089	0.118	0.067
Class B	0.018	0.066	0.224	0.395	0.229
CO_2	0.000	0.012	0.098	0.191	0.074
Propane	0.018	0.054	0.125	0.205	0.154
Combination A	0.010	0.050	0.149	0.260	0.166
CO_2	0.006	0.030	0.089	0.154	0.094
Propane	0.004	0.020	0.060	0.106	0.073
Combination B	0.004	0.025	0.097	0.196	0.142
CO_2	0.002	0.013	0.056	0.115	0.070
Propane	0.002	0.012	0.041	0.080	0.072
Total	0.032	0.290	0.673	1.100	0.532

* Values in parentheses are negative numbers.

The NPV results based on the aforementioned 9-year analysis period are presented in Table V.37 and Table V.38. The impacts are counted over the lifetime of equipment purchased in 2019–2027. As mentioned previously in section V.B.3.a of this NOPR, this information is presented for informational purposes only and is not indicative of any change in DOE's analytical methodology or decision criteria.

TABLE V.37—NET PRESENT VALUE AT A 7-PERCENT DISCOUNT RATE FOR 9 YEARS OF SHIPMENTS (2019–2027)

[billion 2014$]

Equipment class	Standard level				
	TSL 1	TSL 2	TSL 3	TSL 4	TSL 5
Class A	* 0.000	0.022	0.028	0.033	** (0.035)
CO_2	0.000	0.013	0.015	0.016	(0.035)
Propane	0.000	0.009	0.013	0.017	0.000
Class B	0.003	0.010	0.033	0.056	0.016
CO_2	0.000	0.002	0.015	0.026	(0.001)
Propane	0.003	0.008	0.019	0.030	0.017
Combination A	0.002	0.008	0.022	0.038	0.017
CO_2	0.001	0.005	0.013	0.022	0.009
Propane	0.001	0.003	0.009	0.016	0.008
Combination B	0.001	0.004	0.015	0.030	0.017
CO_2	0.000	0.002	0.008	0.017	0.007
Propane	0.000	0.002	0.006	0.012	0.010
Total	0.005	0.043	0.099	0.157	0.015

* A value equal to 0.000 means the NPV rounds to less than $0.001 (2014$).
** Values in parentheses are negative numbers.

TABLE V.38—NET PRESENT VALUE AT A 3-PERCENT DISCOUNT RATE FOR 9 YEARS OF SHIPMENTS (2019–2027)

[billion 2014$]

Equipment class	Standard level				
	TSL 1	TSL 2	TSL 3	TSL 4	TSL 5
Class A	* 0.000	0.038	0.051	0.062	** (0.017)
CO_2	0.000	0.023	0.029	0.032	(0.030)
Propane	0.000	0.015	0.023	0.030	0.013
Class B	0.005	0.017	0.058	0.102	0.051
CO_2	0.000	0.003	0.025	0.049	0.014
Propane	0.005	0.014	0.032	0.053	0.037
Combination A	0.003	0.013	0.038	0.067	0.039
CO_2	0.002	0.008	0.023	0.040	0.022
Propane	0.001	0.005	0.015	0.027	0.018
Combination B	0.001	0.006	0.025	0.051	0.035
CO_2	0.001	0.003	0.015	0.030	0.017
Propane	0.001	0.003	0.011	0.021	0.018
Total	0.008	0.075	0.173	0.283	0.109

* A value equal to 0.000 means the NPV rounds to less than $0.001 (2014$).
** Values in parentheses are negative numbers.

c. Indirect Impacts on Employment

DOE expects energy conservation standards for beverage vending machines to reduce energy costs for equipment owners, with the resulting net savings being redirected to other forms of economic activity. Those shifts in spending and economic activity could affect the demand for labor. Thus, indirect employment impacts may result from expenditures shifting between goods (the substitution effect) and changes in income and overall expenditure levels (the income effect) that occur due to the imposition of new and amended standards. These impacts may affect a variety of businesses not directly involved in the decision to make, operate, or pay the utility bills for beverage vending machines. As described in section IV.M of this NOPR, DOE used an input/output model of the U.S. economy to estimate indirect employment impacts of the TSLs that DOE considered in this rulemaking (see chapter 16 of the NOPR TSD for more details). DOE understands that there are uncertainties involved in projecting employment impacts, especially changes in the later years of the analysis. Therefore, DOE generated results for near-term time frames (2020–2025), where these uncertainties are reduced.

The results suggest that these proposed standards would be likely to have negligible impact on the net demand for labor in the economy. All TSLs increase net demand for labor by fewer than 1000 jobs. The net change in jobs is so small that it would be imperceptible in national labor statistics and might be offset by other, unanticipated effects on employment. Chapter 16 of the NOPR TSD presents more detailed results about anticipated indirect employment impacts. As shown in Table V.39, DOE estimates that net indirect employment impacts from a BVM amended standard are small relative to the national economy.

TABLE V.39—NET SHORT-TERM CHANGE IN EMPLOYMENT

[Jobs]

Trial standard level	2020	2025
1	1	4
2	9	35
3	21	82
4	32	129
5	334	190

4. Impact on Utility or Performance of Equipment

In its analyses, DOE has considered potential impacts of amended standards, including the use of design options considered in the engineering analysis, on the performance and utility of BVM equipment. This includes the ability to achieve and maintain the necessary vending temperatures, the ability to display and vend product upon receipt of payment, and other factors core to the utility of vending machine operation. DOE has tentatively concluded that the amended standards it is proposing in this NOPR would not lessen the utility or performance of beverage vending machines.

DOE requests comment on its preliminary conclusion that the proposed standard levels will not have any negative impact on the performance or utility of equipment available in the market (section VII.E of this NOPR).

5. Impact of Any Lessening of Competition

The Attorney General determines the impact, if any, of any lessening of competition likely to result from a proposed standard, and transmits such determination in writing to the Secretary, together with an analysis of the nature and extent of such impact. (42 U.S.C. 6295(o)(2)(B)(i)(V) and (o)(2)(B)(ii))

To assist the Attorney General in making such a determination, DOE provided DOJ with copies of this NOPR and the TSD for review. DOE will consider DOJ's comments on the proposed rule in preparing the final rule, and DOE will publish and respond to DOJ's comments in that document.

6. Need of the Nation To Conserve Energy

An improvement in the energy efficiency of the products subject to this rule is likely to improve the security of the nation's energy system by reducing overall demand for energy. Reduced electricity demand may also improve the reliability of the electricity system. Reductions in national electric generating capacity estimated for each considered TSL are reported in chapter 15 of the NOPR TSD.

Energy conservation savings from new and amended standards for the BVM equipment classes covered in this NOPR could also produce environmental benefits in the form of reduced emissions of air pollutants and greenhouse gases associated with electricity production. Table V.40 provides DOE's estimate of cumulative emissions reductions projected to result from the TSLs considered in this rulemaking. The table includes both power sector emissions and upstream emissions. The upstream emissions were calculated using the multipliers discussed in section IV.G of this NOPR. DOE reports annual CO_2, NO_X, and Hg emissions reductions for each TSL in chapter 13 of the NOPR TSD.

TABLE V.40—CUMULATIVE EMISSIONS REDUCTION FOR POTENTIAL STANDARDS FOR BEVERAGE VENDING MACHINES

	TSL				
	1	2	3	4	5
Power Sector and Site Emissions					
CO_2 *(million metric tons)*	0.36	3.36	7.99	12.33	16.42
NO_X *(thousand tons)*	0.28	2.61	6.21	9.57	12.76
Hg *(tons)*	0.00	0.01	0.02	0.03	0.04
N_2O *(thousand tons)*	0.01	0.05	0.11	0.17	0.23
CH_4 *(thousand tons)*	0.04	0.33	0.78	1.20	1.60
SO_2 *(thousand tons)*	0.31	2.83	6.75	10.40	13.86
Upstream Emissions					
CO_2 *(million metric tons)*	0.02	0.19	0.46	0.71	0.95
NO_X *(thousand tons)*	0.30	2.77	6.59	10.16	13.54
Hg *(tons)*	0.00001	0.0001	0.0002	0.0003	0.0004
N_2O *(thousand tons)*	0.00	0.00	0.00	0.01	0.01
CH_4 *(thousand tons)*	1.74	16.11	38.37	59.17	78.89
SO_2 *(thousand tons)*	0.00	0.03	0.08	0.12	0.17
Total Emissions					
CO_2 *(million metric tons)*	0.38	3.55	8.45	13.04	17.37
NO_X *(thousand tons)*	0.58	5.37	12.80	19.73	26.30
Hg *(tons)*	0.001	0.01	0.02	0.03	0.04
N_2O *(thousand tons)*	0.01	0.05	0.12	0.18	0.24
CH_4 *(thousand tons)*	1.77	16.44	39.15	60.37	80.49
SO_2 *(thousand tons)*	0.31	2.87	6.83	10.53	14.02

As part of the analysis for this NOPR, DOE estimated monetary benefits likely to result from the reduced emissions of CO_2 and NO_X estimated for each of the TSLs considered for beverage vending machines. As discussed in section IV.K of this NOPR, for CO_2, DOE used values for the SCC developed by an interagency process. The interagency group selected four sets of SCC values for use in regulatory analyses. Three sets are based on the average SCC from three integrated assessment models, at discount rates of 2.5 percent, 3 percent, and 5 percent. The fourth set, which represents the 95th-percentile SCC estimate across all three models at a 3-percent discount rate, is included to

represent higher-than-expected impacts from temperature change further out in the tails of the SCC distribution. The four SCC values for CO_2 emissions reductions in 2015, expressed in 2014$, are $12.2 per metric ton, $40.0 per metric ton, $62.3 per metric ton, and $116.8 per metric ton for discount rates of 2.5 percent, 3 percent, 5 percent, and 3 percent respectively. The values for later years are higher due to increasing emissions-related costs as the magnitude of projected climate change increases.

Table V.41 presents the global value of CO_2 emissions reductions at each TSL. DOE calculated domestic values as a range from 7 percent to 23 percent of the global values, and these results are presented in chapter 14 of the NOPR TSD.

TABLE V.41—GLOBAL PRESENT VALUE OF CO_2 EMISSIONS REDUCTION FOR POTENTIAL STANDARDS FOR BEVERAGE VENDING MACHINES

TSL	SCC Case * (*million 2014$*)			
	5% Discount rate, average *	3% Discount rate, average *	2.5% Discount rate, average *	3% Discount rate, 95th percentile *
Primary Energy Emissions				
1	2.4	11.1	17.7	33.8
2	21.9	102.9	164.4	314.2
3	52.1	245.1	391.5	748.1
4	80.3	378.0	603.7	1,153.6
5	106.9	503.3	804.1	1,536.2
Upstream Emissions				
1	0.1	0.6	1.0	1.9
2	1.2	5.9	9.4	18.0
3	3.0	14.0	22.4	42.8
4	4.5	21.6	34.6	66.0
5	6.1	28.8	46.1	87.9
Total Emissions				
1	2.5	11.7	18.7	35.8
2	23.1	108.8	173.8	332.1
3	55.0	259.1	413.9	790.9
4	84.9	399.6	638.3	1,219.6
5	113.0	532.1	850.1	1,624.1

* For each of the four cases, the corresponding SCC value for emissions in 2015 is $12.2, $40.0, $62.3, and $116.8 per metric ton (2014$), respectively.

DOE is aware that scientific and economic knowledge about the contribution of CO_2 and other greenhouse gas (GHG) emissions to changes in the future global climate and the potential resulting damages to the world economy continues to evolve rapidly. Thus, any value placed in this rulemaking on reducing CO_2 emissions is subject to change. DOE, together with other Federal agencies, will continue to review various methodologies for estimating the monetary value of reductions in CO_2 and other GHG emissions. This ongoing review will consider the comments on this subject that are part of the public record for this and other rulemakings, as well as other methodological assumptions and issues. However, consistent with DOE's legal obligations, and taking into account the uncertainty involved with this particular issue, DOE included in this NOPR the most recent values and analyses resulting from the interagency review process.

DOE also estimated a range for the cumulative monetary value of the economic benefits associated with NO_X emissions reductions anticipated to result from amended standards for the BVM equipment that is the subject of this NOPR. The dollar-per-ton values that DOE used are discussed in section IV.K of this NOPR. Table V.42 presents the present value of cumulative NO_X emissions reductions for each TSL calculated using the average dollar-per-ton values and 7-percent and 3-percent discount rates.

TABLE V.42—PRESENT VALUE OF NO_X EMISSIONS REDUCTION FOR POTENTIAL STANDARDS FOR BEVERAGE VENDING MACHINES

TSL	(*million 2014$*)	
	3% Discount rate	7% Discount rate
Power Sector Emissions		
1	0.4	0.2
2	3.3	1.4
3	7.9	3.4
4	12.2	5.2
5	16.3	6.9
Upstream Emissions		
1	0.4	0.1
2	3.4	1.4
3	8.1	3.3
4	12.5	5.1
5	16.7	6.8
Total Emissions		
1	0.7	0.3
2	6.7	2.8
3	16.1	6.7
4	24.8	10.3
5	33.0	13.7

The NPV of the monetized benefits associated with emissions reductions can be viewed as a complement to the NPV of the customer savings calculated for each TSL considered in this rulemaking. Table V.43 presents the NPV values that result from adding the estimates of the potential economic benefits resulting from reduced CO_2 and NO_X emissions in each of four valuation scenarios to the NPV of customer savings calculated for each TSL considered in this rulemaking, at both a 7-percent and a 3-percent discount rate. The CO_2 values used in the columns of each table correspond to the four scenarios for the valuation of CO_2 emission reductions discussed above.

TABLE V.43—NET PRESENT VALUE OF CUSTOMER SAVINGS COMBINED WITH NET PRESENT VALUE OF MONETIZED BENEFITS FROM CO_2 AND NO_X EMISSIONS REDUCTIONS

TSL	Customer NPV at 3% discount rate added with:			
	SCC Value of $12.2/metric ton CO_2* and med value for NO_X**	SCC Value of $40.0/metric ton CO_2* and medium value for NO_X**	SCC Value of $62.3/metric ton CO_2* and medium value for NO_X**	SCC Value of $116.8/metric ton CO_2* and med value for NO_X**
	(billion 2014$)			
1	0.036	0.045	0.052	0.069
2	0.320	0.405	0.470	0.629
3	0.744	0.948	1.103	1.480
4	1.210	1.524	1.763	2.344
5	0.678	1.097	1.415	2.189
TSL	Customer NPV at 7% discount rate added with:			
	SCC Value of $12.2/metric ton CO_2* and med value for NO_X**	SCC Value of $40.0/metric ton CO_2* and medium value for NO_X**	SCC Value of $62.3/metric ton CO_2* and medium value for NO_X**	SCC Value of $116.8/metric ton CO_2* and med value for NO_X**
	(billion 2014$)			
1	0.016	0.025	0.032	0.049
2	0.139	0.225	0.290	0.448
3	0.323	0.527	0.682	1.059
4	0.512	0.827	1.065	1.647
5	0.207	0.627	0.945	1.719

* These label values represent the global SCC in 2015, in 2014$. The present values have been calculated with scenario-consistent discount rates.

** Medium Value corresponds to $2,723 per ton of NO_X emissions.

In considering the previous results, two issues are relevant. First, the national operating cost savings are domestic U.S. customer monetary savings that occur as a result of market transactions, while the value of CO_2 reductions is based on a global value. Second, the assessments of operating cost savings and the SCC are performed with different methods that use quite different time frames for analysis. The national operating cost savings is measured for the lifetime of products shipped in 2019–2048. The SCC values, on the other hand, reflect the present value of future climate-related impacts resulting from the emission of one metric ton of CO_2 in each year. These impacts continue well beyond 2100.

7. Other Factors

The Secretary of Energy, in determining whether a standard is economically justified, may consider any other factors that the Secretary deems to be relevant. (42 U.S.C. 6295(o)(2)(B)(i)(VII)) No other factors were considered in this analysis.

C. Proposed Standards

When considering proposed standards, the new or amended energy conservation standards for any type (or class) of covered product must be designed to achieve the maximum improvement in energy efficiency that the Secretary determines is technologically feasible and economically justified. (42 U.S.C. 6295(o)(2)(A)) In determining whether a proposed standard is economically justified, the Secretary must determine whether the benefits of the standard exceed its burdens to the greatest extent practicable, in light of the seven statutory factors discussed previously. (42 U.S.C. 6295(o)(2)(B)(i)) The new or amended standard must also result in a significant conservation of energy. (42 U.S.C. 6295(o)(3)(B))

DOE considered the impacts of the standards for beverage vending machines at each TSL, beginning with the maximum technologically feasible level, to determine whether that level was economically justified. Where the max-tech level was not justified, DOE then considered the next-most-efficient level and undertook the same evaluation until it reached the highest efficiency level that is both technologically feasible and economically justified and saves a significant amount of energy.

To aid the reader in understanding the benefits and/or burdens of each TSL, tables in this section summarize the quantitative analytical results for each TSL, based on the assumptions and methodology discussed herein. The efficiency levels contained in each TSL are described in section V.A of this NOPR. In addition to the quantitative results presented in the tables, DOE also considers other burdens and benefits that affect economic justification. These include the impacts on identifiable subgroups of customers who may be disproportionately affected by a national standard, impacts on employment, technological feasibility, manufacturer costs, and impacts on competition may affect the economic results presented. Section V.B.1.b of this NOPR presents the estimated impacts of each TSL for these subgroups. DOE discusses the

impacts on direct employment in BVM manufacturing in section V.B.2.b of this NOPR, and discusses the indirect employment impacts in section V.B.3.c of this NOPR.

1. Benefits and Burdens of Trial Standard Levels Considered for Beverage Vending Machines

Table V.44, Table V.45, and Table V.46 summarize the quantitative impacts estimated for each TSL for beverage vending machines. The national impacts are measured over the lifetime of beverage vending machines purchased in the 30-year period that begins in the year of compliance with amended standards (2019–2048). The energy savings, emissions reductions, and value of emissions reductions refer to full-fuel-cycle results.

TABLE V.44—SUMMARY OF ANALYTICAL RESULTS FOR BEVERAGE VENDING MACHINES: NATIONAL IMPACTS

Category	TSL 1	TSL 2	TSL 3	TSL 4	TSL 5
National FFC Energy Savings (*quads*).	0.01	0.06	0.14	0.22	0.30
NPV of Customer Benefits (2014$ billion)					
3% Discount Rate	0.03	0.29	0.67	1.10	0.53
7% Discount Rate	0.01	0.11	0.26	0.42	0.08
Cumulative Emissions Reduction (Total FFC Emissions)*					
CO_2 (*MMt*)	0.38	3.55	8.45	13.04	17.37
NO_X (*kt*)	0.58	5.37	12.80	19.73	26.30
Hg (*t*)	0.00	0.01	0.02	0.03	0.04
N_2O (*kt*)	0.01	0.05	0.12	0.18	0.24
N_2O(*kt* CO_{2eq})	1.38	12.85	30.61	47.20	62.92
CH_4 (*kt*)	1.77	16.44	39.15	60.37	80.49
CH_4 (*kt* CO_2)*eq*	49.59	460.33	1,096.12	1,690.37	2,253.81
SO_2 (*kt*)	0.31	2.87	6.83	10.53	14.02
Value of Cumulative Emissions Reduction (Total FFC Emissions)					
CO_2 (2014$ million)**	2.5 to 35.8	23.1 to 332.1	55.0 to 790.9	84.9 to 1,219.6	113.0 to 1,624.1
NO_X—3% Discount Rate (*2014$ million*).	0.7	6.7	16.1	24.8	33.0
NO_X—7% Discount Rate (*2014$ million*).	0.3	2.8	6.7	10.3	13.7

* MMT is million metric ton. kt is thousand tons. t is ton. CO_2eq is the quantity of CO_2 that would have the same global warming potential (GWP).
** Range of the economic value of CO_2 reductions is based on estimates of the global benefit of reduced CO_2 emissions.

TABLE V.45—NPV OF CUSTOMER BENEFITS BY EQUIPMENT CLASS

Equipment class	Discount rate (%)	Trial standard level (billion 2014$)				
		1	2	3	4	5
Class A	3	0.000	0.149	0.203	0.249	*(0.005)
	7	0.000	0.058	0.076	0.090	(0.069)
Class B	3	0.018	0.066	0.224	0.395	0.229
	7	0.007	0.026	0.088	0.149	0.053
Combination A	3	0.010	0.050	0.149	0.260	0.166
	7	0.004	0.020	0.059	0.101	0.050
Combination B	3	0.004	0.025	0.097	0.196	0.142
	7	0.002	0.010	0.039	0.077	0.047
Total—All Classes	3	0.032	0.290	0.673	1.100	0.532
	7	0.013	0.113	0.261	0.417	0.081

* Parentheses indicate negative values.

TABLE V.46—SUMMARY OF ANALYTICAL RESULTS FOR BEVERAGE VENDING MACHINES: MANUFACTURER AND CUSTOMER IMPACTS

	TSL 1	TSL 2	TSL 3	TSL 4	TSL 5
Manufacturer Impacts					
Industry NPV relative to a case without standards value of 62.7 (*million 2014$*).	62.7 to 62.7	62.5 to 62.8	61.7 to 63.1	59.2 to 62.9	50.7 to 73.8.

TABLE V.46—SUMMARY OF ANALYTICAL RESULTS FOR BEVERAGE VENDING MACHINES: MANUFACTURER AND CUSTOMER IMPACTS—Continued

	TSL 1	TSL 2	TSL 3	TSL 4	TSL 5
Industry NPV (*% Change*)	−0.05% to −0.02%.	−0.38% to 0.10%	−1.66% to 0.53%	−5.65% to 0.24%	−19.23% to 17.64%.
Customer Mean LCC Savings (2014$)					
Class A CO_2	0	132	160	173	(314)*.
Class A Propane	0	136	201	265	39.
Class B CO_2	0	34	292	534	31.
Class B Propane	16	179	495	838	505.
Combination A CO_2	53	269	793	1,344	616.
Combination A Propane	55	272	801	1,405	797.
Combination B CO_2	21	127	539	1,098	516.
Combination B Propane	28	168	586	1,153	953.
Customer Simple PBP (years)					
Class A CO_2	0.6	1.1	2.4	3.6	14.1.
Class A Propane	0.4	0.8	1.0	1.1	8.3.
Class B CO_2	0.5	0.5	0.6	2.3	7.2.
Class B Propane	0.3	0.4	0.5	1.3	5.0.
Combination A CO_2	0.2	0.2	0.4	1.4	6.3.
Combination A Propane	0.1	0.1	0.3	1.1	5.3.
Combination B CO_2	0.1	0.1	0.2	0.6	5.6.
Combination B Propane	0.1	0.1	0.1	0.5	2.9.
Distribution of Customer LCC Impacts					
Class A CO_2:					
Net Cost (%)	0	0	0	1	93.
Class A Propane:					
Net Cost (%)	0	0	0	0	47.
Class B CO_2:					
Net Cost (%)	0	0	0	0	51.
Class B Propane:					
Net Cost (%)	0	0	0	0	51.
Combination A CO_2:					
Net Cost (%)	0	0	0	0	10.
Combination A Propane:					
Net Cost (%)	0	0	0	0	3.
Combination B CO_2:					
Net Cost (%)	0	0	0	0	7.
Combination B Propane:					
Net Cost (%)	0	0	0	0	0.

* Parentheses indicate negative values.

DOE also notes that the economics literature provides a wide-ranging discussion of how customers trade-off upfront costs and energy savings in the absence of government intervention. Much of this literature attempts to explain why customers appear to undervalue energy efficiency improvements. There is evidence that customers undervalue future energy savings as a result of: (1) A lack of information; (2) a lack of sufficient salience of the long-term or aggregate benefits; (3) a lack of sufficient savings to warrant delaying or altering purchases (*e.g.,* an inefficient ventilation fan in a new building or the delayed replacement of a water pump); (4) excessive focus on the short term, in the form of inconsistent weighting of future energy cost savings relative to available returns on other investments; (5) computational or other difficulties associated with the evaluation of relevant tradeoffs; and (6) a divergence in incentives (*e.g.,* renter versus building owner, builder versus home buyer). Other literature indicates that with less than perfect foresight and a high degree of uncertainty about the future, customers may trade off these types of investments at a higher-than-expected rate between current consumption and uncertain future energy cost savings. This undervaluation suggests that regulation that promotes energy efficiency can produce significant net private gains (as well as producing social gains by, for example, reducing pollution).

While DOE is not prepared at present to provide a fuller quantifiable framework for estimating the benefits and costs of changes in customer purchase decisions due to an amended energy conservation standard, DOE is committed to developing a framework that can support empirical quantitative tools for improved assessment of the customer welfare impacts of appliance standards. DOE posted a paper that discusses the issue of customer welfare impacts of appliance energy efficiency standards, and potential enhancements to the methodology by which these impacts are defined and estimated in the regulatory process.[69] DOE welcomes comments on how to more fully assess

[69] Sanstad, A. *Notes on the Economics of Household Energy Consumption and Technology Choice.* 2010. Lawrence Berkeley National Laboratory, Berkeley, CA. *www1.eere.energy.gov/buildings/appliance_standards/pdfs/consumer_ee_theory.pdf.*

the potential impact of energy conservation standards on customer choice and methods to quantify

TSL 5 corresponds to the max-tech level for all the equipment classes and offers the potential for the highest cumulative energy savings through the analysis period from 2019 to 2048. The estimated energy savings from TSL 5 are 0.30 quads of energy. TSL 5 has an estimated NPV of customer benefit of $0.081 billion using a 7-percent discount rate, and $0.53 billion using a 3-percent discount rate.

The cumulative emissions reductions at TSL 5 are 17.4 million metric tons of CO_2, 14.0 thousand tons of SO_2, 26.3 thousand tons of NO_X, 0.04 tons of Hg, 80.5 thousand tons of CH_4, and 0.2 thousand tons of N_2O. The estimated monetary value of the CO_2 emissions reductions at TSL 5 ranges from $113 million to $1,624 million.

At TSL 5, the average LCC savings range from a negative $314 to a positive $797, depending on equipment class. The fraction of customers incurring a net cost range from 0 percent for Combination B machines with propane refrigerant to 93 percent for Class A machines with CO_2 refrigerant.

At TSL 5, the projected change in INPV ranges from a decrease of $12.1 million to an increase of $11.1 million. If the lower bound of the range of impacts is reached, TSL 5 could result in a net loss of up to 19.2 percent in INPV for manufacturers.

Accordingly, the Secretary tentatively concludes that at TSL 5 for beverage vending machines, the benefits of energy savings, emission reductions, and the estimated monetary value of the CO_2 emissions reductions would be outweighed by the negative LCC savings and the negative INPV on manufacturers. Consequently, DOE has tentatively concluded that TSL 5 is not economically justified.

Next DOE considered TSL 4, which saves an estimated total of 0.22 quads of energy, an amount DOE considers significant. TSL 4 has an estimated NPV of customer benefit of $0.42 billion using a 7-percent discount rate, and $1.1 billion using a 3-percent discount rate.

The cumulative emissions reductions at TSL 4 are 13.0 million metric tons of CO_2, 10.5 thousand tons of SO_2, 19.7 thousand tons of NO_X, 0.03 tons of Hg, 60.3 thousand tons of CH_4, and 0.2 thousand tons of N_2O. The estimated monetary value of the CO_2 emissions reductions at TSL 5 ranges from $85 million to $1,220 million.

At TSL 4, the average LCC savings ranges from $173 to $1,405, depending on equipment class. The fraction of customers incurring a net cost range from 0 percent for all equipment classes except 1 percent for Class A equipment with CO_2 refrigerant.

At TSL 4, the projected change in INPV ranges from a decrease of $3.5 million to an increase of $0.2 million. At TSL 4, DOE recognizes the risk of negative impacts if manufacturers' expectations concerning reduced profit margins are realized. If the lower bound of the range of impacts is reached, as DOE expects, TSL 4 could result in a net loss of up to 5.7 percent in INPV for manufacturers.

After carefully considering the analysis results and weighing the benefits and burdens of TSL 4, DOE believes that setting the standards for beverage vending machines at TSL 4 represents the maximum improvement in energy efficiency that is technologically feasible and economically justified. TSL 4 is technologically feasible because the technologies required to achieve these levels already exist in the current market and are available from multiple manufacturers. TSL 4 is economically justified because the benefits to the nation in the form of energy savings, customer NPV at 3 percent and at 7 percent, and emissions reductions outweigh the costs associated with reduced INPV and potential effects of reduced manufacturing capacity.

Therefore, DOE proposes the adoption of amended energy conservation standards for beverage vending machines at TSL 4 as indicated in Table V.47.

TABLE V.47—PROPOSED ENERGY CONSERVATION STANDARDS FOR BEVERAGE VENDING MACHINES

Equipment class *	Proposed energy conservation standards ** maximum daily energy consumption (MDEC) kWh/day †
A	0.041 × V + 1.920 ‡
B	0.033 × V + 1.422 ‡
Combination A	0.044 × V + 1.645 ‡
Combination B	0.044 × V + 1.361 ‡

* See section IV.A.1 of the NOPR for a discussion of equipment classes.

** "V" is the representative value of refrigerated volume (ft^3) of the BVM model, as measured in accordance with the method for determining refrigerated volume adopted in the recently amended DOE test procedure for beverage vending machines and appropriate sampling plan requirements. 80 FR 45758 (July 31, 2015). See section III.B and V.A for more details.

† kilowatt hours per day.

‡ Trial Standard Level (TSL) 4.

VI. Procedural Issues and Regulatory Review

A. Review Under Executive Orders 12866 and 13563

Section 1(b)(1) of Executive Order 12866, "Regulatory Planning and Review," 58 FR 51735 (October 4, 1993), requires each agency to identify the problem that it intends to address, including, where applicable, the failures of private markets or public institutions that warrant new agency action, as well as to assess the significance of that problem. The problems that these proposed standards address are as follows:

(1) Insufficient information and the high costs of gathering and analyzing relevant information lead some customers to miss opportunities to make cost-effective investments in energy efficiency.

(2) In some cases the benefits of more efficient equipment are not realized due to misaligned incentives between purchasers and users. An example of such a case is when the equipment purchase decision is made by a building contractor or building owner who does not pay the energy costs.

(3) There are external benefits resulting from improved energy efficiency of beverage vending machines that are not captured by the users of such equipment. These benefits include externalities related to public health, environmental protection, and national security that are not reflected in energy prices, such as reduced emissions of air pollutants and greenhouse gases that impact human health and global warming. DOE attempts to quantify some of the external benefits through use of social cost of carbon values.

In addition, DOE determined that this regulatory action is a "significant regulatory action" under Executive Order 12866. DOE presented to the Office of Information and Regulatory Affairs (OIRA) in the OMB for review the draft rule and other documents prepared for this rulemaking, including a regulatory impact analysis (RIA), and has included these documents in the rulemaking record. The assessments prepared pursuant to Executive Order 12866 can be found in the technical support document for this rulemaking.

DOE also reviewed this regulation pursuant to Executive Order 13563, issued on January 18, 2011. 76 FR 3281 (January 21, 2011). Executive Order 13563 is supplemental to and explicitly reaffirms the principles, structures, and definitions governing regulatory review established in Executive Order 12866. To the extent permitted by law, agencies are required by Executive Order 13563

to: (1) Propose or adopt a regulation only upon a reasoned determination that its benefits justify its costs (recognizing that some benefits and costs are difficult to quantify); (2) tailor regulations to impose the least burden on society, consistent with obtaining regulatory objectives, taking into account, among other things, and to the extent practicable, the costs of cumulative regulations; (3) select, in choosing among alternative regulatory approaches, those approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity); (4) to the extent feasible, specify performance objectives, rather than specifying the behavior or manner of compliance that regulated entities must adopt; and (5) identify and assess available alternatives to direct regulation, including providing economic incentives to encourage the desired behavior, such as user fees or marketable permits, or providing information upon which choices can be made by the public.

DOE emphasizes as well that Executive Order 13563 requires agencies to use the best available techniques to quantify anticipated present and future benefits and costs as accurately as possible. In its guidance, the Office of Information and Regulatory Affairs has emphasized that such techniques may include identifying changing future compliance costs that might result from technological innovation or anticipated behavioral changes. For the reasons stated in the preamble, DOE believes that this NOPR is consistent with these principles, including the requirement that, to the extent permitted by law, benefits justify costs and that net benefits are maximized.

B. Review Under the Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) requires preparation of an initial regulatory flexibility analysis (IRFA) for any rule that by law must be proposed for public comment, unless the agency certifies that the rule, if promulgated, will not have a significant economic impact on a substantial number of small entities. As required by Executive Order 13272, ''Proper Consideration of Small Entities in Agency Rulemaking,'' 67 FR 53461 (August 16, 2002), DOE published procedures and policies on February 19, 2003, to ensure that the potential impacts of its rules on small entities are properly considered during the rulemaking process. 68 FR 7990. DOE has made its procedures and policies available on the Office of the General Counsel's Web site (*www.energy.gov/gc/office-general-counsel*). DOE has prepared the following IRFA for the products that are the subject of this rulemaking.

For the manufacturers of BVM equipment, the SBA set a size threshold, which defines those entities classified as ''small businesses'' for the purposes of the statute. DOE used the SBA's small business size standards to determine whether any small entities would be subject to the requirements of the rule. 65 FR 30836, 30848 (May 15, 2000), as amended at 65 FR 53533, 53544 (September 5, 2000) and codified at 13 CFR part 121. The size standards are listed by NAICS code and industry description and are available at *http://www.sba.gov/content/table-small-business-size-standards.* BVM equipment manufacturing is classified under NAICS 333318, ''Other Commercial and Service Industry Machinery 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.

1. Description and Estimated Number of Small Entities Regulated

During its market survey, DOE used available public information to identify potential small manufacturers. DOE's research involved public databases (*e.g.,* DOE's Compliance Certification Management System (CCMS),[70] and ENERGY STAR[71] databases), individual company Web sites, and market research tools (*e.g.,* Hoovers reports[72]) to create a list of companies that manufacture or sell products covered by this rulemaking. DOE also asked stakeholders and industry representatives during manufacturer interviews and at DOE public meetings if they were aware of any other small manufacturers. DOE reviewed publicly available data and contacted select companies on its list, as necessary, to determine whether they met the SBA's definition of a small business manufacturer of covered BVM equipment. DOE screened out companies that do not offer products covered by this rulemaking, do not meet the definition of a ''small business,'' or are foreign-owned.

DOE identified eight companies selling BVM equipment products in the United States. Four are small domestic manufacturers and one is a small foreign manufacturer with domestic-sited subsidiary that serves as its marketing arm in the United States. DOE contacted all identified BVM manufacturers for interviews. Ultimately, DOE interviewed manufacturers representing approximately 78 percent of BVM equipment industry shipments and approximately 50 percent of the small business shipments.

2. Description and Estimate of Compliance Requirements

The four small domestic BVM manufacturers account for approximately 15–20 percent of BVM equipment shipments. The small domestic manufacturers are Automated Merchandising Systems, Multi-Max Systems, Seaga Manufacturing, and Wittern.

In general, the small manufacturers focus on the Combination A and Combination B market segments. Together, the four domestic and one foreign small manufacturer account for 74 percent of Combination A and Combination B sales. Based on the shipments analysis, Combination A and Combination B shipments account for roughly 18 percent of the total BVM market.

The remaining 82 percent of BVM shipments are Class A and Class B units. Small business manufacturers (including the one foreign small manufacturer) account for approximately 5 percent of the market for each of the Class A and Class B market segments. The remaining 95 percent of both Class A and Class B market segments are held by the three large manufacturers: Crane, Royal, and SVA.

DOE derived industry conversion using a top-down approach described in methodology section IV.I.2.a. Using product platform counts by equipment type (*i.e.,* Class A, Class B, Combo A, Combo B) and manufacturer, DOE estimated the distribution of industry conversion costs between small manufacturers and large manufacturers. Using its count of manufacturers, DOE calculated capital conversion costs (Table VI.1) and product conversion costs (Table VI.2) for an average small manufacturer versus an average large manufacturer. To provide context on the size of the conversion costs relative to the size of the businesses, DOE presents the conversion costs relative to annual revenue and annual operating profit under the proposed standard level, as shown in Table VI.3. The current annual revenue and annual operating profit estimates are derived from the GRIM's industry revenue calculations and the

[70] ''CCMS.'' CCMS. *http://www.regulations.doe.gov/certification-data/.*

[71] ENERGY STAR Certified Vending Machines. June 6, 2013. *http://www.energystar.gov/products/certified-products.*

[72] Hoovers. *http://www.hoovers.com/.*

market share breakdowns of small versus large manufacturers.

TABLE VI.1—COMPARISON OF TYPICAL SMALL AND LARGE MANUFACTURER'S CAPITAL CONVERSION COSTS *

Trial standard level	Capital conversion costs for typical small manufacturer (2014$ millions)	Capital conversion costs for typical large manufacturer (2014$ millions)
TSL 1	0.00	0.00
TSL 2	0.00	0.00
TSL 3	0.02	0.02
TSL 4	0.07	0.27
TSL 5	0.32	0.52

* Capital conversion costs are the capital investments made during the 3-year period between the publication of the final rule and the compliance year of the proposed standard.

TABLE VI.2—COMPARISON OF TYPICAL SMALL AND LARGE MANUFACTURER'S PRODUCT CONVERSION COSTS *

Trial standard level	Product conversion costs for typical small manufacturer (2014$ millions)	Product conversion costs for typical large manufacturer (2014$ millions)
TSL 1	0.00	0.01
TSL 2	0.02	0.04
TSL 3	0.10	0.10
TSL 4	0.14	0.30
TSL 5	0.35	0.53

* Product conversion costs are the R&D and other product development investments made during the 3-year period between the publication of the final rule and the compliance year of the proposed standard.

TABLE VI.3—COMPARISON OF CONVERSION COSTS FOR AN AVERAGE SMALL AND AN AVERAGE LARGE MANUFACTURER AT TSL 4

	Capital conversion cost (2014$ millions)	Product conversion cost (2014$ millions)	Conversion costs/ annual revenue (%)	Conversion costs/ annual operating profit (%)	Conversion costs/ conversion period revenue * (%)	Conversion costs/ conversion period operating profit * (%)
Small Manufacturer	0.07	0.14	7	119	2	40
Large Manufacturer	0.27	0.30	2	40	1	13

* The conversion period, the time between the final rule publication year and the compliance year for this rulemaking, is 3 years.

At the proposed level, DOE estimates total conversion costs associated with new and amended energy conservation standards for an average small manufacturer to be $217,000, which is approximately 7 percent of annual revenue and 119 percent of annual operating profit. This suggests that an average small manufacturer would need to reinvest roughly 40 percent of its operating profit per year over the conversion period to comply with standards.

The total conversion costs associated with new and amended energy conservation standards for an average large manufacturer is $571,000, which is approximately 2 percent of annual revenue and 40 percent of annual operating profit. This suggests that an average large manufacturer would need to reinvest roughly 13 percent of its operating profit per year over the 3-year conversion period.

Product conversion costs, which include one-time investments such as product redesigns and industry certification, are a key driver of conversion investments to comply with standards. Product conversion costs tend to be fixed and do not scale with sales volume. For each equipment platform, small businesses must make redesign investments that are similar to their large competitors. However, because small manufacturers' costs are spread over a lower volume of units, it takes longer for small manufacturers to recover their investments. Similarly, capital conversion costs are spread across a lower volume of shipments for small business manufacturers.

DOE requests comment regarding any potential impacts on small business manufacturers from the proposed standards. In particular, DOE seeks further information and data regarding the sales volume and annual revenues for small businesses so the agency can be better informed about the potential impacts to small business manufacturers of the proposed energy conservation standards. DOE will consider any such additional information when formulating and selecting TSLs for the final rule (section VII.E of this NOPR).

3. Significant Alternatives to the Rule

The preceding discussion analyzes impacts on small businesses that would result from DOE's proposed rule. In addition to the other TSLs being considered, the proposed rulemaking TSD includes a regulatory impact analysis (RIA). For beverage vending machines, the RIA discusses the following policy alternatives: (1) No change in standard; (2) customer

rebates; (3) customer tax credits; (4) manufacturer tax credits; (5) voluntary energy efficiency targets; (6) early replacement; and (7) bulk government purchases. While these alternatives may mitigate to some varying extent the economic impacts on small entities compared to the standards, DOE did not consider these alternatives further because they are either not feasible to implement without authority and funding from Congress, or they are expected to result in energy savings that are much smaller than those that will be achieved by the new and amended standard levels. Voluntary programs at these levels achieve only a fraction of the savings achieved by standards and would provide even lower savings benefits which would be inconsistent with DOE's statutory mandate to maximize the improvement in energy efficiency that the Secretary determines is technologically feasible and economically justified.

DOE also examined standards at lower efficiency levels, TSL 3, TSL 2 and TSL 1. TSL 3 achieves approximately 40 percent lower savings than TSL 4, TSL 2 achieves 80 percent lower savings than TSL 4 and TSL 1 achieves 99 percent less savings of TSL 4. Additionally, DOE considered standards at higher efficiency levels, corresponding to TSL 5. TSL 5 achieves approximately 44 percent higher savings than TSL 4. However. DOE rejected this TSL due to the negative NPV results. Furthermore, the estimated conversion costs for small business manufacturers are higher at TSL 5 than at TSL 4. To comply with TSL 5, the average small manufacturer must make $570,000 in conversion cost investments, which $370,000 more than at TSL 4. (See chapter 17 of the NOPR TSD for further detail on the policy alternatives DOE considered.)

Additional compliance flexibilities may be available through other means. For example, individual manufacturers may petition for a waiver of the applicable test procedure. Further, EPCA provides that a manufacturer whose annual gross revenue from all of its operations does not exceed $8,000,000 may apply for an exemption from all or part of an energy conservation standard for a period not longer than 24 months after the compliance date of a final rule establishing the standard. (42 U.S.C. 6295(t)) Additionally, Section 504 of the Department of Energy Organization Act, 42 U.S.C. 7194, provides authority for the Secretary to adjust a rule issued under EPCA in order to prevent ''special hardship, inequity, or unfair distribution of burdens'' that may be imposed on that manufacturer as a result of such rule. Manufacturers should refer to 10 CFR part 430, subpart E, and part 1003 for additional details.

C. Review Under the Paperwork Reduction Act of 1995

Manufacturers of beverage vending machines must certify to DOE that their products comply with any applicable energy conservation standards. In certifying compliance, manufacturers must test their equipment according to the applicable DOE test procedures for beverage vending machines, including any amendments adopted for those test procedures on the date that compliance is required. DOE has established regulations for the certification and recordkeeping requirements for all covered customer products and commercial equipment, including beverage vending machines. 76 FR 12422 (March 7, 2011). The collection-of-information requirement for the certification and recordkeeping is subject to review and approval by OMB under the Paperwork Reduction Act (PRA). This requirement has been approved by OMB under OMB Control Number 1910–1400. 80 FR 5099 (January 30, 2015). The public reporting burden for the certification is estimated to average 30 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

Notwithstanding any other provision of the law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with, a collection of information subject to the requirements of the PRA, unless that collection of information displays a currently valid OMB Control Number.

D. Review Under the National Environmental Policy Act of 1969

Pursuant to the National Environmental Policy Act (NEPA) of 1969, DOE has determined that the proposed rule fits within the category of actions included in Categorical Exclusion (CX) B5.1 and otherwise meets the requirements for application of a CX. See 10 CFR part 1021, appendix B, B5.1(b); 1021.410(b) and appendix B, B(1)–(5). The proposed rule fits within the category of actions because it is a rulemaking that establishes energy conservation standards for customer products or industrial equipment, and for which none of the exceptions identified in CX B5.1(b) apply. Therefore, DOE has made a CX determination for this rulemaking, and DOE does not need to prepare an Environmental Assessment or Environmental Impact Statement for this proposed rule. DOE's CX determination for this proposed rule is available at *http://cxnepa.energy.gov/*.

E. Review Under Executive Order 13132

Executive Order 13132, ''Federalism,'' imposes certain requirements on Federal agencies formulating and implementing policies or regulations that preempt State law or that have Federalism implications. 64 FR 43255 (August 10, 1999). The Executive Order requires agencies to examine the constitutional and statutory authority supporting any action that would limit the policymaking discretion of the States and to carefully assess the necessity for such actions. The Executive Order also requires agencies to have an accountable process to ensure meaningful and timely input by State and local officials in the development of regulatory policies that have Federalism implications. On March 14, 2000, DOE published a statement of policy describing the intergovernmental consultation process that it will follow in the development of such regulations. 65 FR 13735. DOE has examined this proposed rule and has tentatively determined that it would not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. EPCA governs and prescribes Federal preemption of State regulations as to energy conservation for the products that are the subject of this proposed rule. States can petition DOE for exemption from such preemption to the extent, and based on criteria, set forth in EPCA (42 U.S.C. 6297(d)). Therefore, Executive Order 13132 requires no further action.

F. Review Under Executive Order 12988

With respect to the review of existing regulations and the promulgation of new regulations, section 3(a) of Executive Order 12988, ''Civil Justice Reform,'' imposes on Federal agencies the general duty to adhere to the following requirements: (1) Eliminate drafting errors and ambiguity; (2) write regulations to minimize litigation; (3) provide a clear legal standard for affected conduct rather than a general standard; and (4) promote simplification and burden reduction. 61 FR 4729 (February 7, 1996). Section 3(b) of Executive Order 12988 specifically requires that Executive agencies make every reasonable effort to ensure that the regulation: (1) Clearly specifies the preemptive effect, if any; (2) clearly

specifies any effect on existing Federal law or regulation; (3) provides a clear legal standard for affected conduct while promoting simplification and burden reduction; (4) specifies the retroactive effect, if any; (5) adequately defines key terms; and (6) addresses other important issues affecting clarity and general draftsmanship under any guidelines issued by the Attorney General. Section 3(c) of Executive Order 12988 requires Executive agencies to review regulations in light of applicable standards in section 3(a) and section 3(b) to determine whether they are met or it is unreasonable to meet one or more of them. DOE has completed the required review and tentatively determined that, to the extent permitted by law, this proposed rule meets the relevant standards of Executive Order 12988.

G. Review Under the Unfunded Mandates Reform Act of 1995

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) requires each Federal agency to assess the effects of Federal regulatory actions on State, local, and Tribal governments and the private sector. Public Law 104–4, sec. 201 (codified at 2 U.S.C. 1531). For a proposed regulatory action likely to result in a rule that may cause the expenditure by State, local, and Tribal governments, in the aggregate, or by the private sector, of $100 million or more in any one year (adjusted annually for inflation), section 202 of UMRA requires a Federal agency to publish a written statement that estimates the resulting costs, benefits, and other effects on the national economy. (2 U.S.C. 1532(a), (b)) The UMRA also requires a Federal agency to develop an effective process to permit timely input by elected officers of State, local, and Tribal governments on a proposed ''significant intergovernmental mandate,'' and requires an agency plan for giving notice and opportunity for timely input to potentially affected small governments before establishing any requirements that might significantly or uniquely affect them. On March 18, 1997, DOE published a statement of policy on its process for intergovernmental consultation under UMRA. 62 FR 12820. DOE's policy statement is also available at *www.energy.gov/gc/office-general-counsel.*

Although this proposed rule, which proposes new and amended energy conservation standards for beverage vending machines, does not contain a Federal intergovernmental mandate, it may require annual expenditures of $100 million or more by the private sector. Specifically, the proposed rule would likely result in a final rule that could require expenditures of $100 million or more, including: (1) Investment in research and development and in capital expenditures by BVM manufacturers in the years between the final rule and the compliance date for the amended standards; and (2) incremental additional expenditures by customers to purchase higher-efficiency beverage vending machines, starting at the compliance date for the applicable standard.

Section 202 of UMRA authorizes a Federal agency to respond to the content requirements of UMRA in any other statement or analysis that accompanies the proposed rule. 2 U.S.C. 1532(c). The content requirements of section 202(b) of UMRA relevant to a private sector mandate substantially overlap the economic analysis requirements that apply under section 325(o) of EPCA and Executive Order 12866. The analyses described throughout the Preamble section of the NOPR and the ''Regulatory Impact Analysis'' section of the TSD for this proposed rule respond to those requirements.

Under section 205 of UMRA, the Department is obligated to identify and consider a reasonable number of regulatory alternatives before promulgating a rule for which a written statement under section 202 is required. 2 U.S.C. 1535(a). DOE is required to select from those alternatives the most cost-effective and least burdensome alternative that achieves the objectives of the proposed rule unless DOE publishes an explanation for doing otherwise, or the selection of such an alternative is inconsistent with law. As required by 42 U.S.C. 6295(o) and (v), this proposed rule would establish new and amended energy conservation standards for beverage vending machines that are designed to achieve the maximum improvement in energy efficiency that DOE has determined to be both technologically feasible and economically justified. A full discussion of the alternatives considered by DOE is presented in the ''Regulatory Impact Analysis'' section of the TSD for this proposed rule.

H. Review Under the Treasury and General Government Appropriations Act, 1999

Section 654 of the Treasury and General Government Appropriations Act, 1999 (Pub. L. 105–277) requires Federal agencies to issue a Family Policymaking Assessment for any rule that may affect family well-being. This proposed rule would not have any impact on the autonomy or integrity of the family as an institution. Accordingly, DOE has concluded that it is not necessary to prepare a Family Policymaking Assessment.

I. Review Under Executive Order 12630

Pursuant to Executive Order 12630, ''Governmental Actions and Interference with Constitutionally Protected Property Rights,'' 53 FR 8859 (March 15, 1988), DOE has determined that this proposed rule would not result in any takings that might require compensation under the Fifth Amendment to the U.S. Constitution.

J. Review Under the Treasury and General Government Appropriations Act, 2001

Section 515 of the Treasury and General Government Appropriations Act, 2001 (44 U.S.C. 3516 note) provides for Federal agencies to review most disseminations of information to the public under information quality guidelines established by each agency pursuant to general guidelines issued by OMB. OMB's guidelines were published at 67 FR 8452 (February 22, 2002), and DOE's guidelines were published at 67 FR 62446 (October 7, 2002). DOE has reviewed this NOPR under the OMB and DOE guidelines and has concluded that it is consistent with applicable policies in those guidelines.

K. Review Under Executive Order 13211

Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use,'' 66 FR 28355 (May 22, 2001), requires Federal agencies to prepare and submit to OIRA at OMB, a Statement of Energy Effects for any proposed significant energy action. A ''significant energy action'' is defined as any action by an agency that promulgates or is expected to lead to promulgation of a final rule, and that: (1) Is a significant regulatory action under Executive Order 12866, or any successor order; and (2) is likely to have a significant adverse effect on the supply, distribution, or use of energy; or (3) is designated by the Administrator of OIRA as a significant energy action. For any proposed significant energy action, the agency must give a detailed statement of any adverse effects on energy supply, distribution, or use should the proposal be implemented, and of reasonable alternatives to the action and their expected benefits on energy supply, distribution, and use.

DOE has tentatively concluded that this regulatory action, which sets forth proposed energy conservation standards for beverage vending machines, is not a significant energy action because the

proposed standards are not likely to have a significant adverse effect on the supply, distribution, or use of energy, nor has it been designated as such by the Administrator at OIRA. Accordingly, DOE has not prepared a Statement of Energy Effects on this proposed rule.

L. Review Under the Information Quality Bulletin for Peer Review

On December 16, 2004, OMB, in consultation with the Office of Science and Technology Policy (OSTP), issued its Final Information Quality Bulletin for Peer Review (the Bulletin). 70 FR 2664 (January 14, 2005). The Bulletin establishes that certain scientific information shall be peer reviewed by qualified specialists before it is disseminated by the Federal Government, including influential scientific information related to agency regulatory actions. The purpose of the bulletin is to enhance the quality and credibility of the Government's scientific information. Under the Bulletin, the energy conservation standards rulemaking analyses are ''influential scientific information,'' which the Bulletin defines as ''scientific information the agency reasonably can determine will have or does have a clear and substantial impact on important public policies or private sector decisions.'' *Id.* at 2667.

In response to OMB's Bulletin, DOE conducted formal in-progress peer reviews of the energy conservation standards development process and analyses and has prepared a Peer Review Report pertaining to the energy conservation standards rulemaking analyses. Generation of this report involved a rigorous, formal, and documented evaluation using objective criteria and qualified and independent reviewers to make a judgment as to the technical/scientific/business merit, the actual or anticipated results, and the productivity and management effectiveness of programs and/or projects. The ''Energy Conservation Standards Rulemaking Peer Review Report'' dated February 2007 has been disseminated and is available at the following Web site: *www1.eere.energy.gov/buildings/appliance_standards/peer_review.html.*

VII. Public Participation

A. Attendance at the Public Meeting

The time, date, and location of the public meeting are listed in the **DATES** and **ADDRESSES** sections at the beginning of this NOPR. If you plan to attend the public meeting, please notify Ms. Brenda Edwards at (202) 586–2945 or *Brenda.Edwards@ee.doe.gov.*

Please note that foreign nationals visiting DOE Headquarters are subject to advance security screening procedures that require advance notice prior to attendance at the public meeting. Any foreign national wishing to participate in the meeting should advise DOE as soon as possible by contacting *regina.washington@ee.doe.gov* to initiate the necessary procedures.

DOE requires visitors to have laptops and other devices, such as tablets, checked upon entry into the building. Any person wishing to bring these devices into the Forrestal Building will be required to obtain a property pass. Visitors should avoid bringing these devices, or allow an extra 45 minutes to check in. Please report to the visitor's desk to have devices checked before proceeding through security.

Due to the REAL ID Act implemented by the Department of Homeland Security (DHS), there have been recent changes regarding ID requirements for individuals wishing to enter Federal buildings from specific states and U.S. territories. Driver's licenses from the following states or territory will not be accepted for building entry and one of the alternate forms of ID listed below will be required. DHS has determined that regular driver's licenses (and ID cards) from the following jurisdictions are not acceptable for entry into DOE facilities: Alaska, American Samoa, Arizona, Louisiana, Maine, Massachusetts, Minnesota, New York, Oklahoma, and Washington. Acceptable alternate forms of Photo-ID include: U.S. Passport or Passport Card; an Enhanced Driver's License or Enhanced ID-Card issued by the states of Minnesota, New York or Washington (Enhanced licenses issued by these states are clearly marked Enhanced or Enhanced Driver's License); a military ID or other Federal government issued Photo-ID card.

In addition, you can attend the public meeting via webinar. Webinar registration information, participant instructions, and information about the capabilities available to webinar participants will be published on DOE's Web site at: *http://www1.eere.energy.gov/buildings/appliance_standards/product.aspx/productid/24.* Participants are responsible for ensuring their systems are compatible with the webinar software.

B. Procedure for Submitting Requests To Speak and Prepared General Statements for Distribution

Any person who has an interest in the topics addressed in this NOPR, or who is a representative of a group or class of persons that has an interest in these issues, may request an opportunity to make an oral presentation at the public meeting. Such persons may hand-deliver requests to speak to the address shown in the **ADDRESSES** section at the beginning of this NOPR between 9:00 a.m. and 4:00 p.m., Monday through Friday, except Federal holidays. Requests may also be sent by mail or email to: Ms. Brenda Edwards, U.S. Department of Energy, Building Technologies Program, Mailstop EE–2J, 1000 Independence Avenue SW., Washington, DC 20585–0121, or *Brenda.Edwards@ee.doe.gov.* Persons who wish to speak should include with their request a computer diskette or CD–ROM in WordPerfect, Microsoft Word, PDF, or text (ASCII) file format that briefly describes the nature of their interest in this rulemaking and the topics they wish to discuss. Such persons should also provide a daytime telephone number where they can be reached.

DOE requests persons scheduled to make an oral presentation to submit an advance copy of their statements at least one week before the public meeting. DOE may permit persons who cannot supply an advance copy of their statement to participate, if those persons have made advance alternative arrangements with the Building Technologies Program. As necessary, requests to give an oral presentation should ask for such alternative arrangements.

C. Conduct of the Public Meeting

DOE will designate a DOE official to preside at the public meeting and may also use a professional facilitator to aid discussion. The meeting will not be a judicial or evidentiary-type public hearing, but DOE will conduct it in accordance with section 336 of EPCA (42 U.S.C. 6306). A court reporter will be present to record the proceedings and prepare a transcript. DOE reserves the right to schedule the order of presentations and to establish the procedures governing the conduct of the public meeting. There shall not be discussion of proprietary information, costs or prices, market share, or other commercial matters regulated by U.S. anti-trust laws. After the public meeting, interested parties may submit further comments on the proceedings, as well as on any aspect of the rulemaking, until the end of the comment period.

The public meeting will be conducted in an informal, conference style. DOE will present summaries of comments received before the public meeting, allow time for prepared general statements by participants, and encourage all interested parties to share

their views on issues affecting this rulemaking. Each participant will be allowed to make a general statement (within time limits determined by DOE), before the discussion of specific topics. DOE will allow, as time permits, other participants to comment briefly on any general statements.

At the end of all prepared statements on a topic, DOE will permit participants to clarify their statements briefly and comment on statements made by others. Participants should be prepared to answer questions by DOE and by other participants concerning these issues. DOE representatives may also ask questions of participants concerning other matters relevant to this rulemaking. The official conducting the public meeting will accept additional comments or questions from those attending, as time permits. The presiding official will announce any further procedural rules or modification of the above procedures that may be needed for the proper conduct of the public meeting.

A transcript of the public meeting will be included in the docket, which can be viewed as described in the *Docket* section at the beginning of this NOPR and will be accessible on the DOE Web site. In addition, any person may buy a copy of the transcript from the transcribing reporter.

D. Submission of Comments

DOE will accept comments, data, and information regarding this proposed rule before or after the public meeting, but no later than the date provided in the **DATES** section at the beginning of this NOPR. Interested parties may submit comments, data, and other information using any of the methods described in the **ADDRESSES** section at the beginning of this NOPR.

Submitting comments via regulations.gov. The *www.regulations.gov* Web page will require you to provide your name and contact information. Your contact information will be viewable to DOE Building Technologies staff only. Your contact information will not be publicly viewable except for your first and last names, organization name (if any), and submitter representative name (if any). If your comment is not processed properly because of technical difficulties, DOE will use this information to contact you. If DOE cannot read your comment due to technical difficulties and cannot contact you for clarification, DOE may not be able to consider your comment.

However, your contact information will be publicly viewable if you include it in the comment itself or in any documents attached to your comment. Any information that you do not want to be publicly viewable should not be included in your comment, nor in any document attached to your comment. Otherwise, persons viewing comments will see only first and last names, organization names, correspondence containing comments, and any documents submitted with the comments.

Do not submit to *www.regulations.gov* information for which disclosure is restricted by statute, such as trade secrets and commercial or financial information (hereinafter referred to as Confidential Business Information (CBI)). Comments submitted through *www.regulations.gov* cannot be claimed as CBI. Comments received through the Web site will waive any CBI claims for the information submitted. For information on submitting CBI, see the Confidential Business Information section below.

DOE processes submissions made through *www.regulations.gov* before posting. Normally, comments will be posted within a few days of being submitted. However, if large volumes of comments are being processed simultaneously, your comment may not be viewable for up to several weeks. Please keep the comment tracking number that *www.regulations.gov* provides after you have successfully uploaded your comment.

Submitting comments via email, hand delivery/courier, or mail. Comments and documents submitted via email, hand delivery, or mail also will be posted to *www.regulations.gov.* If you do not want your personal contact information to be publicly viewable, do not include it in your comment or any accompanying documents. Instead, provide your contact information in a cover letter. Include your first and last names, email address, telephone number, and optional mailing address. The cover letter will not be publicly viewable as long as it does not include any comments.

Include contact information each time you submit comments, data, documents, and other information to DOE. If you submit via mail or hand delivery/courier, please provide all items on a CD, if feasible, in which case it is not necessary to submit printed copies. No telefacsimiles (faxes) will be accepted.

Comments, data, and other information submitted to DOE electronically should be provided in PDF (preferred), Microsoft Word or Excel, WordPerfect, or text (ASCII) file format. Provide documents that are not secured, that are written in English, and that are free of any defects or viruses. Documents should not contain special characters or any form of encryption and, if possible, they should carry the electronic signature of the author.

Campaign form letters. Please submit campaign form letters by the originating organization in batches of between 50 to 500 form letters per PDF or as one form letter with a list of supporters' names compiled into one or more PDFs. This reduces comment processing and posting time.

Confidential Business Information. Pursuant to 10 CFR 1004.11, any person submitting information that he or she believes to be confidential and exempt by law from public disclosure should submit via email, postal mail, or hand delivery/courier two well-marked copies: One copy of the document marked ''confidential'' including all the information believed to be confidential, and one copy of the document marked ''non-confidential'' with the information believed to be confidential deleted. Submit these documents via email or on a CD, if feasible. DOE will make its own determination about the confidential status of the information and treat it according to its determination.

Factors of interest to DOE when evaluating requests to treat submitted information as confidential include: (1) A description of the items; (2) whether and why such items are customarily treated as confidential within the industry; (3) whether the information is generally known by or available from other sources; (4) whether the information has previously been made available to others without obligation concerning its confidentiality; (5) an explanation of the competitive injury to the submitting person which would result from public disclosure; (6) when such information might lose its confidential character due to the passage of time; and (7) why disclosure of the information would be contrary to the public interest.

It is DOE's policy that all comments may be included in the public docket, without change and as received, including any personal information provided in the comments (except information deemed to be exempt from public disclosure).

E. Issues on Which DOE Seeks Comment

Although DOE welcomes comments on any aspect of this proposal, DOE is particularly interested in receiving comments and views of interested parties concerning the following issues:

1. DOE requests comment on the proposed amendment to the Class A equipment class definition. Specifically, DOE requests comment on whether the

presence of a transparent front is always correlated with fully cooled equipment.

2. DOE requests comment on the proposed optional test protocol to determine transparent and non-transparent surface areas and whether Class A equipment typically has at least 25 percent of the surface area on the front side of the unit that is transparent or if another quantitative threshold would be more appropriate.

3. DOE requests comment on the proposed definition of transparent. Specifically, whether 45 percent light transmittance is an acceptable value for the glass or other transparent materials that are typically used to construct the front panel on Class A equipment.

4. DOE requests comment on the proposed amendment to the definition of ''combination vending machine.''

5. DOE requests comment on the proposed definition for Combination A and Combination B.

6. DOE also requests comment on DOE's proposal to apply the optional test protocol for determining the surface area and transparency of materials to combination vending machines, except that the surface areas surrounding the refrigerated compartments that are not designed to be refrigerated would be excluded.

7. DOE requests comment on its updated estimate of market share for combination vending machines.

8. DOE requests comment on its position that machines capable of vending perishable goods do not warrant separate classes due to their physical similarity to refrigerated beverage vending machines used to vend non-perishable products.

9. DOE requests feedback on the manufacturer markup values used to convert MPC to MSP.

10. DOE requests comment on whether equipment is tested with all lighting and accessories on for the duration of the test and no low power modes or energy management systems enabled.

11. DOE requests information on whether the current standard level for Class A and Class B machines is achievable without the use of any energy management systems.

12. To refine its engineering analysis for beverage vending machines further, DOE requests comment and data from interested parties on several topics related to the refrigerants analyzed in the engineering analysis and their relative performance characteristics. Specifically, DOE requests information on the efficiency of CO_2 and propane compressors in BVM applications.

13. DOE requests comment on the conclusion that both the current standard level and all of the efficiency levels analyzed could be met by equipment using any refrigerant.

14. DOE requests information on the additional costs associated with CO_2 and propane refrigeration systems, respectively, including but not limited to additional costs for the compressor, evaporator, condenser, and refrigerant tubing.

15. DOE requests comment and information on the use of propane, isobutane, and other hydrocarbon refrigerants in current commercially available BVM models or on significant research and development efforts on the part of domestic BVM manufacturers to commercialize this technology in the near future.

16. DOE requests comment on the likelihood of manufacturers using propane versus isobutane refrigerant since both have been added to the list of acceptable substitutes for use in BVM applications by EPA SNAP. If it is likely that isobutane would also be implemented in BVM applications, DOE requests similar information on the efficiency of isobutane compressors and additional costs associated with isobutane refrigeration systems, including but not limited to additional costs for the compressor, evaporator, condenser, and refrigerant tubing.

17. DOE requests comment on whether the conversion to use of any alternative refrigerant may impact the availability or relevance of any design options currently observed in equipment on the market.

18. DOE requests data on the use of variable speed compressors in beverage vending machines.

19. DOE requests comment on distribution channels for beverage vending machines.

20. DOE requests comment on the conclusion that data from college campuses are reasonably representative of BVM locations nationally and on their use in estimating the proportion of Class B and Combination B beverage vending machines installed outdoors.

21. DOE requests comment on its decision to disregard the adjustment factors calculated in the preliminary analysis thereby simplifying the energy use analysis by using the national average AEC values.

22. DOE requests comment regarding whether the analysis should account for the impact of any incremental energy use associated with cold weather heaters on the national average energy consumption of Class B and Combination B equipment.

23. DOE also requests data on the incidence and control methodology of cold weather heaters in BVM equipment installed in cold climates.

24. DOE requests comment on the energy use analysis methodology used to estimate the AEC of Class A, Class B, Combination A, and Combination B beverage vending machines located indoors and outdoors, as applicable.

25. DOE requests comment on any other variables DOE should account for in its estimate of national average energy use for beverage vending machines.

26. DOE requests comment on the maintenance and repair costs modeled in the LCC analysis and especially appreciates additional data regarding differences in maintenance or repair costs that vary as a function of refrigerant, equipment class, or efficiency level.

27. DOE requests comment on the assumed lifetime of beverage vending machines and if the lifetime of beverage vending machines is likely to be longer or shorter in the future.

28. DOE requests comment on its assumption that a beverage vending machine will typically undergo two refurbishments during the course of its life and if refurbishments are likely to increase or decrease in the future.

29. DOE also requests comment on the applicability of this assumption to all equipment classes.

30. DOE requests further input or evidence regarding any technology options considered that would be expected to reduce overall equipment lifetimes and if so, by how much.

31. DOE requests comment on its assumption that all baseline Class A and Class B propane and Class A CO_2 equipment would be EL 1.

32. DOE requests comment on its assumption that Combination A and Combination B beverage vending machines have efficiency distributions similar to Class A and Class B equipment because manufacturers will use the same cabinet and similar components in the combination machines as the conventional Class A and Class B equipment.

33. DOE requests comment on its assumptions regarding historical shipments between 1998 and 2014.

34. DOE also requests data from manufacturers on historical shipments, by equipment class, size, and efficiency level, for as many years as possible, ideally beginning in 1998 until the present.

35. DOE requests comment on its assumptions regarding future shipments. Specifically, DOE requests comment on the stock of BVM units likely to be available in the United

States or in particular commercial and industrial building sectors over time.

36. DOE also requests comment on the number of beverage vending machines that are typically installed in each location or building in each industry and if this is likely to increase or decrease over time.

37. DOE requests comment on its assumptions regarding likely reduction in stock in different commercial and industrial building sectors in which beverage vending machines are typically installed.

38. DOE also requests comment on other factors that might be influencing an overall reduction in BVM stock and if this trend is likely to continue over time.

39. DOE requests comment on the impact of the EPA SNAP rules on future shipments of beverage vending machines, by equipment class, refrigerant, and efficiency level.

40. DOE requests comment on its assumptions regarding the relative market share of each refrigerant by equipment class.

41. DOE requests comment on the high and low shipments scenarios.

42. DOE requests comment on the impact of the recent EPA SNAP rulemakings changing the availability of certain refrigerants for the BVM application on future efficiency distributions.

43. DOE requests comment on the identification and analysis of beverage vending machine customer subgroups.

44. DOE requests manufacturers provide an estimate of the capital and product conversion costs associated compliance with DOE amended energy conservation standards.

45. DOE specifically requests feedback from industry regarding the product conversion costs associated with standards compliance for Combination A and Combination B equipment.

46. DOE requests manufacturers provide an estimate of the one-time investments required to transition to alternative refrigerants, such as CO_2 and propane.

47. DOE requests that manufacturers provide sufficient detail such that DOE could model and verify these one-time costs related to the change in refrigerants, including the specific capital expenditures required and the potential redesign costs on a per-platform basis.

48. DOE requests manufacturers provide information about the ability to coordinate one-time investments related to EPA Rule 20 compliance and conversion costs necessitated by the DOE energy conservation standards.

49. DOE requests comment on the proposal to clarify the calculation of the refrigerated volume for each BVM basic model.

50. DOE requests comments on the total annual direct employment levels in the industry for BVM production.

51. DOE requests comment on its preliminary conclusion that the proposed standard levels will not have any negative impact on the performance or utility of equipment available in the market.

52. DOE requests comment regarding any potential impacts on small business manufacturers from the proposed standards. In particular, DOE seeks further information and data regarding the sales volume and annual revenues for small businesses so the agency can be better informed about the potential impacts to small business manufacturers of the proposed energy conservation standards. DOE will consider any such additional information when formulating and selecting TSLs for the final rule.

VIII. Approval of the Office of the Secretary

The Secretary of Energy has approved publication of this proposed rule.

List of Subjects

10 CFR Part 429

Confidential business information, Energy conservation, Household appliances, Imports, Reporting and recordkeeping requirements.

10 CFR Part 431

Administrative practice and procedure, Confidential business information, Energy conservation, Incorporation by reference, Reporting and recordkeeping requirements.

Issued in Washington, DC, on July 30, 2015.

David T. Danielson,

Assistant Secretary of Energy, Energy Efficiency and Renewable Energy.

For the reasons set forth in the preamble, DOE is proposing to amend parts 429 and 431 of chapter II of title 10 of the Code of Federal Regulations as set forth below:

PART 429—CERTIFICATION, COMPLIANCE, AND ENFORCEMENT FOR CONSUMER PRODUCTS AND COMMERCIAL AND INDUSTRIAL EQUIPMENT

■ 1. The authority citation for part 429 continues to read as follows:

Authority: 42 U.S.C. 6291–6317.

■ 2. Section 429.52 is amended by adding paragraph (a)(3) to read as follows:

§ 429.52 Refrigerated bottled or canned beverage vending machines.

(a) * * *

(3) The representative value of refrigerated volume of a basic model reported in accordance with paragraph (b)(2) of this section shall be the mean of the refrigerated volumes measured for each tested unit of the basic model and determined in accordance with the test procedure in § 431.296.

* * * * *

■ 3. Section 429.134 is amended by adding paragraph (g) to read as follows:

§ 429.134 Product-specific enforcement provisions.

* * * * *

(g) *Refrigerated bottled or canned beverage vending machines*—(1) *Verification of refrigerated volume.* The refrigerated volume (V) of each tested unit of the basic model will be measured pursuant to the test requirements of 10 CFR 431.296. The results of the measurement(s) will be compared to the representative value of refrigerated volume certified by the manufacturer. The certified refrigerated volume will be considered valid only if the measurement(s) (either the measured refrigerated volume for a single unit sample or the average of the measured refrigerated volumes for a multiple unit sample) is within five percent of the certified refrigerated volume.

(i) If the representative value of refrigerated volume is found to be valid, the certified refrigerated volume will be used as the basis for calculation of maximum daily energy consumption for the basic model.

(ii) If the representative value of refrigerated volume is found to be invalid, the average measured refrigerated volume determined from the tested unit(s) will serve as the basis for calculation of maximum daily energy consumption for the tested basic model.

(2) *Verification of surface area, transparent, and non-transparent areas.* The percent transparent surface area on the front side of the basic model will be measured pursuant to these requirements for the purposes of determining whether a given basic model meets the definition of Class A or Combination A as presented at 10 CFR 431.292. The transparent and non-transparent surface areas shall be determined on the front side of the beverage vending machine at the outermost surfaces of the beverage

vending machine cabinet, from edge to edge, excluding any legs or other protrusions that extend beyond the dimensions of the primary cabinet. Determine the transparent and non-transparent areas on each side of a beverage vending machine as described in paragraphs (g)(2)(i) and (ii) of this section. For combination vending machines, disregard the surface area surrounding any refrigerated compartments that are not designed to be refrigerated (as demonstrated by the presence of temperature controls), whether or not it is transparent. Determine the percent transparent surface area on the front side of the beverage vending machine as a ratio of the measured transparent area on that side over the sum of the measured transparent and non-transparent areas, multiplying the result by 100.

(i) *Determination of transparent area.* Determine the total surface area that is transparent as the sum of all surface areas on the front side of a beverage vending machine that meet the definition of transparent at 10 CFR 431.292. When determining whether or not a particular wall segment is transparent, transparency should be determined for the aggregate performance of all the materials between the refrigerated volume and the ambient environment; the composite performance of all those materials in a particular wall segment must meet the definition of transparent for that area be treated as transparent.

(ii) *Determination of non-transparent area.* Determine the total surface area that is not transparent as the sum of all surface areas on the front side of a beverage vending machine that are not considered part of the transparent area, as determined in accordance with paragraph (g)(2)(i) of this section.

PART 431—ENERGY EFFICIENCY PROGRAM FOR CERTAIN COMMERCIAL AND INDUSTRIAL EQUIPMENT

■ 4. The authority citation for part 431 continues to read as follows:

Authority: 42 U.S.C. 6291–6317.

■ 5. Section 431.292 is amended by:

■ a. Revising the definitions for ''Class A'' and ''Class B'';

■ b. Adding, in alphabetical order, definitions for ''Combination A'' and ''Combination B'';

■ c. Revising the definition of ''Combination vending machine''; and

■ d. Adding a definition for ''transparent''.

The revisions and additions read as follows:

§ 431.292 Definitions concerning refrigerated bottled or canned beverage vending machines.

* * * * *

Class A means a refrigerated bottled or canned beverage vending machine that is not a combination beverage vending machine and in which 25 percent or more of the surface area on the front side of the beverage vending machine is transparent.

Class B means a refrigerated bottled or canned beverage vending machine that is not considered to be Class A and is not a combination vending machine.

Combination A means a combination vending machine where 25 percent or more of the surface area on the front side of the beverage vending machine is transparent.

Combination B means a combination vending machine that is not considered to be Combination A.

Combination vending machine means a bottled or canned beverage vending machine containing two or more compartments separated by a solid partition, that may or may not share a product delivery chute, in which at least one compartment is designed to be refrigerated, as demonstrated by the presence of temperature controls, and at least one compartment is not.

* * * * *

Transparent means greater than or equal to 45 percent light transmittance, as determined in accordance with the ASTM Standard E 1084–86 (Reapproved 2009), (incorporated by reference, see § 431.293) at normal incidence and in the intended direction of viewing.

* * * * *

■ 6. Section 431.293 is amended by adding a new paragraph (c) to read as follows:

§ 431.293 Materials incorporated by reference.

* * * * *

(c) *ASTM.* ASTM International, 100 Barr Harbor Drive, PO Box C700, West Conshohocken, PA 19428, (877) 909–2786, or go to *http://www.astm.org/.*

(1) ASTM E 1084 (Reapproved 2009), ''Standard Test Method for Solar Transmittance (Terrestrial) of Sheet Materials Using Sunlight,'' approved April 1, 2009, IBR approved for § 431.292.

(2) [Reserved]

■ 7. Section 431.296 is revised to read as follows:

§ 431.296 Energy conservation standards and their effective dates.

(a) Each refrigerated bottled or canned beverage vending machine manufactured on or after August 31, 2012 and before [DATE 3 YEARS AFTER PUBLICATION OF THE FINAL RULE ESTABLISHING NEW AND AMENDED ENERGY CONSERVATION STANDARDS FOR REFRIGERATED BOTTLED OR CANNED BEVERAGE VENDING MACHINES IN THE **Federal Register**], shall have a daily energy consumption (in kilowatt hours per day), when measured in accordance with the DOE test procedure at § 431.294, that does not exceed the following:

Equipment class	Maximum daily energy consumption (kilowatt hours per day)
Class A	$0.055 \times V^{*} + 2.56$
Class B	$0.073 \times V^{*} + 3.16$
Combination Vending Machines ...	[RESERVED]

* ''V'' is the representative value of refrigerated volume (ft^3) of the BVM model, as calculated pursuant to 10 CFR 429.52(a)(3).

(b) Each refrigerated bottled or canned beverage vending machine manufactured on or after [DATE 3 YEARS AFTER PUBLICATION OF THE FINAL RULE ESTABLISHING NEW AND AMENDED ENERGY CONSERVATION STANDARDS FOR REFRIGERATED BOTTLED OR CANNED BEVERAGE VENDING MACHINES FINAL RULE IN THE **Federal Register**], shall have a daily energy consumption (in kilowatt hours per day), when measured in accordance with the DOE test procedure at § 431.294, that does not exceed the following:

Equipment class	Maximum daily energy consumption (kilowatt hours per day)
Class A	$0.041 \times V^{*} + 1.92$
Class B	$0.033 \times V^{*} + 1.42$
Combination A	$0.044 \times V^{*} + 1.64$
Combination B	$0.044 \times V^{*} + 1.36$

* ''V'' is the representative value of refrigerated volume (ft^3) of the BVM model, as calculated pursuant to 10 CFR 429.52(a)(3).

[FR Doc. 2015–19919 Filed 8–18–15; 8:45 am]

BILLING CODE 6450–01–P

FEDERAL REGISTER

Vol. 80 Wednesday,

No. 160 August 19, 2015

Part IV

The President

Proclamation 9307—National Employer Support of the Guard and Reserve Week, 2015

Federal Register
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Presidential Documents

Title 3—

The President

Proclamation 9307 of August 14, 2015

National Employer Support of the Guard and Reserve Week, 2015

By the President of the United States of America

A Proclamation

The United States military is the finest fighting force the world has ever known—not just because of our weapons or technology, but because of the spirit, skill, and selflessness of our devoted military personnel. For more than two centuries, patriotic Americans have served our Nation and protected our values, making enormous sacrifices to defend freedom and democracy here at home and around the globe. Today, the women and men of the National Guard and Reserve carry forward this proud legacy with honor and distinction. During National Employer Support of the Guard and Reserve Week, we salute our country's citizen-warriors and the families, employers, and communities who support them.

More than one million citizen-Soldiers, Sailors, Airmen, Marines, and Coast Guardsmen protect our Nation as Guardsmen and Reservists. Beyond serving their communities, raising their families, and playing a vital part in America's workforce, these heroes find time throughout the year to train and prepare for new challenges and missions in the event their Nation needs them. With unmatched skill and professionalism, they have answered our country's call to serve—responding to disasters in the United States and carrying out tours of duty far from home, including in Afghanistan and Iraq.

As a Nation, we must make it our mission to serve all our military members as well as they serve us—and this includes supporting their families, who step up and make enormous sacrifices while their loved ones are away from home. My Administration will continue to provide our unwavering support and ensure all those who sacrifice for our Nation have access to the services, benefits, and care they deserve. And as part of First Lady Michelle Obama and Dr. Jill Biden's Joining Forces initiative, we are encouraging all Americans to do their part to lift up our heroes. Around our country, communities and business leaders have recognized that they too can help America meet its obligations to the women and men of the Guard and Reserve by providing workplace flexibility and opportunities for advancement in their civilian careers. As Commander in Chief, I am grateful to our employers and business leaders who go above and beyond to ease the burden on those who serve, and I encourage all Americans to join in their efforts.

Our Nation has made a sacred promise to all members of the Armed Forces, and every person can play a part in honoring that promise. This week, we celebrate the women and men who keep our country safe and defend the way of life we cherish. As a Nation, let us join together to thank our Guardsmen and Reservists, as well as their employers—who know the value service brings to the workplace, who see service members as an essential part of their teams, and whose support is vital to the readiness and strength of the greatest fighting force on Earth.

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 August 16 through August 22, 2015, as National Employer Support of the Guard and Reserve

Week. I call upon all Americans to join me in expressing our heartfelt thanks to the members of the National Guard and Reserve and their civilian employers. I also call on State and local officials, private organizations, and all military commanders, to observe this week with appropriate ceremonies and activities.

IN WITNESS WHEREOF, I have hereunto set my hand this fourteenth day of August, in the year of our Lord two thousand fifteen, and of the Independence of the United States of America the two hundred and fortieth.

[FR Doc. 2015–20661
Filed 8–18–15; 11:15 am]
Billing code 3295–F5

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